

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

Tuesday, April 20, 1993

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

- 1) Presentation on Wetlands Program.
- 2) Code Enforcement Report.
- 3) Miscellaneous.

10:00 a.m. - 11:00 a.m. Planning Commission Recommendation - Approval - Lake Tye Planned Unit Development Divisions I, II, and III, Plat Amendments.

1:30 p.m. - 2:30 p.m. Presentation - Petition of Big Lake Homeowners Requesting the Prohibition of Jet Ski Watercraft on Big Lake.

The Skagit County Board of Commissioners met in regular session on Tuesday, April 20, 1993, with Commissioners Robert Hart, Harvey Wolden and Robby Robinson present.

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT - DAVE HOUGH, DIRECTOR:

- 1) Presentation on Wetlands Program.

Oscar Graham, Shorelines Administrator, stated that the major issues surrounding the the County's shorelines program have been jurisdictional issues and confusion about what constitutes a wetland. In recent years, it has become more difficult to answer those questions, Mr. Graham stated. During 1991, Skagit County participated with local cities and the Department of Ecology in a grant program the purpose of which was to identify our wetland resources through mapping studies, to provide a wetland education and outreach program, and to assess the effectiveness of existing regulations to protect wetlands.

Definitions contained within our own code and administrative policies used by Skagit County were reviewed.

Mr. Graham explained that Skagit County accepts that wetlands falling within 200' of a marine shoreline, rivers over a certain cubic feet per second of flow, and lakes with a surface area of 20 acres or more fall under the jurisdiction of the Shoreline Master Management Plan. Skagit County's Flood and Drainage Ordinance defines wetlands, as does the Federal Clean Water Act.

Mr. Graham explained that there are three components that identify a wetland; hydrology, vegetation, and soils. Skagit County does not have a wetlands protection ordinance, but regulates wetlands through our shoreline protection ordinances and through SEPA. Under SEPA, Skagit County requires wetland delineation in appropriate instances. When a wetland is identified, Skagit County requires that the project applicant receive permission for development from the U.S. Army Corps of Engineers.

Mr. Graham provided a slide show depicting wetlands in Skagit County and exploring and explaining the diversity of the wetlands systems. The slide program was developed through the grant in conjunction with the Department of Ecology. Wetlands systems existing in Skagit County are marine estuarine, riverine, lacustrine, and palustrine. Wetland classes within Skagit County are forested, emergent, scrub-shrub, and aquatic bed. Mr. Graham explained each term. Slide examples were provided for a number of the terms.

The value of wetlands and their functions were reviewed and illustrated with slides. Those values reviewed by Mr. Graham were:

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- Water purification as provided by sediment control and water quality which is provided by absorption of nutrients
- Flood protection provided by flood storage and conveyance of water
- Groundwater recharge - a high degree of certainty exists that wetlands are at least partially responsible for groundwater recharge.
- Streamflow maintenance
- Shoreline stabilization
- Fish and wildlife habitat
- Economic benefits - benefits to the economy stem from tourism draws such as sports fishing, scenic trails
- Recreation
- Education/research
- Open space and aesthetic values

Wetland vegetation and animal life was depicted in Mr. Graham's slide presentation.

Mr. Graham provided a period for the Board's questions. Commissioner Robinson questioned whether the U.S. Army Corps of Engineers and the State Department of Fisheries have agreed on wetlands definitions. Chairman Hart asked whether or not most of Skagit County could be considered a wetland at some period during the year. Commissioner Wolden advocated improving wetlands so that they exist year-round to offset areas where use of land has removed wetland value for at least of part of the year.

Mr. Graham stated that he felt that management of wetlands has reached an impasse, as State and Federal agencies have focused on protection of wetlands as their primary task, but have not concentrated on any management issues associated with wetlands. Mr. Graham felt that a critical areas ordinances would be the answer to efficient management and protection of wetlands in Skagit County.

The Board and Planning staff members continued to discuss wetlands for several minutes.

2) Code Enforcement Report.

The Code Enforcement Report was provided for review and briefly discussed.

3) Miscellaneous.

- A. Kraig Olasen, Assistant Director, presented a request to the Board to seek proposals for water quality sampling in Padilla Bay. Three separate Requests for Proposals would cover water quality sample collection, laboratory analysis of samples, and data interpretation. The Board concurred with the request.
- B. Dave Hough reported that he met with Nick Zaferatos, Planning Director for the Swinomish Tribe, regarding the Plat of Kwonesum and a building permit issue that has recently developed in conjunction with the Plat. The building permit applicant has been denied by the Tribe the ability to receive water for his proposed construction. The Tribe has adopted the position that Kirby Johnson, the Plat developer, must go through the process of approval of his plat by the Tribe, even though his property is on fee simple land, and it predates the Tribe's Comprehensive Plan. Mr. Hough tried

to convince Mr. Zaferatos that the rule was unfair to the building permit applicant. Mr. Zaferatos felt that in order to allow this single building permit to receive water service would require the permission of the Tribal Senate. Kirby Johnson has apparently agreed to apply for Tribal approval for his plat, and Mr. Zaferatos felt that if this was done prior to the next Tribal Senate meeting, the matter of the building permit could be brought before the Senate as well. Mr. Hough stated that he will notify the permit applicant of this development.

PLANNING COMMISSION RECOMMENDATION - APPROVAL - LAKE TYEE PLANNED UNIT DEVELOPMENT DIVISIONS I, II, AND III, PLAT AMENDMENTS.

The Lake Tyee Development is located north of the City of Concrete, at the intersection of Baker Lake Road and Burpee Hill Road. It was first approved in 1974 as a camping and recreation facility. A large number of conditions were placed upon the PUD with the intent of preventing any permanent structures being built, with the exception of one small storage or tool shed of a dimension no greater than 5'(h) x 6'(l) x 4'(w).

Over a period of about two years, the Planning Department's code enforcement division has been working on a way to cause the development to come into compliance with the conditions set in 1974. Of the 886 camping lots created, almost 400 of them have some type of illegal structure on them.

The tenants of Lake Tyee have been operating under an assumption that they do not need building permits for small structures, and it is true that until 1979, the Uniform Building Code exempted one-story buildings of less than 600 square feet and wood constructed garages and pole buildings from the need to obtain anything other than permission from the building official. However, many of the tenants have gone beyond simple outbuilding construction and have added many permanent outbuildings and structures to their lots. Since Lake Tyee is within a Forestry zone, it is inappropriate to permit permanent living structures, in addition to the fact that the plat conditions do not allow them.

The Planning Commission reviewed the plat conditions of the development to attempt to resolve these difficulties. At first, the Planning Department recommended grandfathering all of the pre-existing structures, and to add a condition that prohibits any structure exceeding 300 square feet of floor space, or 400 square feet of roof area. Additionally, a condition was recommended that requires building permits for any structures exceeding 120 square feet of roof area or platforms and walks over 30" above grade. This last condition is currently how the Uniform Building Code determines the need for a building permit, and would be added just as a reminder to the tenants.

The Planning Commission asked staff to revise their recommendations, and Jeff Morgan, Associate Planner, explained, after two public hearings on the original conditions of approval for the Lake Tyee Planned Unit Development, the Planning Commission is recommending the following conditions:

10. Each lot or campsite be used for vacation or recreation camping only.
11. ~~No permanent structures be constructed except for a storage (tool) shed with maximum dimensions of 5 ft. in height, 6 ft. in length and width of 48 inches.~~

MAXIMUM LOT COVERAGE:

- A. One storage (tool) shed with maximum dimensions of five (5) feet in height, six (6) feet in length, four (4) feet in width.

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- B. A deck not to exceed four hundred (400) square feet in size. All decks shall be limited to a maximum of three walls and a projected roof area of 300 square feet.**
- C. A recreational vehicle cover not to exceed in excess of two (2) feet beyond perimeter of the recreational vehicles. No walls are permitted around these structures.**
- D. Decks are limited to four hundred (400) square feet as noted above. All decks, any part of which is in excess of thirty (30) inches above grade, shall require a building permit.**
- E. Any structure in excess of one hundred twenty (120) square feet shall obtain a Building Permit.**
- F. Approval must be obtained from the Fire Marshal for all Building Permits.**
- G. Enforcement:**

All structures constructed prior to the above noted changes in conditions are required to conform to said conditions within twelve (12) months of date of approval of the Board of County Commissioners. Skagit County Department of Planning and Community Development will investigate all individual structures in violation of the above noted conditions by formal requests of the Lake Tye Company, Home Owners Association and individual lot owners.

Dave Hough and Mr. Morgan estimated that anywhere between 100 and 400 lot owners will be out of compliance and will require contact by staff. Mr. Hough reported that if approved, the Planning Department plans to provide a mailing to each lot owner explaining the new conditions and their enforcement. Chairman Hart suggested, and Mr. Hough agreed, that staff should arrange to spend a day or two at the Lake Tye development accepting applications and providing guidance and advice to lot owners.

The Board felt that the recommendation from the Planning Commission was well researched and reasonable. Commissioner Robinson motioned to approve the amendments to the Lake Tye Planned Unit Development contained within the recorded motion of the Planning Commission. Commissioner Wolden seconded the motion, which passed unanimously.

PRESENTATION - PETITION OF BIG LAKE HOMEOWNERS REQUESTING THE PROHIBITION OF JET SKI WATERCRAFT ON BIG LAKE.

Chairman Hart opened the meeting, stating that the purpose of the meeting is to provide an opportunity for parties to present petitions regarding regulation of jet skis on Big Lake. He stated that the meeting was requested by a party opposed to the operation of jet skis on Big Lake. Chairman Hart invited a representative of this group to present their petition. When no representative came forward, Chairman Hart read the petition of approximately 143 names, which had earlier been submitted. He warned that no decision would likely be made today. Chairman Hart then read a petition of approximately 430 names in favor of jet ski use on Big Lake. Chairman Hart then asked for additional petitions and letters both for and against from the audience. Correspondence was then reviewed. Chairman Hart particularly noted a letter from John E. Woodring, an attorney representing the Personal Watercraft Industry Association, which

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opposes a strict ban on personal watercraft on Big Lake, and cites pending legislation (SHB 1318) which places restrictions on use of jet skis in Washington State.

Walter Eplin, 1808 N. West View Road, Big Lake, opposed a ban on jet skis on Big Lake. He represented a number of his friends who were also present. He stated that he understood that a number of people opposed the use of jet skis, but proposed that his group meet with the opposition group to formulate rules and policies that would allow Lake residents to continue to use their jet skis. He stated that many of the problems are caused by non-residents, although some residents have become careless in the use of their jet skis.

Allan Stewart, 1736 A Lakeview Blvd., Big Lake, stated that over the last couple of months jet ski use has gotten out of hand. He stated that there are many stories of accidents and potential accidents caused by or involving jet skis. He stated that he does not oppose any other water craft except jet skis. He also felt that the noise pollution caused by jet skis is incredible. He stated that patrol by the Sheriff's office is limited to eight hours per week, which he did not feel would be adequate to enforce boating laws.

Richard Phipps, 1905 W. Big Lake Blvd., Big Lake, stated that he owns jet skis and opposes the ban. He stated that a few do abuse the privilege of using jet skis, but this should not preclude everyone from using jet skis. He stated that water skiers and fishermen and other recreational users also abuse boating laws, and jet skis should not be singled out. He advocated additional enforcement authority, such as some sort of security person such as is used at Lake Whatcom to enforce boating laws.

Bud Fish, 1887 W. Big Lake Blvd., Big Lake, stated that jet skis inherently do not have the visibility that a boat has. He stated that last year a jet ski hit his dock while his son was swimming nearby. He described other abuses by jet skis last year. He stated that it is fairly common to see jet skis following along in the wake of other boats for fun, but Mr. Fish stated that this practice is dangerous. He complained that the Sheriff's Office did not take advantage of an offer to use his dock for surveillance of the lake last year. He stated that both boats and jet skis alike abuse the lake, but about 80% of the abuse is by jet skis.

Nels Johnson, 1892 B. Sulphur Springs Road, Big Lake, stated that Big Lake is a multi-use lake. It is only about 565 acres in size, and when unmuffled boats are run, the noise is quite bad. He supported a total ban on jet skis. Mr. Johnson described incidents of abuse, and the lack of response by the Sheriff's Office.

Shawn Hendrick, 1736 B. Lake View Blvd., Big Lake, supported jet skis. He stated that he was one of the persons responsible for setting up the jet ski course at the end of the lake, and practices on it for competition events. He stated that for practice, his jet skis are "detuned" for quiet, and they do not speed. He stated that the deputy sheriff he has seen on the Lake many times over the last year has never ticketed him, but has asked him to help with lake patrol. Mr. Hendrick stated that he is aware of the boating laws on Big Lake and obeys them.

Ria Stroosma, 1777 W. Big Lake Blvd., Big Lake, stated that she rowed out to ask the jet skiers if they realized what they were doing to their neighbors. She stated that the noise from the jet skis bothers her in her home. She did not feel that a handful of people should cause such annoyance to so many residents of the lake.

Linda Johnson, 2175 Garden Street, Big Lake, agreed that the noise factor is the problem with the jet skis. She stated that real estate appraisal is subject to the noise factor of property. She felt that property taxes should be reduced because the noise from the jet skiers devalues lake property. She asked if the Sheriff's

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Office could guarantee that if allowed to use the lake, the jet skiers could be controlled. The last time the Sheriff's Office responded, they borrowed her boat, Mrs. Johnson said.

Jim Colbeck, 1779 W. Big Lake Blvd., Big Lake, was against the use of the jet skis on Big Lake as they are being used now. He stated that the jet skis are different than other boats, as they have a higher decibel level and run with a higher pitch. This noise is very irritating. At times as many as seven jet skis use the practice course for two hours at a time.

Rich Weyrich, 1740 C. Lake View Blvd., Big Lake, stated that he lives very close to the jet ski practice course. He felt that the users of the course use it for three or four hours each day on Saturdays and Sundays. He wished to comment on the letter from Mr. Woodring, who represents the jet ski manufacturers. He stated that there is a bill that apparently will be signed by the Governor, he discovered. The bill makes it a crime to engage in "reckless conduct" on a jet ski. It is very difficult to prove reckless conduct, he stated. One has to prove that the person had a "willful and wanton disregard for human life". If the Sheriff's Office can cite someone, and the most the Sheriff can promise is somewhat less than eight hours of patrol during any given week, reckless conduct is difficult to prove in court. Mr. Weyrich, who is an attorney, stated that the bill discusses muffling devices on jet skis. He stated that he researched what decibels would be reached with the mufflers. He stated that at 75 decibels, the noise would be similar to standing on a very busy street corner. He stated that it would be difficult for the deputies in a boat to catch a jet ski as they are so very quick. Mr. Weyrich stated that the additional funds the bill proposes would account for about \$19,000 in extra dollars for Skagit County. This would not be enough money to outfit an additional deputy to patrol the lake. It is proposed within the bill that the deputies would be given noise metering equipment, however, it is likely Skagit County would have to purchase this equipment. Mr. Weyrich pointed out that the County may have some liability for accidents caused after the County has been repeatedly warned by residents of the dangers of the jet skis. Finally, Mr. Weyrich pointed out that in the opposing petition, only 19% were Big Lake residents, the rest lived elsewhere.

Gary Oldmeir of Blanchard was in favor of jet ski use. He stated that they are licensed as a class C inboard vessel. He attested to the safety of jet skis. He stated that they meet the Coast Guard decibel levels for noise.

Robert Becker, an employee of Lynnwood Cycle Barn, was opposed to the ban, comparing it to banning cars because of drunk drivers. He pointed out that his firm lends the use of watercraft to their local law enforcement agency, and suggested that other dealers would loan craft to Skagit County.

Donna Meirs, 1776 W. Big Lake Blvd., Big Lake, also suggested that her taxes be lowered.

Sandy Paciotti, 475 Souix Drive, Mount Vernon, pointed out that Big Lake is a public lake surrounded by private property. As long as users of the lake follow the adopted rules, any member of the public has the right to use the lake.

Pete Beverstock, 1806 A West View Road, Big Lake, favored the use of jet skis. He is a jet ski owner. He also had stories of abuses of the lake. Mr. Beverstock felt that one of the problems is that people remain in one area to ride for too long. He proposed that the jet ski course be moved occasionally to accommodate residents.

Kathy Brown, 121 Cedarwood Place, Mount Vernon, just recently moved from Big Lake. She stated that her son is very responsible when using his jet ski, but she stated that she has seen many lake users, boaters

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and jet skiers alike, abuse the lake. She stated that she did not want to see a ban on any use of the lake because then others bans will follow and soon it will be impossible to water ski or recreate on the lake at all.

George Huel, 1899 W. Big Lake Blvd., Big Lake, owns a jet ski and was opposed to a ban on jet skis on the lake. He agreed that if jet skis are banned, soon float planes will be banned, then large boats, and soon his property will be worth less than it was.

Sherry Stewart, 1736 A Lakeview Blvd., Big Lake, disagreed with the jet skier who claimed that he obeyed all of the rules. She stated that they do not, and additionally their language is bad.

Tim Fisher, 2001 N. 31st Place, Mount Vernon, uses the lake for jet skiing, although he does not live on the lake. He suggested that the jet ski users should try to help the Sheriff to enforce boating rules on the lake. He refuted the statement made earlier that jet skiers start skiing at 6:30 a.m. He stated that his fellow riders would agree to an 8:30 a.m. start time, as long as all boats are given the same requirement. He stated that if jet skis are banned on Big Lake there will be no where for them to ride, and people will move out the County because of it. Mr. Fisher made many offers of assistance to the Sheriff's Office for enforcement of boating rules.

Susanne Phipps, 1905 W. Big Lake Blvd., Big Lake, stated that she has not had any difficulty getting interest in the sale of her home. She stated that she lives at the shallow end of the lake, so the noise is not so bad. She suggested that if the noise is irritating to persons on the deep end of the lake, the skiers should ski down at the shallow end of the lake. She stated that although it is a wetland, jet skiing will not disturb the wetland habitat.

Mark Breckinridge, Burlington, a member of the Skagit County Divers Team and Skagit Search and Rescue, stated that all of the times he has been called to Big Lake in response to accidents, those mishaps have involved water skiers. He advocated stricter enforcement of rules as opposed to banning of jet skiing on Big Lake.

An unidentified woman asked why residents of the lake could not be deputized to patrol the lake.

Chairman Hart, before closing the meeting, asked that anyone who had not had an opportunity to speak, state their feelings in favor of or in opposition to the jet ski ban.

Ron Davis, Clear Lake, asked that the ban on jet skis on Clear Lake be repealed.

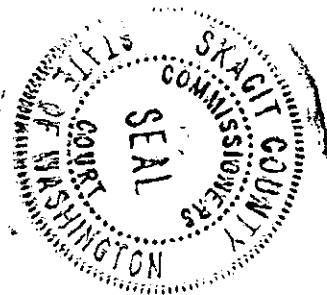
Chairman Hart closed the discussion by stating that several good suggestions had been made by the speakers. He encouraged that if anyone wished to work together to suggest other solutions they should do so. He stated that he was unable to give a timeline for a solution, but that if the two factions were able to agree upon a course of action, it would carry considerable weight with the Board.

Unidentified members of the audience and the Board continued to discuss enforcement on the lake and other issues that had earlier been brought up.

ADJOURNMENT:

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

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

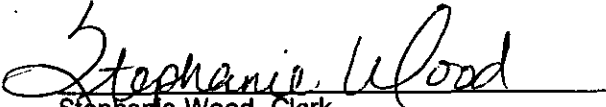



Robert Hart, Chairman


Robby Robinson, Commissioner


Harvey Wolden, Commissioner

ATTEST:


Stephanie Wood, Clerk
Skagit County Board of Commissioners