

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

Tuesday, February 8, 1994

- 7:30 a.m. - 8:30 a.m. Commissioners' Staff Meeting.
- 8:30 a.m. - 9:00 a.m. Work Session - Operations Division Manager/District Maintenance Supervisors.
- 9:00 a.m. - 10:00 a.m. Planning Department - Dave Hough, Director
- 1) Discussion - Interim Impact Fees.
 - 2) Discussion - Environmental Element Approach.
 - 3) Discussion - Establish Moratorium on Failure to Declare Conversion on Forest Practice Application.
 - 4) Discussion - Implementation Proposal for Swinomish Watershed Plan.
 - 5) Code Enforcement Report.
 - 6) Miscellaneous.
- 10:00 a.m. - 10:30 a.m. Continuation of Appeal of Hearing Examiner's Recommendation for Denial of Agricultural Variance #VAR-93-028 for Leonard Lee, .25 Miles South of Intersection of Chuckanut Drive and SR237.
- 10:30 a.m. - 11:30 a.m. Appeal of Hearing Examiner's Decision for Denial of Shoreline Variance #SHL-92-033 and Administrative Appeal #APP93-023 of Ted Krause, Lots 37 & 38 of Janicki Cove.
- 1:30 p.m. - 2:00 p.m. Work Session - Personnel - Presentation on Employee Assistance Program.

The Skagit County Board of Commissioners met in regular session on Tuesday, February 8, 1994, with Commissioners Robert Hart, Harvey Wolden and Robby Robinson present.

PLANNING DEPARTMENT - Dave Hough, Director.

1. Discussion - Interim Impact Fees.

Dave Hough, Planning Department Director, advised that this is a continuation of the discussion relating to Interim Impact Fees. The County has received a formal request to take some action relating to interim impact fees prior to the County's Impact Fee committee completing their work. The Planning Department has encouraged the various cities to cooperatively work with the school districts in volunteering impact fees. Mr. Hough reviewed with the Board a letter received by the Planning Department from the Conway School District together with a worksheet that was enclosed with their letter outlining the Conway School District's proposed mitigation fee. Paul Carr, Planning Staff, advised the Board that Sedro Woolley is working on a capital improvements program which will be ready later this spring, and proposes their impact fee level at \$1,000 per single family home. Mount Vernon's proposed fee is approximately \$2,600, Burlington is proposing \$835 and Anacortes is at approximately \$1,400. The only specific request the Planning Department has received is from the Conway School District. The Impact Fee Committee had their first meeting last Wednesday and the second meeting is scheduled for February 9.

Chairman Wolden noted that the variation between the different school districts is quite distinct and clarified with Staff that this is per single family home, and is triggered by the issuance of a building permit.

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Commissioner Robinson stressed the necessity for consistency throughout the County taking into consideration different tax bases. There are also multijurisdictional issues (for example, Conway has more farmland than residential areas). The Value of farmland, open space, is very low compared to actual selling prices. No one is willing to sell their farmland at face value.

Commissioner Hart voiced his concern that traditionally the American people pay for their community schools. As areas expand rapidly, there is a two year lag in developing additional tax support for the school districts and that tax monies obtained from new people mutually benefit those already living there as well as the new residents.

Mr. Hough stated that the real issue is whether or not Board wants to consider adopting an interim impact fee for the Conway School District through the public hearing process during the next several weeks or wait for other districts to come forth with their proposals.

Commissioner Hart state that due to the differences of unique situations of each school districts, it was his opinion that the Board should prefer to wait until the individual districts have submitted their proposals. He further stated that it is hard to justify adopting any interim policy without implementing the public hearing process. Commissioner Hart asked Staff how quickly can a public hearing be set.

Mr. Hough clarified that there are no special publication requirements and that a two- week notification period in the newspapers would be adequate. The Board stressed their desire to hold such public hearings as soon as possible and instructed staff to expedite the public hearing date.

Commissioner Hart moved to call for a public hearing to discuss interim impact fees for the Conway School District at the earliest possible date. Commissioner Robinson seconded the motion, which passed unanimously. Staff advised the Board that the public hearing on this matter will be held February 23 at 2:00 p.m.

2. Discussion - Environmental Element Approach.

Gary Christianson, Planning Department Staff, reviewed a memorandum concerning Environment Element of Skagit County Comprehensive Plan and the Planning Department's proposed plan for compliance with local and state priorities as they relate to environmental protection. Skagitonians generally associate a healthy environment with a good quality of life. From public hearings and meetings, the Planning Department has looked into having the environmental element included in the comprehensive plan. The element will identify environmental protection policies or strategies to address issues related to critical areas such as frequently flooded areas, geologically hazardous areas, aquifer recharge areas, fish and wildlife habitat, and wetlands, together with air and water quality. The Planning Department proposes that a "technical advisory board" (TAB) be established to develop a number of discussion papers on each of the identified environmental issues. The TAB would primarily consist of representatives of federal, state, tribal, and local entities, agencies and departments, and would include approximately 20 individuals. After convening a meeting to discuss the element's objectives and timelines, TAB members would be asked to develop their discussion papers for peer review in March.

TAB would then meet with a "citizen advisory committee" (CAC) to review the discussion papers on each environmental issue. The CAC would be comprised of county residents with broad cross-representation and known interest on environmental issues. This group would also consist of approximately 20 people. The CAC would convene in late March and by July be prepared to make final recommendations on Environment Element policies based on TAB discussion papers. The CAC's recommendations would then be forwarded to the Planning Commission for public hearings. The Board of County Commissioners would then take

action on the Planning Commission's recommendations later this fall.

Carol Ehlers, Concerned Citizen, raised two points. Geographical representation should be as broad as possible so that no a major section of the County is not left out of the discussion to assure citizens that local considerations are being considered. Secondly, since this is such a controversial subject, perhaps a public announcement that anyone with concerns in these areas could submit written concerns to be addressed by the CAC, and would give the public the sense that matters of interest have not been forgotten.

3. Discussion - Establish Moratorium on Failure to Declare Conversion on Forest Practice Application.

Staff notified the Board that the subject of a six-year moratorium on future permits based on previous forest practice applications arose when an application for a Special Use Permit to develop an RV park near Marblemount was submitted. The questions of when and where the 6-year moratorium should be applied has arisen. Their triggered a County review when they came into Planning for a permit to develop an RV Park.

Basically, the policy is advisory and says that if the applicant did not declare up front what they were going to do in development of the property, the County should impose implementation of 6-year moratorium. The County has full range of authority to impose such a moratorium. The County also has authority to develop more criteria if this should come up again.

Due to the discretion provided in this policy, the Planning Department has the following issues for clarification:

1. The time period during which the County would apply policy item #2 which addresses the County's current position imposing the 6-year moratorium;
2. Denial of County permits; and
3. Policy revisions to include more specific criteria to base future decisions on if and when this issue comes up again.

Currently, Resolution No. 12663 Approving Forest Practice Policies for Skagit County was instituted on September 24, 1990, and perhaps needs to be updated or rescinded.

The Board discussed with staff various aspects of the forest practice policies and the resolution in question. It was the consensus of the Board that the County needs to apply a moratorium if it is determined there is a blatant attempt to get around forest practice policies. The development of an RV park seems to be a massive change in use.

Dave Hough, Planning Department Director, stated that the Issue of forest practice conversions will be addressed when land use element and forest policies are developed in the comprehensive plan. Mr. Hough felt that the County should look at each of these conversions on an individual basis to determine application of the policies currently in place.

Kraig Olason, Assistant Director of Planning, noted that the adoption of the Comprehensive Plan in June will produce a work list of programs that will need to be developed. It will take 6-10 months to obtain resolutions based on policy discussions. In the meantime, there is no system set up to track conversions easily.

The Board advised Staff to come back with their suggestions for changes and inclusions in the Comprehensive Plan.

4. Discussion - Implementation Proposal for Swinomish Watershed Plan.

Kristi Carpenter, Planning Department Staff, reviewed with the Board a memorandum she prepared regarding the request for a letter of support from the Swinomish Tribal Community. Ed Knight, Environmental Planner for the Swinomish Tribe, authored the letter to the Board requesting a letter of support for the Tribe's preparation of a grant application to the Department of Ecology's Centennial Clean Water Fund for funding of a follow-up program to implement recommendations of the Draft Management Plan developed by the Technical Advisory Committee. In 1988, the Tribe closed the beaches along the west shore as water quality studies indicated problems, and current studies indicate continued problems and the need to determine the source of the problems and prepare options and alternatives needed. The Tribe has been taking action to address the problems.

Commissioner Hart moved to sign the subject letter and Commissioner Robinson seconded the motion. The motion passed unanimously.

5. Code Enforcement Report.

The Code Enforcement Report was reviewed.

6. Miscellaneous.

In accordance with action previously taken by the Board, Planning Department Staff presented a Resolution to the Board for signature regarding the Appeal of Hearing Examiner's Decision Regarding Final Plat of Seaview IV. The Board signed the Resolution as requested. (Resolution #15231)

CONTINUATION OF APPEAL OF HEARING EXAMINER'S RECOMMENDATION FOR DENIAL OF AGRICULTURAL VARIANCE #VAR-93-028 FOR LEONARD LEE, .25 MILES SOUTH OF INTERSECTION OF CHUCKANUT DRIVE AND SR237.

Chairman Wolden advised that the Board is here to consider the appeal of the Hearing Examiner. Paul Taylor, Attorney for Leonard Lee, advised that his client is unable to be in attendance and is requesting additional time to secure the necessary offers on the property at issue. Mr. Lee has obtained an offer on the northern 30 acres of the property, contingent on the action of the Board. Another offer on the remaining 40 acres fell through yesterday. Mr. Lee had knee surgery in early January, and is asking for a few more weeks to come up with an offer on the 40-acre parcel.

Commissioner Robinson suggested that the Board grant Mr. Lee an additional 30 days. Commissioner Robinson then moved to continue the hearing until Tuesday, March 15, at 10:00 a.m. The motion was seconded by Commissioner Hart, and unanimously carried.

APPEAL OF HEARING EXAMINER'S DECISION FOR DENIAL OF SHORELINE VARIANCE #SHL-92-033 AND ADMINISTRATIVE APPEAL #APP93-023 OF TED KRAUSE, LOTS 37 & 38 OF JANICKI COVE.

Oscar Graham, Planning Department Staff, reviewed the Hearing Examiner's decisions regarding the fishing platforms and the structure's position in the floodway. Mr. Graham advised the Board that they have three options:

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1. To approve and adopt 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, after which a revised decision may be adopted.

Photographs relative to the fishing platforms were submitted for the Board's review.

Paul Taylor, attorney for Mr. Krause, advised the Board that a great deal of evidence has been submitted concerning this matter. Mr. Taylor reviewed with the Board photographs of other lots in the area. He advised that there are 10 other lots that have fishing platforms or docks of some sort. Mr. Taylor further stated that to his knowledge these platforms or docks are legal and have been approved by the County. He pointed out a particular lot that was approved September 1, 1993. Mr. Taylor read a portion of the staff report indicating that this is a common appurtenance and is related to fishing and water activities, and poses no threat to navigation.

Mr. Taylor alleged that the County relied on unpublished, vague and unarticulated standards to approve or disapprove these piers. Mr. Krause is willing to compromise and has agreed to modify the fishing platforms smaller if this is a condition of approval. Mr. Taylor advised that no effort to compromise has been made by the County.

Staff advised that a number of structures neighboring the subject property are grandfathered and therefore predate a number of County ordinances. Some of the neighboring properties are subject to pending enforcement actions. A number of adjacent platforms have been permitted, but the process takes place on a site-by-site, proposal-by-proposal basis. This particular proposal is a code enforcement item. The code violations consist of lack of a building permit prior to construction, together with location in a floodway. There has never been an application made for a building permit. The Board discussed with staff the specifics of the lack of issuance of the necessary building permit.

Oscar Graham advised the Board that the subject today is Mr. Krause's proposal for the fishing piers, not the neighboring properties. This is an enforcement action and there has not been a building permit issued for this use. The County has spent an inordinate amount of time corresponding with Mr. Krause's various attorneys. The County has a complete written record and the Board has been provided with copies of Staff reports and written orders. Mr. Graham stressed that reliance should be placed on these documents, and that the documents make a fairly compelling case for denial of the fishing platforms.

Commissioner Robinson stated that Mr. Krause sidestepped the opportunity to handle this properly by not participating in the permit process. Chairman Wolden concurred that the bottom line is the lack of a building permit.

Commissioner Hart stated that Mr. Krause made application for a shoreline permit, and that the fishing platforms were one component of that request, that a number of components were approved, but the fishing platforms were denied by the Hearing Examiner.

The Board again clarified with Staff their options.

Commissioner Robinson moved to uphold the Hearing Examiner's decision to deny the fishing platforms. The motion was seconded by Chairman Wolden and unanimously passed.

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Mr. Taylor then proceeded to the *administrative appeal portion of this matter, specifically the matter of the storage shed revisions that Mr. Krause constructed on the property.* Mr. Taylor commented that the County has a flood damage ordinance that contains no formal description of a residence. According to Mr. Taylor, *Mr. Krause never stated that this is a residence, and that the building does not qualify as a residence.* The storage shed does include a bathroom. Revisions were submitted during the course of construction and the revised plans were allowed according to Mr. Taylor. Mr. Krause proceeded to add four feet to the storage shed, but the footprint of the original building was not enlarged. These revisions added 100 square feet to floor of the building. According to Mr. Taylor, there was a mistake made by the architect in listing one of the rooms as a bunkroom. An engineering analysis was prepared by professional engineer.

A Stop Work Order was issued July 1, 1993, as staff found the structure in violation of Skagit County codes. Tim Hoffman, Code Enforcement Officer, wrote a letter dated July 6 in which he described the various violations. The Board ascertained that the work was done without a permit.

Plans for the included revisions were never approved and for the next several months Mr. Taylor met with Mr. Hoffman, Mr. Graham and Ms. Pfahl, County Planning Staff, to ascertain what specifically was in violation so he could properly advise his client. Commissioner Robinson noted that the revisions were made to the original plans and did not meet the criteria under the Shoreline Management Act.

It is Staff's opinion that the additions make this building a residence, according to Mr. Graham. Staff advised that the County uses Webster's Dictionary to define a residence. Tom Karsh, Permit Center Coordinator stated in the hearing that the building is not a residence according to Mr. Taylor. There is nothing illegal or wrong about the construction, the problem is that Mr. Krause did the revisions without the benefit of a permit.

The Board queried staff on various aspects of the plans and revised plans for the building, and exact *proximity of the building to the river.*

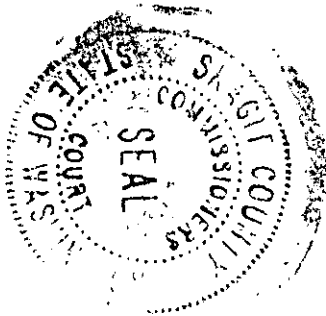
Commissioner Hart indicated that he felt the building looks like a residential structure.

Commissioner Robinson moved to uphold the Hearing Examiner's decision. Commissioner Hart seconded the motion, which carried unanimously.

ADJOURNMENT:

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

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON





Harvey Wolden, Chairman




Robby Robinson, Commissioner



Robert Hart, Commissioner

ATTEST:



Patti J. Owen, Clerk
Skagit County Board of Commissioners