

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

Tuesday, November 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 Road Maintenance Supervisors.
- 9:00 a.m. - 10:00 a.m. Planning Department - Dave Hough, Director.
- 1) Discussion - FEMA Community Assistance Visit.
 - 2) Code Enforcement Report.
 - 3) Miscellaneous.
- 10:00 a.m. - 11:00 a.m. City of Anacortes Appeal of SEPA Decision #AAP-94 ANA.APP.
- 1:00 p.m. - 2:00 p.m. Review Composition of SKAT Board of Directors with Mayors of LaConner, Sedro Woolley and Anacortes (Hearing Room "C").

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

PLANNING DEPARTMENT - Dave Hough, Director.

1. Discussion - FEMA Community Assistance Visit.

Oscar Graham, Senior Planner, advised that on July 21, 1994 George Currin of FEMA conducted a community assistance visit in Skagit County. The purpose of this visit was to provide the County with the most current information on the National Flood Insurance Program, provide an opportunity for dialogue relative to federal requirements and assess the County's enforcement of the Flood Damage Prevention Ordinance per the requirements of the National Flood Insurance Program.

Mr. Graham advised that this visit yielded a number of directives from FEMA that Skagit County must address by December 21, 1994. These issues included the revision of the Flood Damage Prevention Ordinance to address manufactured homes and a list of 23 alleged site specific violations. The list of specific violations were briefly reviewed with the Board. FEMA made assumptions that the County was not enforcing the pertinent flood prevention ordinance.

Recent developments at the federal level may require adjustment of our flood plain ordinance, and the possible need to consider some problematic aspects as well, most particularly siting of recreational vehicles within the flood plain. FEMA wants to be assured that such recreational vehicles are temporarily parked and can be moved in case of flooding.

A discussion ensued on the need to clarify particular definitions in the ordinance, specifically definitions for "structure", "dwelling unit", "residential construction" and "storage structures."

Mr. Graham noted that there is a heavy commitment of staff time to go through the public process and make these changes. It is necessary to make the ordinance a tool to use against such challenges.

Mr. Graham advised that a response to the community visit letter will be drafted addressing the issues of such a cursory survey.

RECORD OF THE PROCEEDINGS
Tuesday, November 8, 1994
Page #2

Dave Hough, Planning Department Director, will be contacting Mr. Steel of FEMA regarding the sharp tone of the letter sent on September 21, 1994 listing these site specific concerns.

Tim Hoffman, Code Compliance Officer, reviewed the specific findings that FEMA made and questioned the thoroughness of FEMA's survey, together with the specific problems of identifying park models versus regular recreational vehicles.

Mr. Graham noted that definitions developed at the federal and state level would benefit greatly from local jurisdictional input. Mr. Graham noted that there has been much time and effort involved in the enforcement and administration of the flood plain ordinance.

Commissioner Hart noted that after the Mississippi floods, there has been closer inspection of flood plain areas throughout the nation. The possibility of losing the National Flood Insurance Program could be devastating to homeowners in the flood plain.

Mr. Graham indicated that joint resolution of these matters with FEMA would be helpful.

Commissioner Hart stated that the public does not want to be responsible for people who site in an area prone to flooding or other natural disaster.

Kraig Olason, Assistant Planning Director, stated that internal consistency with the drainage and flood plain ordinances may need to be adjusted during the regulatory reform period following adoption of the Comprehensive Plan. This might be an opportunity to review both of these ordinances closely to make sure they are internally consistent.

Mr. Hoffman indicated that he will stay in close contact with the Board and advise as further developments take place.

2. Code Enforcement Report.

The Code Enforcement Report was reviewed.

3. Miscellaneous.

Mr. Graham updated the Board on the current status of the eagle situation on the upper Skagit River.

CITY OF ANACORTES APPEAL OF SEPA DECISION #AAP-94 ANA.APP.

Mr. Hough advised that in July, 1994, the Department of Planning and Community Development issued a Declaration of Non-Significance relating to the Skagit County Planning Commission Proposed Comprehensive Plan Element Policy Document. The Planning Commission conducted public hearings on the Policy Document shortly thereafter and provided for written comment open until the end of July. Since the first of August, the Planning Commission has deliberated on the draft Policy Document considering all comments submitted. During the two-a-week meetings, the Planning Commission has modified a number of the policies originally reviewed as a part of the threshold determination.

The Department, in reviewing the modifications made by the Planning Commission over the last three months, determined that enough changes had been made to require additional environmental review prior to the final recommendation of the Planning Commission. As a result of that determination, The Department,

pursuant to WAC 197-11-340(3), withdrew the Declaration of Non-significance.

Mr. Hough stated that the appeal of the DNS by the City of Anacortes is no longer applicable since the DNS has been withdrawn.

Furthermore, the County has amended Skagit County Code 14.24 as it relates to the appeal process for Final Environmental Impact Statements. The appeal period begins at the time of issuance of the substantive decision not the date of issuance of the FEIS. In this case, according to Mr. Hough, the appeal period would begin at the time of the Board of Commissioners' decision relating to the Land Use Element.

Mr. Hough advised the Board that the appeal of the City of Anacortes is premature in that the substantive decision has not been issued.

Mr. Hough confirmed that the decision of the Hearing Examiner was that the City of Anacortes' appeal is premature in both regards.

Steve Mansfield, City Attorney for the City of Anacortes, stated that the DNS appeal by the City has been withdrawn. Mr. Mansfield explained that the City disagrees with the interpretation of the language regarding appeals of the FEIS and the substantive determination. Mr. Mansfield stated that the City is appealing the FEIS because they feel there are problems and inconsistencies that should be addressed at this time.

Ian Munce, Planning Director for the City of Anacortes, stated that the SEPA review has been referred to as a "phased review." Mr. Munce briefly discussed the March's Point Area and boundary determinations of the Anacortes urban growth areas, and the City's contention that the Planning Department is trying to finalize the FEIS without the proper environmental justification and review. Mr. Munce stated that the Department has indicated that addenda will be made and necessary changes addressed at a late date. The City does not feel that this is the proper sequence of events.

Mr. Munce pointed out that the Planning Commission is having a difficult time deciding on the March's Point designation due to an inadequate environmental document. Mr. Munce stated that the Department simply has a conclusion with no analysis. The City is merely asking for this appeal so the record can be corrected to address factual errors, have the Planning Department get these issues resolved, and get the proper information to the Planning Commission to make proper decisions.

Mr. Hough argued that the Planning Commission is going through a painstaking process in creating an alternative as a final recommendation. Mr. Hough stated that SEPA specifically provides for an environmental review. Mr. Hough stressed that it is important for the Planning Commission to go through the step-by-step review relating to adoption of the Comprehensive Plan for Skagit County. SEPA rules provide for this process and it is the intention of the County's withdrawal of the DNS to allow the process to be completed with a substantive decision made before appeals begin. Mr. Hough stated that the Comprehensive Plan will need additional environmental review and that review will be by the decisionmakers. It is not appropriate to consider an appeal to an unfinished document or an unfinished process prior to the final action being taken.

John Moffat, Chief Civil Deputy, stated that it is the intent of the legislature that SEPA appeals must be tied to the substantive decision. Mr. Moffat indicated that the City's interpretation of the language is incorrect, and that a substantive determination has to be made before an appeal can be considered.

Mr. Mansfield countered that if the intent was to preclude an appeal until after the substantive determination,

the language should have stated such. It was Mr. Mansfield's opinion that nothing in this language precludes the appeal the City has made.

Commissioner Robinson indicated that he does not agree with Mr. Mansfield's interpretation, but concurs with Mr. Moffat's statements. Commissioner Robinson stated that the appeal is premature, and that this is not the proper forum for such consideration.

Commissioner Robinson moved to uphold the Hearing Examiner's decision. The motion was seconded by Commissioner Hart, and passed unanimously. (Resolution to be provided by Staff at a Later Date).

REVIEW COMPOSITION OF SKAT BOARD OF DIRECTORS WITH MAYORS OF LACONNER, SEDRO WOOLLEY AND ANACORTES (HEARING ROOM "C").

Jim Lair of Skagit Transit distributed a copy of the pertinent R.C.W. 36.57A.055 - Governing Body. Mr. Lair explained that there is need to make a change to the SKAT Board of Directors due to the SKAT additional service areas of LaConner, Sedro Woolley and Anacortes having been approved by the voters. Mr. Lair explained that the State law states that every 4 years the governing body needs to review its composition.

Commissioner Hart stated that he feels that the Mayor of Sedro Woolley should be added to the Board of Directors, as well as one of the Mayors from either Anacortes or LaConner.

Mayor Ray Reep, City of Mount Vernon, indicated that the Mayor of LaConner has indicated that he would prefer the Mayor of Anacortes to serve in this capacity.

A brief discussion ensued on the maximum size of the Board under the law, and it was determined that 9 is the number allowed.

Mayor Ray Henery, City of Burlington, moved to increase the Board of Directors by adding the Mayors of Sedro Woolley and Anacortes. Mayor Reep seconded the motion.

A discussion ensued on possible other alternatives to the composition of the Board. Several proposals were suggested and discussed.

The motion was clarified to include that the Mayor or Mayor's "designee" would be appropriate. Consequently the Board will consist of the Mayor of Mount Vernon, a Mount Vernon councilperson, the Mayor of Burlington, a Burlington councilperson, the 3 County Commissioners, the Mayor of Anacortes or their designee, and the Mayor of Sedro Woolley or their designee.

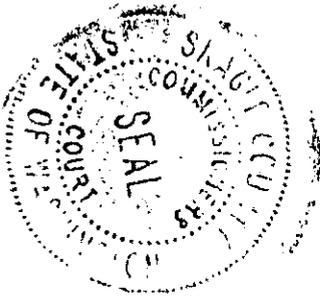
The question was called, and the motion passed unanimously.

Mr. Lair further indicated that the effective date of the activation of the new Board of Directors needs to be determined. As the activation date for sales tax collection is December 1, 1994, it was moved by Commissioner Hart that the composition of the Board of Directors will change as approved above on December 1, 1994. Commissioner Robinson seconded the motion, which passed unanimously.

ADJOURNMENT.

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

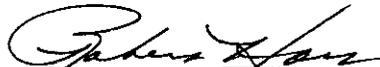
BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON





Harvey Wolden, Chairman

Robby Robinson, Commissioner



Robert Hart, Commissioner

ATTEST:



Patti J. Owen, Clerk
Skagit County Board of Commissioners