

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
Wednesday, September 4, 1996**

8:30 a.m. - 10:00 a.m.	Executive Session - Personnel, Litigation and Land Acquisition. Flag Salute.
10:00 a.m. - 11:00 a.m.	Discussion - Remand of Starbird Championship Golf Course and Planned Unit Development.
1:30 p.m. - 2:30 p.m.	Discussion of Local Priorities - Puget Sound Water Quality Action Team.
3:00 p.m. - 4:00 p.m.	Discussion - Memorandum of Agreement Regarding Utilization of Skagit River Basin Water Resources for Instream and Out of Stream Purposes.

The Skagit County Commissioner met in regular session on Wednesday, September 4, 1996, with Commissioners Ted W. Anderson, Harvey Wolden and Robert Hart present.

DISCUSSION - REMAND OF STARBIRD CHAMPIONSHIP GOLF COURSE AND PLANNED UNIT DEVELOPMENT.

Tom Karsh, Planning Department Assistant Director, stated that this issue is being brought to the Board for reconsideration. Mr. Karsh stated that the Snohomish County judge ruled that the project needed to come back to the County to give staff an opportunity to recalculate the bonus lot density calculation and clarify the findings and conclusions as to whether the development is urban or rural in nature.

Mr. Karsh stated that included in packets before the Board should be the Court order, a letter from Brent Carson, Attorney representing Dr. & Mrs. Bertleson, and the August 26 letter from David Bricklin, Attorney who represents Friends of Conway Country Living. Mr. Karsh referred to the conclusion of Carson's letter and conclusion of Bricklin's letter to illustrate the opposing sides to this issue.

Mr. Carson stated that the judge approved this project with remand for clarification of whether this is rural or urban and reviewed portions of the judge's order in this regard, emphasizing that the judge was not requesting a Public Hearing. Mr. Carson summarized with the fact that the recalculations included in his letter are correct. In regard to the question as to whether this is a urban or rural development, he stated that it is his belief that this is a compact rural development and reviewed the basis. Mr. Carson requested that the Board adopt this as a compact rural development.

Commissioner Hart inquired as to access points and whether they are all existing today. Dr. Bertleson and Mr. Carson stated that two out of the three access points are existing currently and indicated which ones those were.

Mr. Bricklin stated that there seemed to be some changes taking place in this proposal, such as the 20% reduction in lots, that need to be addressed before the project is fully formed. Mr. Bricklin suggested that this go back to the Planning Commission for recommendation to the Board for proper course of action. Mr. Bricklin stated that the County Enabling Act provides that this should go to Public Hearing due to the changes, even though the judge did not require this. Mr. Bricklin requested that this matter go back to the Planning Commission for that purpose.

Mr. Bricklin stated that the judge concluded that this project cannot proceed until it is determined whether this project is urban or rural. Mr. Bricklin stated that recently passed Ordinance #16211 states what density requirements are and that if this project is allowed today, action would be inconsistent.

Mr. Bricklin also mentioned several Ordinances passed by the Board between 1992 and 1995 which should be applied to this project, which further requires the Planning Commission to re-evaluate this project.

Mr. Bricklin stated that the Environmental Impact Statement was prepared under the concept that under the one acre of wetlands was going to be impacted and that now that a greater amount of land will be in fact impacted. Mr. Bricklin stated that new information is coming forward to substantiate this need for further environmental review.

In rebuttal, Mr. Carson responded that the State law does not require Public Hearing be held. Mr. Carson stated that the Plaintiffs purely want this project denied somehow and that delaying in this matter, could very well deny the project and that the Board's responsibility is simply to amplify their findings.

Record of the Proceedings

Page 2

September 4, 1996

Mr. Bricklin stated that this is no longer the same project and thus, the Board cannot just merely amplify their prior findings. Mr. Bricklin did not deny that this project should be denied, but stated that the best way to eliminate further delay is to follow the correct procedure and hold a Public Hearing.

Mr. Moffat outlined the options available to the Board as follows; 1) make a decision today based on the information before the Board, 2) take it under advisement and come back with decision at a later date, or 3) decide to hold a Public Hearing and remand to planning commission, 4) take under advisement and decide to reconvene at a later date and then hold a Public Hearing or remand to Planning Commission.

Commissioner Wolden commented on the fact that there are rural developments in the close proximity to this project and that these particular sites have lot sizes much smaller than the proposed development.

Commissioner Hart stated that it is his understanding that the judge does not expect the Board to recalculate the lots and Mr. Moffat reiterated that the judge point blank stated that there is no need to have a Public Hearing.

Commissioner Anderson commented and clarified the previously adopted Interim Ordinance.

Mr. Karsh referred to the last page of the packet that was given to the Board, clarifying that this recalculation is provided by County staff after the judges order to recalculate, indicating that this is based on 96 units. Mr. Carson further clarified that this recalculation is based on 88 units, not 96.

Commissioner Hart made a motion to direct staff to prepare findings that the Starbird PUD is a rural development which is in compliance with the GMA, the Countywide Planning Policies and the Comprehensive Plan, the Zoning Code and the Coordinated Water System Act based upon the factors and criteria set forth in paragraph 5 of Judge Allendorfers June 18th order. Commissioner Hart continued his motion by stating that in drafting the findings, the staff should consider the analysis set forth on pages 6 - 14 of Brent Carson's letter of August 7th and finally, as part of this motion, moved that the project be approved for a total of 81 lots if the 29 acre parcel across Starbird Road is not included in the total acreage, or 88 lots if that parcel is included, based on the lot calculations and analysis in pages 2 - 6 of Mr. Carson's letter.

Commissioner Wolden seconded the motion and it passed unanimously.

DISCUSSION OF LOCAL PRIORITIES - PUGET SOUND WATER QUALITY ACTION TEAM.

Tim Ransom, Puget Sound Water Quality Action Team, stated that it is their intention today to discuss changes that have taken place and the results of recent legislation which calls for implementation of a new plan. Mr. Ransom stated that the goal is for the Board to assist in responding to questions. Mr. Ransom reviewed the history of the water quality plan. Mr. Ransom mentioned the members of the Puget Sound Action Team and the Puget Sound Council and indicated that these groups meet to develop a work plan and related activities.

Nancy McKay, Chair of the Puget Sound Water Quality Action Team, stated that the legislature has directed them to provide a two year work plan. Ms. McKay stated that questions asked by the Board today will be summarized and brought back to the Board, that these would then be shared with the Puget Sound Council, and then presented highlights of what they heard. The plan will then go to the legislature. Ms. McKay outlined the questions that will be asked of the Board.

The Board inquired about the following;

Health issue - upgrading or maintaining, financial assistance available to upgrade on-site septic within the County such as been done in Edison, testing of water quality, concern over enforcement of regulations by Department of Ecology, encouragement to look at range of projects and identify potential problem areas., concern of overlapping of agencies and developing some coordination between agencies, shellfish importance, on-site work, prioritizing tasks, better information on identification of contamination of local bays provided by the Health Department, the need for public awareness to provide effort to avoid pollution of Puget Sound, recognition by the legislature of importance of ecology, diary waste and regulations that contribute to the problem, specific needs for technical assistance.

DISCUSSION - MEMORANDUM OF AGREEMENT REGARDING UTILIZATION OF SKAGIT RIVER BASIN WATER RESOURCES FOR INSTREAM AND OUT OF STREAM PURPOSES.

VOL 85 PAGE 80

Chairman Anderson briefly reviewed the procedure of today's meeting regarding the time allotment for public comments. Roxanne Michael, Planning Director, briefly reviewed the issue and the changes outlined in the Memorandum of Agreement.

Record of the Proceedings

Page 3

September 4, 1996

Paul Taylor, Attorney, 1735 Cedardale Road, Mount Vernon, asked that the Board read a letter he submitted to the Board regarding legal issues. Mr. Taylor asked the Board not to sign this agreement and to look at it long and hard before signing, as this will effect everyone in Skagit County.

Mitch Janette, 1680 Third Street, LaConner, asked the Board not to sign this agreement. Mr. Janette emphasized that this would effect everyone in the Swinomish Reservation and urged the Board not to sign the agreement. Mr. Janette said that these types of agreements are opposed on a national level also.

John Roozen, 1599 Beaver Marsh Road, stated that this agreement is not complete in its entirety and asked the Board not to sign the agreement in this regard as it will eliminate irrigation out of the river at the farmers discretion. Mr. Roozen stated that on behalf of Washington Bulb Company, they would ask the Board to reconsider this agreement.

Ken Fowler, Dahlman Pump and Drilling, commented on the agreement, stating that this agreement cuts out the taxpayers and sets up an organization which eliminates private industry competition. Mr. Fowler also commented on the instream flows and stated that the reports can be written to say whatever you want and that instream flows could become a real political tool. Mr. Fowler stated that if these entities take a large volume of water out of the river, it creates a bypass of the property owner. Mr. Fowler expounded on the effects of these type of agreements and asked why the government has to be involved in this issue. Mr. Fowler stated that if this passes, water rights will still not be available, as the Department of Ecology will not take responsibility. Mr. Fowler stated that this will give the control of this valley to the American Natives. Mr. Fowler responded to a question by Commissioner Hart in regard to ground water and instream studies, stating that there are no complete or very substantial studies available on the instream studies that have been done.

Dale Tyler, President of the Camano Community Water Association, expressed his concern of this agreement and requested that they be included in part of the dialogue on this issue. Mr. Tyler stated that surface water folks and ground water folks think entirely different and discussed future water volumes that will be necessary. Mr. Tyler stated that as neighbors, they are very concern.

George Theodoratus, 3590 Highway 20, Concrete, and Vice President of Wilderness Village, stated they have spent \$35,000 in legal fees trying to maintain their water rights and asked that everyone be included in this decision.

Mike Roozen, 1523 McClain Road, Mount Vernon, stated his disappointment in that this is the first time they have had the opportunity to comment. Mr. Roozen asked what the status of the wells after the agreement is signed. All get together and form a dialogue on this and not behind closed doors.

Alice Sutton, 3193 Cemetery Road, Sedro Woolley, stated that she has several questions on this issue. Ms. Sutton stated that if the Indian Tribe does not hold up their end of the agreement, it will be impossible to enforce.

Phil Jennings, Secretary of Drainage District No. 15, commented on the issue, stating that irrigation and drainage district needs to pump water out of the river. Mr. Jennings asked the Board for some long range plans for the water to the Skagit River.

John Sikma, Bellingham, commented on the legality of this agreement. Mr. Sikma commented on the various legal questions and the enforcement issues. Mr. Sikma stated that this has such a broad impact and asked the Board to delay any decision on this agreement.

Terry Christiansen, 3302 K Avenue, Anacortes, stated that this agreement should be put under a microscope before being signed by the Board.

Kent Knutzen, 111 Chuckanut Drive, commented on the agreement, stating that specialty crops are becoming very expensive to raise to get any yield, that expense including irrigation. Mr. Knutzen reviewed the permit situation and stated that signing this agreement could make the ag land virtually worthless. Mr. Knutzen reviewed his personal experiences in trying to get water for his farming operation, the discussions with PUD and the Department of Ecology.

Commissioner Wolden stated his appreciation of today's testimony and continued by saying that there is a real need for a balance. Commissioner Wolden expressed the need for exempt wells and a need for greater dialogue. Commissioner Wolden stated that the Board was not apprised of this until January of this year and that there are alot of questions that should be answered, gaining more input from the public. Commissioner Wolden commented on the large amount of irrigation that takes place in the valley today.

Commissioner Wolden stated that agriculture should be kept viable in the County and a restriction of water will eliminate a resource that farmers need and that would be doing a dis-service to those individuals.

Commissioner Hart reviewed his long time involvement in the water issues. Commissioner Hart stated that some time ago, Skagit County had more water than anywhere in the Northwest. Commissioner Hart stated that water rights have not been processed for some time and that it took nine years for him to get a water right permit. Commissioner Hart stated that legislature has had the opportunity to change funding appropriations but that raising taxes for this is probably going to eliminate the chances of this happening. Commissioner Hart expressed the need for homeowners to have the stability that when purchasing a home, water will be available. Commissioner Hart stated that this is alot less of an agreement than most people think, where the groups say they will pay for administrating flow study and the Tribes guarantee that there will not be lawsuits. Commissioner Hart stated that ag rights will be the same after this agreement is signed as they are now. Commissioner Hart stated that this is a way to get the instream flow study done and that it is crucial for everyone to know they have water and how much water they do have. Commissioner Hart stated he believes that the people in Skagit County should get the water first. Commissioner Hart stated that this is about the 29th final draft of this agreement and continued

Chairman Anderson stated that he had never been a part of this process until the document was brought to the Board for signature and expounded on the fact that this agreement has had no public process which he stated is very important. Chairman Anderson reviewed the effect this agreement will have on the people of the valley and that he refuses to sign this document. Chairman Anderson stated that if everything was above the board on this issue, there would have been a public process implemented. Chairman Anderson reiterated his refusal to sign this document and stated that we should start over in looking at this document.

Commissioner Hart stated that no action would be taken today and that since Chairman Anderson would be gone for a couple weeks, any action will be delayed.

ADJOURNMENT.

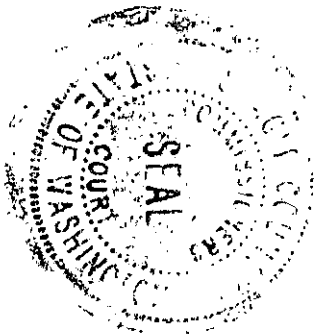
Chairman Anderson made a motion to adjourn the proceedings. Commissioner Hart seconded the motion and it passed unanimously.

BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

Ted W. Anderson, Chairman


Harvey Wolden, Commissioner


Robert Hart, Commissioner



ATTEST.


Debby Sims, Clerk
Board of Commissioners