

**RECORD OF THE PROCEEDINGS**  
**SKAGIT COUNTY BOARD OF COMMISSIONERS**  
Tuesday, September 10, 1996

- 7:30 a.m. - 8:30 a.m. Commissioner's Staff Meeting.
- 8:30 a.m. - 9:00 a.m. Work Session - Operations Division Manager/District Maintenance Road Supervisors.  
Flag Salute.
- 9:00 a.m. - 10:00 a.m. Planning & Permit Center - Roxanne Michael, Director.  
1) Signatures - Resolution and Interlocal Agreements with Cities regarding Urban Growth Areas.  
2) Signature - Resolution Recognizing That Section 3 of Ordinance No. 16211 Amending Skagit County Code 14.04.065 Relating to Neighborhood Business Zoning Districts is Effective.  
3) Miscellaneous.
- 10:00 a.m. - 11:00 a.m. Appeal by Nancy and Barry Otterholt of Hearing Examiner's Decision Approving the Application for Shorelines Variance Permit for Eugene Mushkin for Property Located at 414 West Shore Drive, Guemes Island (SHL 95-044).
- T 1:30 p.m. - 2:30 p.m. Presentation of 1997 Preliminary Budget.
- 2:30 p.m. - 3:00 p.m. Bid Opening - Coal Creek Sedimentation Basin Cleaning Project.

The Skagit County Board of Commissioners met in regular session on Tuesday, September 10, 1996, with Commissioners Robert Hart and Harvey Wolden present. Commissioner Ted W. Anderson's absence was excused.

**PLANNING & PERMIT CENTER - Roxanne Michael, Director.**

1. Signatures - Resolution and Interlocal Agreements with Cities regarding Urban Growth Areas.

Tom Karsh, Assistant Planning Director, stated that the individual Cities involved, Burlington, Sedro Woolley, Mount Vernon and Port of Skagit County, have since this item being put on the agenda, encountered legal issues that have forced postponement of this item at this time. Legal counsel has advised Mr. Karsh that there are two items that must be reviewed further, one being the map that is labeled as Exhibit B, and the second item of concern is in regard to Mount Vernon and the language in the current draft where the County agrees to adopt certain City codes, which need to be better delineated. Rick Cisar, Mount Vernon Planner, stated that they would work through this with their own city council and the city attorney.

Commissioner Hart inquired as to what the ramifications could be if this is signed before the Natural Resource Lands Ordinance is adopted, based on the Growth Hearings Board directive and continued by stating that he has several concerns in regard to this agreement. Commissioner Wolden concurred that there needs to be some clarification on these agreements.

Mr. Karsh mentioned that Bob Rose, Skagitonians to Preserve Farmland, is willing to work with the County and the Cities to resolve the issues at hand and the Board asked that they be kept apprised of the situation.

A discussion ensued in regard to the finalization of the urban growth areas and the correct procedure in relation to the Growth Management Act. The Board expressed their desire to follow the procedure strictly.

Mr. Karsh clarified that it is his understanding to involve the Skagitonians to Preserve Farmland in this issue. The Board stated that this group has involved itself on its own accord and that their inclusion is part of the process. Mr. Rose clarified this further, stating that the groups purpose is to assist in developing a consensus on this issue.

Mr. Karsh proposed that Roxanne Michael set up a meeting for the entities involved in the next week or so. The Board directed Mr. Karsh to advise the Cities and the Port that this item was postponed this morning. Commissioner Hart also inquired about the Town of LaConner. Mr. Karsh responded that LaConner has not returned the final document, but that this would hopefully be received by the time any action is taken.

2. Signature - Resolution Recognizing That Section 3 of Ordinance No. 16211 Amending SCC 14.04.065 Relating to Neighborhood Business Zoning Districts is Effective.

Mr. Karsh presented a Resolution as referenced above, stating that this deals with the invalidity issue in regard to the Growth Hearings Board rulings, and due to the fact that the Neighborhood Business Zoning Districts invalidity has been lifted, it is our intent to revise the Skagit County zoning ordinance, consistent with the Growth Hearings Board order.

Mr. Karsh stated that staff recommends signature of this Resolution as presented.

Commissioner Wolden inquired as to how only portions of this item require a Public Hearing and the fact that this most likely will be appealed.

Commissioner Wolden made a motion to approve the Resolution as presented. Commissioner Hart seconded the motion and it passed unanimously. (Resolution No. 16286).

3. Miscellaneous.

1. Mr. Karsh presented two Out of State Travel Requests for two individuals to attend the National Flood Insurance Program in Emmitsburg, Maryland for four and one-half days. Sandy Corrión, from Public Works, will be one of the individuals attending and one staff person from Planning & Permit, not yet named. Mr. Karsh stated that FEMA will fund the airfare portion of the trip. Mr. Karsh stated that they would like the Board to approve the estimated up to \$500 for meals and lodging. Commissioner Wolden made a motion to approve the requests, as presented. Commissioner Hart seconded the motion and it passed unanimously.

MISCELLANEOUS.

1. Staff presented a Contract with Hartford Contracting, Inc. for the Foundation System Upgrade at the Skagit County Courthouse. The contract sum is in the amount of \$513,000. Commissioner Wolden made a motion to approve the Agreement, as presented. Commissioner Hart seconded the motion and it passed unanimously. (Contract No. 03172).

APPEAL BY NANCY AND BARRY OTTERHOLT OF HEARING EXAMINER'S DECISION APPROVING THE APPLICATION FOR SHORELINES VARIANCE PERMIT FOR EUGENE MUSHKIN FOR PROPERTY LOCATED AT 414 WEST SHORE DRIVE, GUEMES ISLAND (SHL 95-044).

Zoe Johnson, Planning Staff, reviewed the background of the above referenced appeal, stating that Mr. Eugene Mushkin, on behalf of his sister-in-law Francis Mushkin, filed an application for a Shoreline Variance Permit on September 19, 1995 for the approval for the construction of a single family residence and that a request for reconsideration was filed by Brad Furlong, Attorney, on behalf of his clients, Barry & Nancy Otterholt on June 28, 1996. At that time, the Hearing Examiner Pro Tem denied the request based on lack of a timely filing, per Skagit County Code 14.01.057. Ms. Johnson stated that at that time Mr. Furlong filed an appeal and that John Moffat, Chief Civil Deputy, responded to the matter indicating that he considered the appeal timely, based on the fact that Skagit County Ordinance No. 16102 did not effectively amend the shoreline management master program. Ms. Johnson reviewed the options available to the Board today as follows: 1) after examining the written record for appeal, the Board may deny the request and allow the Examiner's decision to stand, 2) remand the matter for reconsideration by the Hearing Examiner, or 3) if the Board believes the Hearing Examiner's decision is not supported by substantial evidence, the Board may adopt its own findings, conclusions and decision based upon the record made before the Hearing Examiner. Ms. Johnson stated that staff recommends that this be remanded to the Hearing Examiner Pro Tem for reconsideration.

Brad Furlong, Attorney representing Nancy and Barry Otterholt, commended Ms. Johnson's recapping of this complicated issue. Mr. Furlong stated that he believes that Pro Tem Hearing Examiner, Tom Moser, faulted on several points. Mr. Furlong stated that this case has some implications not only to the party he is representing, but that it also sets a precedent in regard to shoreline issues in the future. Mr. Furlong asked that if this is remanded back to Mr. Moser, that he be requested to consider the merits of the case.

Eugene Mushkin, stated that he is by profession an Architect, representing his brothers widow , Francis Mushkin, in this case, and asked for some clarification as to what this hearing is actually addressing. Mr. Mushkin reviewed the background of the variance and stated that this variance would provide for a clear view for Mrs. Mushkin without obstructing or bothering others. Mr. Mushkin explained that no one would be obstructed by the construction of the building as outlined by his plan. He continued further by responding to Mr. Furlongs statements regarding setting a precedent, interference with neighbors view, the substantial public sufferance, and setback figures, stating that all these are untrue. Mr. Mushkin explained that there is no way the proposed building will obstruct the view of the Otterholts and referred to an earlier incident where his sister-in-law removed three trees to provide for a better view for the Otterholts. Mr. Mushkin said that these trees have now been replaced by brush, half as tall as the trees were, already obstructing the view for the Otterholts, and that this is the area of the view that would continued to partially be blocked. Mr. Mushkin stated that this has nothing to do with the shoreline and that there is no impact or interference for anyone except the applicant. Mr. Mushkin mentioned that the drawings are in order and prove his statements. Mr. Mushkin reminded the Board that his sister-in-law resides on this property as her primary residence and has owned the property for 40 years. Mr. Mushkin stated that the appellant uses this as a vacation home. Mr. Muskin concluded by stating that all procedures have been followed correctly.

A discussion ensued in regard to the appeal rights and Mr. Furlong stated that all that can be remanded today to the Hearing Examiner is the request for reconsideration. Mr. Moffat reiterated that all that can be reconsidered is what the appellants have appealed at this time. It was determined that when the remand is done, either side could appeal the decision at that point.

In this regard, Mr. Mushkin stated he would like the Hearing Examiners ruling as stated rather than remand this back.

Mr. Furlong requested that if this be remanded back to the Hearing Examiner and that the Otterholts again appeal, that the Board waive the appeal fee for the Otterholts in the amount of \$225 due to the ambiguous portion of the issue in regard to timely filing, which Mr. Furlong believed to be Mr. Moser's error.

Mr. Moffat emphasized that he did not believe that the Pro Tem was faulty in this case, in relation to the Interim Ordinance.

Commissioner Wolden made a motion that this be remanded back to the Hearing Examiner for reconsideration. Commissioner Wolden stated that based on that the fact that the Interim Ordinance issue was not clear, the Board will waive the appeal fee in the amount of \$225 if the Otterholts again appeal on this case. Commissioner Hart seconded the motion and it passed unanimously.

#### PRESENTATION OF 1997 PRELIMINARY BUDGET.

Kathy Hill, Skagit County Auditor, reviewed the schedule that had been adhered to in the preparation of the 1997 Preliminary Budget. Ms. Hill advised that generally County departments submitted their data in a timely fashion and via electronic transmission. Staff from the Auditor's Office distributed the two notebooks containing the 1997 Preliminary Budget documents.

Ms. Hill generally reviewed projected revenues and expenditures. Ms. Hill distributed a Financial Indicators Report to assist the Board with some of the difficult decisions that must be made in the weeks ahead.

Ms. Hill noted some difficulties of her staff interpreting requests for personnel. She further noted that copies of the budget documents will be available for the public to view if they so desire. Ms. Hill thanked her staff for their efforts in putting these documents together for presentation to the Board.

The Board expressed their appreciation to the Staff for their diligent work in preparing the 1997 Preliminary Budget

#### BID OPENING - COAL CREEK SEDIMENTATION BASIN CLEANING PROJECT.

John Abenroth Jr., Public Works Staff, opened the three bids received as follows:

- 1) Strider Construction  
Bellingham, WA  
\$112,226.80

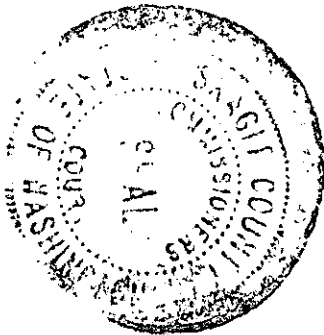
- 2) SRV Construction Co.  
Oak Harbor, WA  
\$129,658.00
- 3) One Way Construction  
Sedro Woolley, WA  
\$134,575.32

The Engineer's Estimate was \$98,000.00. Mr. Abenroth stated these bids would be reviewed and a bid award recommendation brought back to the Board at a later date.

**ADJOURNMENT.**

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

BOARD OF COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON



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Ted W. Anderson, Chairman

*Harvey Wolden*  
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Harvey Wolden, Commissioner

*Robert Hart*  
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Robert Hart, Commissioner

ATTEST.

*Debby Sims*  
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Debby Sims, Clerk  
Skagit County Board of Commissioners