

RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
Tuesday, April 8, 1997

- 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/Road District Supervisors.
- Flag Salute.
- *T 9:00 a.m. - 10:00 a.m. Public Works Department - Jan Keiser, Director.
- 1) Public Hearing - Consideration of Proposed Speed Limit Revision on Downey Road, No. 4380.
- 2) Proclamation recognizing Earth Day as April 22, 1997.
- 3) Discussion - Reservation Road Regional Surface Transportation Project.
- 4) Surface Water Management Division Presentation - Community Rating System for Flood Insurance.
- 5) Miscellaneous.
- *T 10:00 a.m. - 11:00 a.m. Planning & Permit Center - Roxanne Michael, Director.
- 1) Discussion - Proposed Agricultural Land Preservation Covenant.
- 2) Report on Recent International Conference of Building Officials Seminar.
- 3) Miscellaneous.
- *T 11:00 a.m. - 11:30 a.m. Presentation by Soil Conservation District regarding Arbor Day/Forestry Program.
- 1:30 p.m. - 2:30 p.m. Appeal by Stephen L. Green, et al. of Hearing Examiner's Decision Approving Special Use Permit for Construction of a Cell Tower located at Outlook Lane, North of Highway 20, at the top of Bacus Hill (PL-96-022.SPU).

The Skagit County Board of Commissioners met in regular session on Tuesday, April 8, 1997, with Commissioners Harvey Wolden and Robert Hart present. Commissioner Ted W. Anderson's absence was excused.

PUBLIC WORKS DEPARTMENT - Jan Keiser, Director.

Robin LaRue, Assistant Director, opened this portion of the meeting.

1. Public Hearing - Consideration of Proposed Speed Limit Revision on Downey Road, No. 4380.

Chairman Wolden opened the public hearing.

Steve Blair, Public Works, mentioned that a petition has been received recommending the speed limit revision on Downey Road. The proposed speed limit recommendation is to increase the speed limit from 35 mph to 45 mph. The Department also recommends this revision. Mr. Blair further discussed the revision.

E. Douglas Jones, Channel Drive, stated that he was one of the residents initiating the petition and re-stated support of the proposed revision.

Chris Wilde, Channel Drive, expressed concern that drivers might not slow down when they get to Channel Drive if the limit on Downey Road is increased.

Commissioner Hart made a motion to close the public hearing. Chairman Wolden seconded the motion and it passed unanimously.

Commissioner Hart made a motion to approve the recommendation to increase the speed limit on Downey Road from Mile Post 0.00 to Mile Post 1.17 from 35 miles per hour to 45 miles per hour, and from Mile Post 1.17 to Mile Post 1.28 from 35 miles per hour to 25 miles per hour. Chairman Wolden seconded the motion and it passed unanimously. Mr. LaRue reported that a Resolution will follow in this regard.

Chairman Wolden took a minute to recognize three Cub Scout Troop #73 members from the area who were in attendance today and presented them with Skagit County pins.

2. Proclamation recognizing Earth Day as April 22, 1997.

Frances Ambrose, Public Works, presented a Proclamation celebrating the 27th anniversary of Earth Day. Ms. Ambrose read the proclamation into the record. The Board signed the Proclamation recognizing April 22, 1997, in this regard, with a motion made by Chairman Wolden. Commissioner Hart seconded the motion and it passed unanimously. Ms. Ambrose also briefly discussed the activities that will take place during Earth Week.

3. Discussion – Reservation Road Regional Surface Transportation Project.

Dave Baltz, Public Works, discussed the Reservation Road STP project. Mr. Baltz explained that this project will benefit a number of entities. Mr. Baltz stated that there was some competition for the funding for this project, however, this project could likely be considered a model project both locally and statewide.

A pending ISTEPA letter was also discussed and the Board gave directive to Mr. Baltz, that this letter needs to clearly contain information on what we have done with funds in the past and how we intend to use the funds in the future. Mr. Baltz reported that he would revise the letter as directed and provide it to the Board for signature.

4. Surface Water Management Division Presentation – Community Rating System for Flood Insurance.

Sandy Corron, Public Works, provided an update on the application for the community ratings for flood insurance. Ms. Corron stated that Skagit County is one of largest of the top ten in flood insurance premiums and largest policy holder in Washington State. Ms. Corron reported they are attempting to receive a reduction in policy costs and discussed the repetitive loss plan. Chairman Wolden asked if potential buyers are notified if they are purchasing flood property. Dave Brookings, Public Works, reported that notification is anticipated to be pursued. The Board concurred that the Department should proceed to assist those property owners with reducing flood insurance costs.

5. Miscellaneous.

Mr. LaRue presented the Solid Waste Division 1996 Annual Report and portions of the report were discussed.

PLANNING & PERMIT CENTER – Roxanne Michael, Director.

1. Discussion – Proposed Agricultural Land Preservation Covenant.

Tom Karsh, Planning, discussed the proposed covenant in this regard, stating that if a property owner would like to divide the residence away from the farmland, it would require that they go to a non-profit conservation organization and come up with a conservation easement agreement. Then the property owner could create a substandard lot in an ag zone, creating two parcels and Mr. Karsh stated that the mechanism to do this needs to be developed. Mr. Karsh stated that the sad truth, however, is that the program is slow in gaining favor due to several issues. The Departmental position is that the County relies on the conservation organizations to develop the conservation easement and with that Mr. Karsh introduced Bob Rose, Skagitonians to Preserve Farmland, who further discussed the proposal for review.

Mr. Rose reviewed the history of agricultural variances and that the easement approach seemed to be the better alternative as directed by the Board. Mr. Rose stated that the problem is that there are conceptual difficulties in this process and Mr. Rose reviewed the process, highlighting IRS implications for the property owners and the difficulty of the position of the non-profit organization to create legal language that will accommodate the attorneys and others involved. Mr. Rose suggested that the easement could be held by the County rather than the conservation organization, as the County fits the criteria for this designation, then the conservation organization such as Skagitonians could oversee the process. Mr. Rose stated that the covenant language in the draft is not fine tuned and will be reviewed by the County Prosecuting Attorney in order to make this a fairly simple process for the landowner who wishes to create these parcels.

Commissioner Hart stated that the variance process is unreliable and he would like to have something developed to provide a simple and legal process for property owners wishing to make these divisions. VOI 86 PAGE 470

A discussion ensued in regard to the division of acreage less than 40 acres and pre-existing structures.

Mr. Rose reported that proposed language for the covenant will be reviewed and developed with the Prosecuting Attorney, Mr. Rose and anyone else who the Board directs to be involved.

Keith Wiggers, Skagit Land Trust, reiterated that the long-term success of this program should be of utmost importance emphasizing perpetuity.

Mr. Wiggers stated that the landowners should be ensured that this document will be enforced in the future, which may require funding.

Jim Koetje, Real Estate Broker, commented that he supports this procedure moving forward and urged the Board to include the building sites not only that that have existing buildings, but those sites that do not have an existing buildings. Mr. Koetje reiterated the importance of enforcement of this covenant once it is established.

Mr. Karsh mentioned that there are pending land sales dividing homes from existing farmland and asked for direction from the Board. The Board stated their intent is that this should move forward, finding if we can legally do so. The Board asked that Planning and Mr. Rose deal with the legality issues as to how the County can proceed.

2. Report on Recent International Conference of Building Officials Seminar.

Mr. Karsh introduced Bill Dowe, Permit Center Manager of Public Relations, who discussed his recent trip to Denver to attend a week of training at the International Conference of Building Officials seminar. Mr. Dowe commented on the seminars he attended, focusing mostly on communication skills and public relations. Mr. Dowe also attended administration and management seminars all of which he reported were very interesting and mentioned the new perspective and insight he received from attending these seminars.

Al Jongsma, Commercial Planner, also attended the conference, and reported that the Denver Technical Institute provided this conference with approximately 1200 attending. Mr. Jongsma attended the advanced plan review seminar and described the content of the seminar, reporting that this was the most beneficial conference that he has attended.

3. Miscellaneous.

There were no miscellaneous items from Planning today.

PRESENTATION BY SOIL CONSERVATION DISTRICT REGARDING ARBOR DAY/FORESTRY PROGRAM.

Carolyn Kelley, Skagit Conservation District, briefly reviewed the history of Arbor Day and Commissioner Hart read a proclamation into the record celebrating the 125th Anniversary of Arbor Day. Chairman Wolden made a motion to recognize Arbor Day as April 9, 1997. Commissioner Hart seconded the motion and it passed unanimously. Ms. Kelley presented the Board with Cedar seedlings in this regard.

Al Craney, Conservation District Forester, provided an update on the Forestry Program in Skagit County. Mr. Craney mentioned the importance of forests to the County and reported that 1, 112,000 acres of forest land are in the County. Mr. Carney reported on timber harvesting activities and presented information in regard to the forestry stewardship program in the County that provides assistance to private landowners.

Stu Trefry, Puget Sound Field Rep for the Conservation Commission, which solely exists to provide service and funding to conservation districts, spoke in regard to the Commission's duties in addressing the issues of the conservation districts. Mr. Trefry commended Mr. Craney for his expertise in providing assistance to the conservation district. Mr. Trefry also discussed the funding available for the conservation districts.

APPEAL BY STEPHEN L. GREEN, ET AL. OF HEARING EXAMINER'S DECISION APPROVING SPECIAL USE PERMIT FOR CONSTRUCTION OF A CELL TOWER LOCATED AT OUTLOOK LANE, NORTH OF HIGHWAY 20, AT THE TOP OF BACUS HILL (PL-96-022.SPU).

Commissioner Wolden opened the public meeting. Grace Roeder, Planning Staff, briefly reviewed the proceedings leading to this appeal. Ms. Roeder explained the scope of the Board's previous remand back to the Hearing Examiner. Ms. Roeder advised that the Hearing Examiner approved the issuance of a Special Use Permit for the cell tower as proposed by AT&T.

Ms. Roeder explained to the Board that Staff had not collected an appeal fee as the appellants had not received any decision on the previous appeal.

Commissioner Wolden clarified that the Hearing Examiner had approved the site location for the tower. Commissioner Hart verified with Staff that the setback requirements had been met.

An unidentified gentleman stated that he is an adjacent property owner and had never been notified of any of these proceedings.

David Mann, appearing on behalf of appellants, reviewed the criteria under consideration today. Mr. Mann reviewed item-by-item the Findings of Fact, Entry and Order from the Hearing Examiner. Mr. Mann reiterated that the cell tower is not compatible with the adjacent property owners and will intrude on the use and enjoyment of appellants' property. Mr. Mann further stated that property values will be affected. Mr. Mann stated that the record does not support the findings that the Hearing Examiner made in relation to the requirements of the County's comprehensive plan and zoning. Mr. Mann pointed out that there is no discussion in the Findings that addresses the noise level that the tower will produce. Further, Mr. Mann indicated that appellants will suffer a loss of privacy. Mr. Mann gave a brief synopsis of appellant Mr. Green's post-traumatic stress syndrome and need to be unencumbered by day-to-day stress-producing factors.

Mr. Mann further discussed potential impacts to public health and welfare, including the purported siting of a water tower at the same location.

Mr. Mann indicated that an appraiser stated that there will be a 15-20% decrease in property values if the cell tower is constructed.

Mr. Mann stated his amazement at how the Hearing Examiner could reach such conclusions.

Brent Carson, representing AT&T Wireless, briefly reviewed the scope of the remand and the limit of the Board's consideration today. Mr. Carson explained that the Hearing Examiner did not limit the public hearing to the scope of the remand, but let all in attendance "have their say." Consequently, there is some confusion on the issue at hand today. Mr. Carson stated that the record supports the decision of the Hearing Examiner, and that such decision should be upheld by the Board.

Chairman Wolden restated his understanding of the remand and the proceedings to date. That is, the remand essentially stated that the Board was upholding the initial decision of the Hearing Examiner, but was seeking clarification of the location of the cell tower.

Ms. Roeder stated the options before the Board today:

1. The Board may deny the appeal and allow the Hearing Examiner's decision to stand;
2. The Board may remand the matter back to the Hearing Examiner for further study;
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.

Steve Green, Appellant, stated that it took two days for a decision as to what additional information was being requested.

Jeff and Connie Nims, PO Box 23, Sedro Woolley, and adjacent property owners, stated they were never notified of any proceedings in this matter.

Don Christison, Appellant, indicated that he owns property two lots from the proposed cell tower, and that the proposed tower infringes on where a water tower was originally planned. He had expectations when he purchased the property that the planned water tower would provide for a fire hydrant and water supply to his property. Mr. Christison further stated that there are water shortages in the area.

Chairman Wolden noted that the Board's sole decision today is regarding the location of the cell tower, and that the Board has no knowledge of any proposed water tower.

Esther Finzel, adjacent property owner, accused the Board of avoiding the issue and ignoring the information given by their attorney.

Mr. Green began to speak again but was called out of order by Chairman Wolden.

There being no further testimony, Commissioner Hart moved to uphold the decision of the Hearing Examiner including any and all of the conditions contained therein. Commissioner Hart further moved to waive the appeal fee for the second appeal on this matter. Commissioner Wolden second the motion, and it was approved unanimously. (Staff will provide the appropriate resolution at a later date).

ADJOURNMENT.

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



BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

Harvey Wolden
Harvey Wolden, Chairman

Robert Hart
Robert Hart, Commissioner

Ted W. Anderson
Ted W. Anderson, Commissioner

ATTEST.

Debby Sims
Debby Sims, Clerk of the Board