

RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
Tuesday, June 3, 1997

- 7:30 a.m. – 8:00 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. Public Works Department – Jan Keiser, Director.
1. Signature – Supplemental Agreement for Cook Road Transportation Study.
2. Miscellaneous.
- *T 10:00 a.m. – 11:00 a.m. Planning & Permit Center – Roxanne Michael, Director.
1. Discussion and Possible Adoption of a Resolution Regarding Non-Recourse Revenue Bonds.
2. Discussion Regarding the Revisions to the Critical Areas Ordinance.
3. Update on Educational Training by the Staff.
4. Miscellaneous.
- 11:00 a.m. – 11:30 a.m. Discussion and Possible Action – Addendum No. 1 to the P.U.D./County Agreement in Support of the Alger L.U.D.
- 1:30 p.m. – 2:30 p.m. Appeal by Tom Buggia of Hearing Examiner's Decision Approving the Application for a Shoreline Substantial Development Permit and Special Use Permit for the Upgrading of the Alger Water System and the Construction, Operation and Maintenance of a Water Reservoir and Ground Water Well in the Alger Area (SHL 95-047.ORD and SPU 95-021.ORD).
- 2:30 p.m. – 3:30 p.m. Appeal by Public Utility District No. 1 of Skagit County of Hearing Examiner's Decision Approving the Application for a Shoreline Substantial Development Permit and Special Use Permit for the Upgrading of the Alger Water System and the Construction, Operation and Maintenance of a Water Reservoir and Ground Water Well in the Alger Area (SHL 95-047.ORD and SPU 95-021.ORD).

The Skagit County Board of Commissioner met in regular session on Tuesday, June 3, 1997, with Commissioners Harvey Wolden and Robert Hart present. Commissioner Ted W. Anderson's absence was excused.

PUBLIC WORKS DEPARTMENT – JAN KEISER, DIRECTOR.

1. **Signature – Supplemental Agreement for Cook Road Transportation Study.**

Dave Baltz, Public Works Staff, reviewed the proposed Supplemental Agreement for the Cook Road Transportation Study. The proposed amendment would increase the contract amount from \$21,250 to \$25,100 for a total increase in cost of \$3,850. The Board noted that they do not like coming back to add compensation to contracts where the original job has not changed. Staff explained that the additional scope of this project warrants the requested change in compensation. Commissioner Hart moved to approve the Supplemental Agreement as presented by Staff. Chairman Wolden seconded the motion, which passed unanimously. **(Contract No.003348)**

2. **Miscellaneous.**

There were no miscellaneous items for discussion.

PLANNING & PERMIT CENTER – ROXANNE MICHAEL, DIRECTOR.

1. Discussion and Possible Adoption of a Resolution Regarding Non-Recourse Revenue Bonds.

Roxanne Michael, Planning Director, briefly reviewed the proposed Resolution which has been requested by the State of Washington. This is in conjunction with Lindal Cedar proceeding with various funding options. Commissioner Hart moved to approve the Resolution as presented. Chairman Wolden seconded the motion, which passed unanimously. **(Resolution No.16563)**

2. Discussion Regarding the Revisions to the Critical Areas Ordinance.

Jim Cahill, Senior Planner, reviewed the documentation previously distributed to the Board in their packets regarding this subject. Mr. Cahill explained that of particular concern to the Growth Management Hearings Board (GMHB) , is how the County will deal with existing and ongoing agricultural practices.

Seawater influence issues along coastal shorelines for streams were reviewed on several maps posted by Mr. Cahill. Specific areas and potential problems were discussed. Commissioner Hart indicated that there is ongoing discussion on enhancement of wildlife and salmon along streams. Regulatory Best Management Practices (BMP) have been suggested by the GMHB. Commissioner Hart suggested that perhaps more regulations are not necessary, but simply increased enforcement of existing regulations.

A discussion ensued on the direction these amendments should take, specifically by addressing designation and protection criteria while not encroaching on the rights of property owners with onerous regulations.

Chairman Wolden stated that if the burden is placed on landowners, there will be rebellion. He noted that the Soil Conservation District has completed much of this type of work, especially in the Nookachamps Watershed, and mandating a duplication of work already completed would not be cost effective.

Commissioner Hart stated the need to determine a bottom line with the GMHB of requirements. The County can then implement items to get to real and meaningful goals. He stated that we need to develop partnerships and find sources of funding.

Chairman Wolden stated that he would like more time to review the maps presented today. Commissioner Hart stated that we need some scientific clarity of which direction we need to go.

Mr. Cahill indicated that he would summarize the Board's comments today and will make revisions to the draft set of standards.

Commissioner Hart indicated the need to identify the exact areas that need to be focused on, i.e., identify what particular streams we are talking about and identify the affected property owners. Mr. Cahill advised that the BMPs could be either regulatory or voluntary, but the GMHB calls for regulatory guides. Mr. Cahill further advised the need for a definition of "on-going agricultural."

Mr. Cahill indicated that he would come up with a list of performance standards and map upgrades, incorporating prioritizing for supplemental funding.

Jay Derr, attorney for the County, briefly explained the public input process and the details of complying with the GMHB ruling. Mr. Derr further indicated that from this discussion it appears that the Board would like to focus on map areas as a starting point.

Mr. Derr then opened a discussion on Forest Practice activities.

Mr. Cahill reviewed a brief list of topics that he had discussed with Commissioner Anderson, noting that most of the areas of concern expressed by Commissioner Anderson had been covered in the various discussions during this session.

A work session was scheduled for Monday, June 9, at 2:00 p.m. to discuss this subject further.

3. Update on Educational Training by the Staff.

Due to time constraints, this item was not discussed.

4. Miscellaneous.

1. Roxanne Michael, Planning Director, advised that according to her research regarding the Bullerville Sewer District, it appears that the proposal is exempt from the SEPA requirement. The Board asked for further clarification from legal counsel, and agreed to consider a Resolution approving the formation of the Bullerville Sewer District at 1:15 p.m. this afternoon, prior to scheduled agenda items.

Upon return to session at 1:15 p.m., Ms. Michael verified that legal counsel has advised that this matter should be referred to the Boundary Review Board and that the proposal is exempt from SEPA. Commissioner Hart moved to approve a Resolution approving the Bullerville Sewer District, within the boundaries of the Clark property, and that such proposal should be forwarded to the Boundary Review Board. Chairman Wolden seconded the motion, which passed unanimously. (Resolution No. 16564)

2. Roxanne Michael reviewed the contract with Washington State University for the production of videotapes. After a brief explanation of the provisions of the contract, Commissioner Hart moved to approve the Personal Services Agreement with WSU as presented. Chairman Wolden seconded the motion, which passed unanimously. (Contract No. 003516)

DISCUSSION AND POSSIBLE ACTION – ADDENDUM NO. 1 TO THE P.U.D./COUNTY AGREEMENT IN SUPPORT OF THE ALGER L.U.D.

Brad Spangler, Planning Engineer for PUD, reviewed the existing agreement for the Alger wellsite on existing County property. After wetland delineation, the location of the water treatment site was determined to be located on an existing wetland. Due to the County's Critical Areas Ordinance, this would not be allowable. Trillium Corp. is going to allow PUD to use their existing road and property. This reduces the amount of property requested from the County and keeps costs down. Commissioner Hart moved for approval of the Addendum as presented. Chairman Wolden seconded the motion, which passed unanimously. (Contract No. 003397)

APPEAL BY TOM BUGGIA OF HEARING EXAMINER'S DECISION APPROVING THE APPLICATION FOR A SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT AND SPECIAL USE PERMIT FOR THE UPGRADING OF THE ALGER WATER SYSTEM AND THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A WATER RESERVOIR AND GROUND WATER WELL IN THE ALGER AREA (SHL 95-047.ORD AND SPU 95-021.ORD).

Chairman Wolden opened the proceedings.

Kendra Smith, Senior Planner, reviewed the history of this appeal. Ms. Smith advised that the findings of the Hearing Examiner were the same for this matter and the following appeal on the agenda.

Jonathan Sitkin, attorney for Tom Buggia, 1616 Cornwall Street, Bellingham briefly reviewed the basis of he appeal by Mr. Buggia which, in essence, prevents water service to his property. Mr. Sitkin indicated that the Hearing Examiner went beyond the scope of the permitting process and the application before him and made the decision that service should not extend to the Buggia property. Mr. Sitkin stated that the Hearing Examiner erred in making a decision on the Buggia property which is outside of his scope of authority. The appellant is asking that the condition for prohibition of service to the Buggia development be eliminated from the Findings.

Commissioner Hart asked for clarification on the standing of Mr. Buggia. Mr. Sitkin replied that Mr. Buggia has a special use permit for a commercial storage facility. The condition set forth in the subject appeal to prohibit service to Buggia is a leap beyond the scope of the Hearing Examiner, according to Mr. Sitkin.

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Doyle McClure, Friends of Skagit County, summarized the arguments previously given to the Hearing Examiner, and asked the Board to uphold the decision of the Hearing Examiner. Mr. McClure stated that urban levels of water service to future commercial developments are not permitted. Mr. McClure further stated that failure to uphold the HE's decision would be injurious to residents County-wide. Mr. McClure cited several exhibits that were presented to the Hearing Examiner which substantiate the validity of the HE's decision. The Agreement between PUD No. 1 and Buggia provides a detailed definition of major expansion of the proposed Alger Water system to provide 1,500 gallon per minute fireflow (90,000 gallons of water). This fireflow is at an urban level of service. The proposed expansion of the water service is a flagrant violation of the coordinated water system plan as it does not relate to public safety or health, according to Mr. McClure.

Barbara Rudge, Friends of Skagit County, reminded the Board that they had just passed a new Comprehensive Plan and Interim Development Regulation and urged them to uphold the Hearing Examiner's decision in this matter.

Commissioner Hart queried Ms. Rudge on whether Mr. Buggia was notified of the hearing before the Hearing Examiner. Commissioner Hart confirmed with Staff that Mr. Buggia did not receive notice of the hearing before the Hearing Examiner.

Mr. Sitkin spoke briefly on the issue of notice to his client. Mr. Sitkin noted that line size does not determine whether an area is urban or rural. Mr. Buggia's property is designated commercial and is consistent with the Comprehensive Plan.

Commissioner Hart confirmed with Eugene Knapp, attorney for the County, that applicant's rights vest at the time of the hearing, so that the adoption of the comprehensive plan would not be relevant.

Commissioner Hart indicated that he felt Mr. Schofield exceeded the scope of the application and he cannot understand how the Hearing Examiner's included Mr. Buggia's property in his Findings. Mr. Knapp advised that Mr. Buggia did not receive due process and did not receive notice that this would affect his property, and that the time to deal with the issue would be when Mr. Buggia comes to the County to apply for his permits.

Commissioner Hart reiterated that this is the wrong place to deal with this issue and is outside the scope of the application.

A discussion ensued with legal counsel on the findings to be made by the Board.

Specific changes to the Hearing Examiner's decision were reviewed with Staff. These include the removal of all references to Mr. Buggia as the Board determined that the consideration of Mr. Buggia's property in this matter was outside the scope of the Hearing Examiner's authority for these applications. Staff was also instructed to remove the word "only" as specific locations in the Findings.

Commissioner Hart moved to overturn the Hearing Examiner on the SPU95-021 and SHL95-047 to remove Mr. Buggia as indicated in the findings decision and to allow the rest of the Findings to stand. Commissioner Wolden seconded the motion, which passed unanimously. **(Resolution to be provided by Staff at a Later Date)**

APPEAL BY PUBLIC UTILITY DISTRICT NO. 1 OF SKAGIT COUNTY OF HEARING EXAMINER'S DECISION APPROVING THE APPLICATION FOR A SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT AND SPECIAL USE PERMIT FOR THE UPGRADING OF THE ALGER WATER SYSTEM AND THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A WATER RESERVOIR AND GROUND WATER WELL IN THE ALGER AREA (SHL 95-047.ORD AND SPU 95-021.ORD).

Chairman Wolden opened the proceedings.

Commissioner Hart clarified that from the decision just made in the above matter, this appeal may not be necessary. Mr. Knapp noted that on the previous appeal, the original decision is gone and this appeal is, in fact, moot.

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Kendra Smith, Senior Planner, reviewed the history that led to his appeal. PUD is appealing a portion of the language in the Hearing Examiner's decision. The language was omitted in the previous appeal before the Board.

Warren Gilbert, the attorney representing PUD, indicated that the changes that were incorporated in the previous appeal satisfy the request that PUD has made. Mr. Gilbert indicated that there was an unfortunate choice of words in stating "only" in the Hearing Examiner's findings. This would limit any consideration in the future. Mr. Gilbert diagramed the area in question and discussed with the Board the reason for the water line size of 12 inches. The Agreement between Alger and Mr. Buggia occurred prior to the involvement of the PUD.

Doyle McClure, Friends of Skagit County, stated that there is a misrepresentation of Friends' opposition to the 12 inch line. It is well known that a 12 inch line has the capability to provide urban services to a rural area. The Alger Water system plan was not sufficient to meet Mr. Buggia's needs. PUD upsized this system specifically to provide urban services for Mr. Buggia or some other developer. Mr. McClure was adamant that this line is for urban services and PUD is notorious for not adhering to the provisions of the Growth Management Act. Mr. McClure concluded that these permit applications are totally based on a commercial enterprise buying in to a commercial level of service and that the Board has approved a flagrant violation of the Comprehensive Plan and the Growth Management Act in their prior ruling. Mr. McClure suggested that the Board should be recalled.

Mr. Gilbert stated that with respect to the agreement mentioned by Mr. McClure, that agreement was negotiated with Alger Community Club and Tom Buggia, and was not negotiated with PUD and Mr. Buggia. Said agreement was on the table when PUD negotiated with the Alger Community Club.

Brad Spangler, Planning Engineer for PUD, indicated that Friends are not against the size of the lines, just the intended use of the lines. Mr. Spangler indicated that 500 gallons per minute (gpm) is a minimum fireflow. 500 gpm or more are required as a minimum rural level of fire service. Mr. Spangler stated that it is not necessarily an urban level of service to provide fireflow. Mr. Spangler further stated that if Mr. Buggia were not to do his project at all, the PUD would still put in a 12 inch waterline. Mr. Spangler further pointed out that these plans are also for the water treatment plant, wells, and storage tanks.

Mrs. Rudge pointed out that this entire system is not consistent with the requirements of pertinent RCW's .

Commissioner Hart moved to duplicate the findings from the earlier appeal. Commissioner Wolden seconded the motion, which passed unanimously. **(Resolution to be provided by Staff at a later date)**.

MISCELLANEOUS.

1. Staff presented a Resolution from the Personnel Department for the Approval of Sick Leave Transfer for Chris Hilton. Commissioner Hart moved to approve the Resolution as presented. Chairman Wolden seconded the motion, which passed unanimously. **(Resolution No. 16562)**
2. Staff presented Memorandum of Understanding to Current collective Bargaining Agreement with the Sheriff's Office Support Staff, SEIU Local #120. Commissioner Hart moved to approve the MOU as presented by Staff. Chairman Wolden seconded the motion, which passed unanimously. **(Contract No. 003495)**

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, Chairman




Robert Hart, Commissioner



Ted W. Anderson, Commissioner



ATTEST:



Patti J. Chambers, Clerk of the Board
Skagit County Board of Commissioners