

**RECORD OF THE PROCEEDINGS  
SKAGIT COUNTY BOARD OF COMMISSIONERS  
Tuesday, November 4, 1997**

- 7:30 a.m. – 8:30 a.m. Commissioners' Staff Meeting.
- 8:30 a.m. – 9:00 a.m. Work Session – Operations Division Manager/Road District Supervisors.
- \*T 9:00 a.m. – 10:00 a.m. Public Works Department – Jan Keiser, Director.  
1) Public Hearing – Proposed Parking Restrictions on March's Point Road #16610 and South March's Point Road #14660.  
2) Public Hearing – Consideration of a Revision to the Lengths of Portions of Various County Roads:  
A) Wood Road, #24400, from 3.06 to 3.40;  
B) Utopia Road, #91440, from 1.52 to 1.33;  
C) Bryson Road, #08420, from 0.57 to 0.49; and  
D) B.D. Minkler Road, #93030, from 0.58 to 0.415.  
3) Miscellaneous.
- \*T 10:00 a.m. – 11:00 a.m. Planning & Permit Center – Roxanne Michael & Tom Karsh, Co-Directors.  
1) Signature – Interlocal Agreement between Mount Vernon School District and Skagit County relating to Collection, Distribution and Expenditure of School Impact Fees.  
2) Status Report of the Comprehensive Plan Land Use Redesignation Requests.  
3) Miscellaneous.
- 11:00 a.m. – Noon Appeal by Dr. Richard Bertelsen of Skagit County Health Officer Decision Regarding the Acquirer Assessment Result (W97-0085) for Starbird View Proposed Plat, located off Starbird Road.
- 1:30 p.m. – 2:30 p.m. Work Session – Lake Cavanaugh Fish Passage Project.
- 2:30 p.m. – 4:00 p.m. Executive Session – Personnel, Litigation and Land Acquisition.

The Skagit County Board of Commissioners met in regular session on Tuesday, November 4, 1997, with Commissioners Harvey Wolden, Robert Hart and Ted W. Anderson present.

**PUBLIC WORKS DEPARTMENT – Jan Keiser, Director.**

1. **Public Hearing – Proposed Parking Restrictions on March's Point Road #16610 and South March's Point Road #14660.**

Chairman Wolden opened the public hearing.

Steve Blair, Traffic Safety, reviewed the proposed parking restrictions on March's Point Road and South March's Point Road. He explained that the Park and Ride facility in the area has been very successful and have created traffic hazards.

Tim Wolderson, Texaco, detailed the safety hazards that have been prevalent on the subject roadways.

Mr. Blair discussed the coordination with the traffic enforcement division.

There being no further public comment forthcoming, Commissioner Hart moved to close the public hearing. Commissioner Anderson seconded the motion, which passed unanimously. The public hearing was closed.

Commissioner Hart moved to approve the proposed parking restrictions as presented by Mr. Blair. Commissioner Anderson seconded the motion.

A brief discussion ensued on enforcement and the availability of overflow parking in Anacortes as directed by signage that has been placed at the parking facility.

The question was called for, and the motion was approved unanimously. **(The appropriate resolution will be provided by Staff at a later date.)**

**2. PUBLIC HEARING – Consideration of a Revision to the Lengths of Portions of Various County Roads.**

- A. Wood Road, #24400 from 3.06 to 3.40;
- B. Utopia Road, #91440 from 1.52 to 1.33;
- C. Bryson Road, #08420 from 0.57 to 0.49;
- D. B.D. Minkler Road, #93030 from 0.158 to 0.415.

Chairman Wolden opened the public hearing.

Mr. Blair stated that this is mainly a housekeeping issue for the various roads listed. He explained each revision to the lengths of various County roads.

There being no further public comment forthcoming, Commissioner Anderson moved to close the public hearing. Commissioner Hart seconded the motion, which passed unanimously. The public hearing was closed.

Commissioner Anderson moved to approve the revisions to the lengths of portions of various county roads as detailed by Mr. Blair. Commissioner Hart seconded the motion, which passed unanimously. **(The appropriate resolution will be provided by Staff at a later date.)**

**3. Miscellaneous.**

A Ed Hawes, Engineering Division, asked the Board for consideration of a project scope for a culvert replacement project on Allen-West Road. He explained that the project scope is modeled after CH2M Hill's technical memorandum which is part of Capital Improvement Project No. 2. If the scope is appropriate, construction will begin on November 5, 1997. He explained the specifics of the work to be performed. He stated that this is one piece of an upgrade to the dike district in this area. Commissioner Hart stated that this project has been looked at for some time and definitely is necessary to alleviate some of the flooding problems in the area

Dave Brookings, Surface Water Management Division, confirmed that the dike district has agreed to take over management of the sluice gate. This is a conservative approach, he explained, but one that is necessary.

Commissioner Hart moved to approve the Scope of Work on the culvert replacement project on Allen-West Road, milepost 2.55 to 2.58. Commissioner Anderson seconded the motion.

A brief discussion ensued on the improvements that are planned by the diking district. The possibility of placing additional culverts in the area was also discussed.

The question was called for. The motion passed unanimously. The Board signed the Scope of Work as presented by Staff.

B. Ed Hawes gave a brief update on the Reservation Road project.

C. A brief discussion ensued on the progress of the Muddy Creek Bridge project.

**PLANNING & PERMIT CENTER – Roxanne Michael and Tom Karsh, Co-Directors.**

**1. Signature – Interlocal Agreement between Mount Vernon School District and Skagit County Relating to Collection, Distribution and Expenditure of School Impact Fees.**

Tom Karsh, Co-Director, reviewed the interlocal agreement relating to collection, distribution and expenditure of school impact fees. Mr. Karsh explained that this basically is correcting an oversight that occurred when adopting the implementing impact fee ordinance.

Commissioner Anderson expressed his concern over the Responsibilities of the District, Section II (E), regarding the refund of impact fees as required by law if the projections of the school district are not met. A discussion ensued regarding this point.

Chairman Wolden moved to approve the Interlocal Agreement, and Commissioner Hart seconded the motion. The question was called for. Commissioners Hart and Wolden voted for the motion; Commissioner Anderson voted against the motion. The motion passed. **(Contract No. 03686)**

**2. Status Report of the Comprehensive Plan Land Use Redesignation Requests.**

Daniel Downs, Associate Planner, gave a brief outline of the process used to provide a thorough review of the various redesignation requests. These requests are being reviewed based on the adopted Skagit County Comprehensive Plan criteria. He advised that a total of 255 land owner site-specific files were labeled individually in order to thoroughly track each request. He explained the process of reviewing existing correspondence. He noted the assistance he received from the Assessor's office, which assisted in identifying specific site locations.

Mr. Downs explained the issues that were encountered in the data accumulation stage.

Mr. Downs then reviewed the preliminary review of the requests, which occurred October 20<sup>th</sup> to the present. Mr. Downs then gave a brief summary of the department analysis and recommendations.

Mr. Downs has reviewed 125 files and has a total of 100 files remaining to be reviewed.

Commissioner Hart queried Mr. Downs on the notification process for the 125 files that have been reviewed. Gary Christensen, Senior Planner, stated that notification may hinder the ability for the Planning Department to be able to complete the review of the remaining files. Commissioner Hart asked how long the review of the remaining files would take. Mr. Downs advised that it could take 2-4 weeks.

Commissioner Anderson stated that the Board would review these items before they go to the Planning Commission. He further stated that calls could be routed to the Commissioners' Office rather than the Planning Department. It was reiterated by the Board that the Planning Department will not make the final determination of these requests. Chairman Wolden noted the need to proceed expediently with the remaining 100 requests.

Mr. Christensen detailed the progress being made on the remaining requests.

Commissioner Anderson stated the need to advise landowners of the recommendations that are being made, and inform them of the process of their requests going on to the Board before going on to the Planning Commission.

The specifics of a letter to the first 125 applicants were discussed.

**3. Miscellaneous.**

There were no miscellaneous items for discussion.

**APPEAL BY DR. RICHARD BERTELSEN OF SKAGIT COUNTY HEALTH OFFICER DECISION REGARDING THE ACQUIFER ASSESSMENT RESULT (W97-0085) FOR STARBIRD VIEW PROPOSED PLAT, LOCATED OFF STARBIRD ROAD.**

Paul Reilly, Civil Litigator for Skagit County with the Prosecuting Attorney's Office, reviewed the status of the appeal. He explained that this is an appeal by Dr. Bertelsen regarding the aquifer assessment decision by the Health Officer. The Planning & Permit Center recommended approval of the assessment. He explained that Dr. Leibrand, the Health Officer, ruled narrowly on the aquifer assessment solely based on the fact that two water logs were not included in the permitting process. This appeal has been filed by the developer, Dr. Bertelsen, and there has been no cross-appeal filed by Mrs. Kite or Friends of Conway Country Living ("FOCCL"). Mr. Reilly explained that procedurally the only issue for consideration today is the Bertelsen appeal relating to the water logs on the two wells.

Commissioner Hart asked for clarification of the Board's options today, and Mr. Reilly explained that these options are the same as an appeal of a Hearing Examiner's decision. These options are:

- 1) The Board may deny the request and allow the Health Officer's decision to stand;
- 2) The Board may remand the matter back to the Health Officer for further study;
- 3) If the Board believes the Health Officer'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 Health Officer.

Chairman Wolden stated that the Board is not obligated to hear or consider any of the other issues concerning the aquifer assessment at this time other than Dr. Leibrand's letter of decision dated August 13, 1997.

Commissioner Hart noted that not all available well logs were included in the aquifer assessment result as detailed in a letter from Reed McClure.

Commissioner Hart confirmed with Mr. Reilly that this appeal today is a closed record appeal.

Bob Johns, attorney for Dr. Bertelsen, stated that it is true that FOCCL filed an appeal that identified many issues. He explained that the Health Officer made his decision only on one small portion of the appeal filed by the Kites and FOCCL, and that is the question on whether all of the well logs were filed by the appellant. He stated that the bottomline is that the Skagit County Code requires that all well logs must be included. He detailed the history of the two wells in question, explaining that the wells had been drilled several years earlier for the purposes of irrigation for a proposed golf course. The two wells drilled did not produce the quantities of water necessary to irrigate a golf course, but produced water amounts which would be more than adequate for domestic purposes. The two wells were abandoned because they were not sufficient for irrigation purposes, and records about those two wells were not in the Skagit County Health Department files. Mr. Johns discussed the question of "available" well logs, and necessity of searching Health Department Records and Department of Ecology records. Mr. Johns stated that this is an incredible technicality. He reviewed the procedures for obtaining plat approval and the well approval process. Further, he indicated that the Bertelsen's complied with the standard practices of the County. He reiterated that there is water available for a domestic water supply from the two wells. He asked the Board to overturn the Health Officer's decision.

David Bricklin, an attorney representing the Kites and FOCCL, confirmed that there is just one issue before the Board today and that is whether the well logs were adequate or appropriate. Mr. Bricklin indicated that if the Board reverses Dr. Leibrand's decision, then Dr. Leibrand still has to resolve the other issues that were raised in the original appeal by the Kites and FOCCL. He stated that his clients do not think a remand is appropriate. Mr. Bricklin explained that the County has rules so that projects elsewhere cannot adversely affect existing properties. He discussed the issues of vesting of development rights. He noted that the information on these wells was not in the County's records, and therefore the aquifer assessment was not complete. Mr. Bricklin stated that the well logs were developed at Dr. Bertelsen's own direction when he thought they were developing a golf course, and how is it possible that he can now claim that he did not have any knowledge of these wells. He indicated that the Skagit County Code specifies that all well logs need to be provided. He urged the Board to deny the appeal by Dr. Bertelsen.

June Kite, 1863 Starbird Road, stated that she represents herself and FOCCL. She discussed three methods by which water is available in rural areas, including through Public Utility District No. 1, who acts as the satellite provider for wells in Skagit County. This application, however, is for individual wells. She explained that the application that went to the Health Officer and was reviewed by Planning and Permit Center staff was for single wells. She indicated that this is a known sensitive well area due to the dry wells. She stated that the proposal was changed to Group B wells, and the appropriate procedure has not been completed. Ms. Kite indicated that the process has been very confusing because the original application was for individual wells and the second application was for Group B wells.

A discussion ensued on the determination that this is a "sensitive" area.

Mr. Bricklin indicated that the well logs specify that there was not water available from these wells, and cited an exhibit that shows that the well driller signed a certification to this effect.

Commissioner Hart stated that he would like to see the code section where it states that if a well is dry it then qualifies as a sensitive area. He stated that there are technicians and experts on both sides who disagree.

Commissioner Anderson stated that it is the intent of the code to provide minimum standards. He commented on the County playing "gatekeeper" in this regard, and that if an applicant is willing to drill a test well and see if the water volume is there, he should be allowed to proceed.

Mr. Johns stated that the wells were drilled here and abandoned. He offered to have an engineer, Mr. Schwind, explain the history of these abandoned wells. He stated that the fact that there are one or two wells here that are shown as abandoned does not give rise to that level of evidence that requires explanation that drilled wells have potential quantity or quality problems. Mr. Johns stated that the Critical Areas Ordinances does provide a process to nominate this particular area as a sensitive area. He further stated that the wells tested close to this proximity have plenty of water available. He further explained that the reason a well logs says no water is because the well was not pump tested to provide water.

Mr. Bricklin objected to the calling of Mr. Schwind as this is a closed-record appeal.

Mr. Jones quoted from Ron Palmer's staff report, and stated that his client is quite comfortable with the information provided in the staff report.

Commissioner Hart moved to overturn the decision of the Health Officer. He stated that the appellant has followed the standard practices of Skagit County and the rest of the process has to move forward. Commissioner Anderson seconded the motion, which passed unanimously. **(Staff to provide the appropriate Resolution at a Later Date).**

#### **MISCELLANEOUS.**

1. Staff presented a Resolution providing for the exemption of the Shelter Bay and Eagle's Nest Communities from the provisions of Skagit County Ordinance No. 15435 regarding County grid readdressing. Commissioner Hart moved to approve the Resolution as presented by Staff. Commissioner Anderson seconded the motion, which passed unanimously. **(Resolution No. 16742)**
2. Staff presented a Resolution appointing William A. Stiles, III to the Planning Commission to replace Sarah Huntington, who's term has expired. Commissioner Anderson moved to approve the appointment of Mr. Stiles to the Planning Commission. Commissioner Hart seconded the motion, which passed unanimously. **(Resolution No. 16743)**
3. Staff presented a Resolution calling for a public hearing on November 17, 1997 at 10:00 a.m. to hear and possibly adopt findings of fact in support of Ordinance No. 16676 which establishes a six-month moratorium on the acceptance of, applications for, and the issuance of any permit or approval currently required for telecommunications equipment and facilities. Commissioner Anderson moved to approve the Resolution as presented by Staff. Commissioner Hart seconded the motion, which passed unanimously. **(Resolution No. 16744)**

**ADJOURNMENT.**

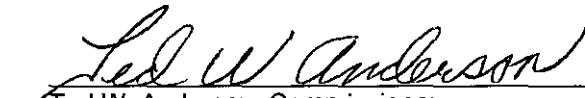
Chairman Wolden made a motion to adjourn the proceedings. Commissioner Hart seconded the motion and it passed unanimously.

**BOARD OF COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON**




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Harvey Wolden, Chairman

  
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Robert Hart, Commissioner

  
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Ted W. Anderson, Commissioner

ATTEST:

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