

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
Monday, February 23, 1998**

9:00 a.m. – 10:00 a.m.	Work Session – Solid Waste Issues.
10:00 a.m. – 10:15 a.m.	Public Comment Period.
	CONSENT AGENDA. MISCELLANEOUS.
*T 10:30 a.m. – 11:00 a.m.	Discussion – BECCA Bill Truancy Review.
11:00 a.m. – Noon	Appeal by Kooiman, Ferrell, Wyatt, Nicolls, Pellett and Veal of Hearing Examiner's Approval of Michael Fohn's Preliminary Plat of Channel View, located on Guemes Island (PL-96-0034.ORD).
1:30 p.m. – 3:30 p.m.	Executive Session – Personnel, Litigation & Land Acquisition.

The Skagit County Board of Commissioners met in regular session on Monday, February 23, 1998, with Commissioners Robert Hart, Ted W. Anderson, and Harvey Wolden present.

PUBLIC COMMENT PERIOD.

Stony Bird, Mount Vernon, commented on a requested extension of time for the land division citizens advisory committee to complete their work. Commissioner Hart stated that this is the most critical group, and that any input provided to the Citizens Advisory Committee will be sent on to the Planning Commission. Commissioner Hart indicated that it is important to keep the process moving forward.

CONSENT AGENDA.

Commissioner Anderson moved to approve the Consent Agenda for Monday, February 23, 1998. Commissioner Wolden seconded the motion, which passed unanimously.

• **COMMISSIONERS' OFFICE:**

1. Record of the Proceedings of Tuesday, February 17, 1998.
2. Re-Appointment of Allen Bush to the Skagit County Noxious Weed Control Board for the period January 11, 1998 through January 11, 2002. **(Resolution No.16885)**

• **PUBLIC WORKS DEPARTMENT:**

3. Resolution Calling for Public Hearing to Consider a Road Name Change – Legge Road No. 00500 to Brotherhood lane No. 00500. The Public Hearing will be held on March 10, 1998 at 9:00 a.m. **(Resolution No. 16886)**
4. Supplemental Agreement No. 1 to Personal Services Agreement with Materials Testing & Consulting, Inc., extending the contract termination date to February 15, 1998. All other terms and conditions of the contract remain the same, including compensation of \$5,000. **(Contract No. 03712)**

• **ARIS/BEST SELF:**

5. Personal Services Agreement with Karen Peterka for consultation with the County and various other public and private entities to secure continued funding for Governor's Juvenile Justice Advisory Committee Target

RECORD OF THE PROCEEDINGS

Monday, February 23, 1998

Page #2

Site programs at the rate of \$2,500 per month plus \$174 for travel expenses, with a maximum compensation not to exceed \$15,174. This amount is covered 100% by Target Site Grant Monies. **(Contract No. 03840)**

• **SHERIFF'S OFFICE:**

6. Out-of-State Travel Request for Jeff Willard to attend the North American Motor Officers Association meeting in Vancouver, B.C. from April 30, 1998 through May 3, 1998, for a total amount of \$250. **(APPROVED)**
7. Out-of-State Travel Request for Martin J. Steiner III to attend the North American Motor Officers Association meeting in Vancouver, B.C. from April 30, 1998 through May 3, 1998, for a total amount of \$250. **(APPROVED)**
8. Out-of-State Travel Request for Brian Lehr to attend Desert Snow Advanced Highway Drug Interdiction seminar in Laughlin, Nevada, from May 3, 1998 through May 9, 1998 for a total amount of \$782. **(APPROVED)**

MISCELLANEOUS.

1. *Vouchers audited and certified by the auditing officer as required by R.C.W. 42.24.080, and those expense reimbursement claims certified as required by R.C.W. 42.24.090, have been recorded on a listing which has been made available to the Board.*

As of this date, February 27, 1998, the Board, by a majority vote, did approve for payment those vouchers included in the above-mentioned list and further described as follows:

Warrants numbered 14862 through 15619 from Clearing Fund 696 in the total dollar amount of \$670,696.29 (Transmittal No. C-11-98)

2. Paul Reilly, Civil Deputy, presented an Addendum to a current contract with River Oaks Associates. After a brief discussion, Commissioner Wolden moved to approve the Addendum as presented by Mr. Reilly. Commissioner Anderson seconded the motion, which passed unanimously. **(Contract No. 03205)**

DISCUSSION OF BECCA BILL TRUANCY REVIEW.

Lyle Poolman, Juvenile Probation Department Director, introduced Claudia Palomero, Intervention Specialist, Dr. Donna Mellander, principal of West View Elementary School in Burlington, and Juan Espinoza, Counselor at Mount Vernon High School.

Craig Stoner, Senior Probation Officer in Skagit County, used a PowerPoint presentation to review the impact of truancy petitions required by the 1995 Legislature as passed relative to the BECCA Bill. He explained that there will be approximately 580 petitions received in 1998. Mr. Stoner reviewed the workload required to process these petitions, and the major tasks of the Intervention Specialist assigned.

Mr. Stoner discussed the truancy prevention class and the innovative collaboration involved.

Dr. Mellander reviewed the truancy class statistics, and the truancy class program.

Mr. Stoner thanked the Board and the School District Superintendents for their support of this innovative program.

Juan Espinoza, Counselor at Mount Vernon High School, spoke about the efficiency and effectiveness of this truancy prevention program.

Claudia Palomero, Intervention Specialist, briefly discussed her role as an intervention specialist and her involvement with truancy problems in Skagit County. She reviewed specific cases she has worked on recently.

RECORD OF THE PROCEEDINGS

Monday, February 23, 1998

Page #3

APPEAL BY KOOIMAN, FERRELL, WYATT, NICOLLS, PELLETT AND VEAL OF HEARING EXAMINER'S APPROVAL OF MICHAEL FOHN'S PRELIMINARY PLAT OF CHANNEL VIEW, LOCATED ON GUEMES ISLAND (PL-96-0034.04D).

David Hough, Planning Staff, stated that this is an appeal of a preliminary plat consisting of 16 lots on Guemes Island. Mr. Hough advised that this is a closed record hearing in which no additional testimony may be submitted. He briefly reviewed his memorandum to the Board, the Hearing Examiner's Decision, and the Staff Report. He reviewed the conditions imposed in the Hearing Examiner's Order.

John Moffat, Chief Civil Deputy, reiterated that this is a closed record appeal, and stated that the Board has three options as follows:

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

Jennifer Simpson, attorney representing the appellants, stated that the requirements of RCW 58.17.110 state that a proposed subdivision cannot be approved unless the County legislative authority makes written findings that there is an adequate potable water supply. She stated that Guemes Island is a sole source aquifer, and that the County Health Department has adopted a stringent seawater intrusion policy. Ms. Simpson stated that the Hearing Examiner ignored the evidence presented in this regard. Ms. Simpson indicated that because Mr. Fohn did not clearly establish that there is adequate potable water, the State statute mandates denial of the preliminary plat. As an alternative, Ms. Simpson stated that if the Board does not follow the State mandate, the appellants would ask that the Board apply appropriate conditions to this plat. She stated that these conditions should include a water rights permit from the Department of Ecology, and the installation of a complete water system prior to plat approval. She indicated that this would be necessary to establish the feasibility of a water system that would not interfere with neighboring water systems or contribute to seawater intrusion. Ms. Simpson discussed the specifics of the necessity for a water rights permit.

Ms. Simpson indicated that because the Hearing Examiner's decision was not based on substantial evidence, the Board should use their power and adopt their own findings and conclusions.

Bob Carmichael, attorney for Michael Fohn, stated that it is clear that the burden of proof is on the appellants. Mr. Carmichael indicated that the real issue is whether the Hearing Examiner has appropriately conditioned the plat approval. He stated that there are numerous conditions contained in the Hearing Examiner's decision that provide assurance that adequate potable water will be provided if those conditions are met. He briefly discussed the State statute and its' relevance to this particular situation. Mr. Carmichael stated that Hearing Examiner's Conclusion No. 9 indicates specifically appropriate provisions for public health, safety and welfare. He stated that the argument that the Hearing Examiner did not make any specific reference is simply incorrect. He stated that the Department of Health will make the decision if a water right is needed or not. Otherwise, approval for the system will not be granted. Mr. Carmichael stated that the suggestion to build out the entire water system prior to plat approval is not reasonable. He discussed the pump tests that were done and the hydrological assessment.

Mr. Carmichael stated that the appellants are suggesting that these items cannot be conditioned, and that Mr. Fohn must have them in place immediately. In Mr. Carmichael's opinion, the Hearing Examiner's conditions are appropriate and adequate.

Mr. Carmichael reviewed specifics of the Supreme Court case quoted by appellants' counsel. He stated that a preliminary plat means that it is expected to be changed during the final approval process. He again reviewed the appropriateness of the conditions set by the Hearing Examiner.

Mr. Carmichael commented on the Topping case cited in his reply brief. He stated that there are assurances for adequate potable water in this development. There is no reason for adding any of the conditions that are suggested by the appellants. Mr. Carmichael asked the Board to deny the appeal and uphold the Hearing Examiner's decision.

RECORD OF THE PROCEEDINGS

Monday, February 23, 1998

Page #4

Mr. Hough noted the Hearing Examiner has made a finding relating to public health including potable water. This is supported by a memo from Ken Willis of the Health Department to Nancy Nersten of the Planning & Permit Center. Mr. Hough stated that the conditions recommended by the appellant are basically those included in the mitigated DNS and the requirements of preliminary plat approval.

Ms. Simpson spoke again to the mandatory requirements of the State RCW relative to the adequacy of potable water for the proposed plat. She asked the Board to deny the preliminary plat approval.

Ms. Simpson addressed the conditions listed by the Hearing Examiner. She stated that it would not be unreasonable to require the build up of the entire system prior to finalization of the plat. She stated that the hydrological assessment is seriously flawed at best. She indicated that in order to assure adequate potable water, you must require a complete build out to make sure it meets all of the requirements.

After brief discussion among the Board, Commissioner Wolden moved to uphold the Hearing Examiner's decision and deny the appeal. Commissioner Anderson seconded the motion, and it passed unanimously. **(Resolution to be provided by Staff at a Later Date)**

ADJOURNMENT.

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

**BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**



Robert Hart, Chairman

Ted W. Anderson

Ted W. Anderson, Commissioner

Harvey Wolden

Harvey Wolden, Commissioner

ATTEST:

Patti J. Chambers

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