

**RECORD OF THE PROCEEDINGS  
SKAGIT COUNTY BOARD OF COMMISSIONERS  
Monday, June 22, 1998**

8:30 a.m. – 8:45 a.m.	Public Comment Period.
	<b>CONSENT AGENDA MISCELLANEOUS</b>
9:00 a.m. – 10:00 a.m.	Public Hearing – To Consider Testimony re: Proposed Skagit County Code Section 14.04.26, Mineral Resource Overlay.
*T 10:00 a.m. – 11:00 a.m.	Public Hearing – To Consider Testimony re: the Possible Adoption of the Short Conservation and Resource Development (CaRD) Ordinance.
11:00 a.m. – Noon	Executive Session – Personnel, Litigation and Land Acquisition.
2:30 p.m. – 3:30 p.m.	Executive Session – Personnel, Litigation and Land Acquisition.

The Skagit County Board of Commissioners met in regular session on Monday, June 22, 1998, with Commissioners Robert Hart, Ted W. Anderson, and Harvey Wolden present.

**PUBLIC COMMENT PERIOD.**

Tom Solberg, 1909 Minnie Road, Alger, delivered a letter to the Board regarding the Alger Sub-Area Plan. He noted that he has had a meeting with Gary Christensen, Senior Planner, to discuss the things that need to be done to perfect the Plan. He commented that when Mr. Christensen was on vacation, there was no one else in the County that could help him. He stated that he would like to get some sort of written comment from the Board advising if the Alger Sub-Area Plan will be reviewed in the 1998 Comprehensive Plan Amendment process at no cost to the residents in the Alger Sub-Area. He further noted that it was never his intent that his Alger Sub-Area Plan was complete when it was submitted.

John Hunter, Sedro Woolley, brought to the Board's attention a particular situation regarding sale of his property, which has not closed due to the imposition of the Critical Areas Ordinance. He detailed the process of hiring a wetlands specialist. He noted the need to change the notion that any indicators should trigger this type of expenditure. He also commented on signs on public right-of-way, particularly on Prairie Road.

Louia Requa, Skagit Surveyors & Engineers, commented on legislation and its effects on the County's Comprehensive Plan.

William Stiles, III, Planning Commission Member, echoed the frustrations reiterated by Mr. Requa. He asked the Board to request a legal opinion regarding the effects of legislation on the County's Comprehensive Plan.

**CONSENT AGENDA.**

Staff advised that No. 5 to the Consent Agenda should be deleted, pending receiving the document with proper signatures. Commissioner Wolden moved to approve the Consent Agenda, items 1-4 and 6-18. Commissioner Anderson seconded the motion, which passed unanimously.

• **COMMISSIONERS' OFFICE:**

1. Record of the Proceedings of Tuesday, June 9, 1998.
2. Record of the Proceedings of Monday, June 15, 1998.

3. Record of the Proceedings of Tuesday, June 16, 1998.

• HEALTH DEPARTMENT:

4. Resolution calling for Public Hearing to Consider Revising Skagit County Code Chapter 12.16 to add a provision that assigns responsibility for illegal dumping to the owner of the dumping vehicle. The public hearing date was originally scheduled in error, and is now scheduled for July 7, 1998, at 9:00 a.m. **(Resolution No. 17021)**

5. Personal Services Agreement with the Superintendent of Public Instruction, State of Washington, for the Health Department to provide health and sanitation evaluations of food service management companies in conjunction with the USDA Summer Food Service Program funding. The County will perform a maximum of ten inspections/evaluations at the rate of \$75 per inspection, for a maximum consideration of \$750. The contract term will be June 15, 1998 through September 30, 1998. **(ITEM DELETED)**

6. Guest Speaker Contract with Jose Ortiz for an HIV/AIDS Presentation in Spanish for a fee of \$25. **(Contract No. 03984)**

• PUBLIC WORKS DEPARTMENT:

7. Right-Of-Way Acquisition Plans for Allen West Road, No. 36300. **(Approved)**

8. Summary of Offer for Right of Way-Acquisition for Allen West Road, No. 36300, totaling \$250 to property owners Ronald and Marilyn Knutzen. **(Approved)**

9. Final Order of Vacation for Unused County Right-of-Way Known as Robertson Road, No. 582. **(Approved)**

10. Call for Public Hearing for Consideration of Vacation of a Portion of Unused County Right-of-Way known as Fruitdale Road, No. 9111. (Public hearing scheduled for July 14, 1998, at 9:00 a.m.) **(Resolution No. 17022)**

11. Resolution calling for bids for the 1998 Guardrail Project, No. ES53540-2: Alger-Cain Lake Road, No. 53540; South Del Mar Drive, No. 1067; Fidalgo Bay Road, No. 1471; LaConner Whitney Road, No. 4241; Hathaway Road, No. 9160; Grip Road Bridge, No. 6600; Sterling Road, No. 6421; Lake Cavanaugh Road, No. 0200; South Skagit Highway, No. 0700; and Rockport Cascade Road, No. 8700. The bid opening is scheduled for July 14, 1998 at 1:30 p.m. **(Resolution No. 17023)**

12. Resolution calling for bids for the Reservation Road, No. 40210, Improvement Project – Phase II, Project No. ES40210-1. The bid opening is scheduled for July 7, 1998, at 2:00 p.m. **(Resolution NO. 17024)**

13. Resolution for the Notice of Road Closure of Lake Cavanaugh Road, No. 0200, with the closure scheduled for July 6, 1998 through September 17, 1998. **(Resolution No. 17025)**

• SENIOR SERVICES:

14. Personal Services Agreement with Refrigeration and Heating, Inc. to provide and install compressors for compensation of \$3,506.81 including tax. The contract will commence on the date of execution by the Board and will continue until terminated by either party. **(Contract No. 03985)**

• HUMAN SERVICES:

15. Vendor Services Agreement with Harvey Payne, dba Master Kleen, to thoroughly clean Human Services' off-site location office to alleviate dust and mold complaints from both staff and non-staff. Interior maintenance and upkeep is the County's responsibility. The contract amount will not exceed \$1,025 and will commence on June 25, 1998. **(Contract No. 03986)**

16. Interagency Work Order Amendment to Contract with DSHS – Division of Developmental Disabilities. The amendment adds \$1,901 for the fiscal year and increases the current Work Order to \$1,240,821. **(Contract No. 03557)**
- AQUATIC WEED MANAGEMENT PROGRAM:
17. Personal Services Agreement with Resource Management, Inc. to provide implementation of the Big Lake Integrated Aquatic Plant Management Plan 1998 for a total implementation cost of \$187,554.94. The contract term will begin upon execution by the Board and will terminate on January 1, 2000. **(Contract No. 03987)**
- RECORDS MANAGEMENT:
18. Personal Services Agreement with Shredaway, Inc., Mobile Data Destruction, to provide document shredding services for the amounts as listed in Exhibit "A" to the Agreement. The contract will run from July 1, 1998 until terminated. **(Contract No. 03988)**

**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, June 24, 1998, the Board, by a majority vote, did approve for payment those vouchers included in the above-mentioned list and further described as follows:

Warrant numbered 22472 from Clearing Fund 696 in the total dollar amount of \$4,000 (Transmittal No. C-40-98); and,

Warrants numbered 22473 through 22835 from Clearing Fund 696 in the total dollar amount of \$389,845.45 (Transmittal No. C-41-98); and,

Payroll warrants numbered 16810 through 16832 in the total dollar amount of \$12,566.65 (Transmittal No. P-28-98).

2. Staff presented Supplement No. 1 to a Personal Services Agreement with AAA Rent-A-Pottee extending the completion date of the contract through December 31, 1999. Commissioner Wolden moved to approve the Supplement as presented. Commissioner Anderson seconded the motion, which passed unanimously. **(Contract No. 03060)**
3. Staff presented a Lease Agreement to Lease Land within the Cascade Trail Corridor with the Janicki Family Trust (Marty T. McGoffin and Lisa Janicki, Trustees), for the period April 1, 1998 through April 30, 2023 on a progressive lease payment schedule as follows: years 1-5, \$1,050 per year; years 6-10, \$1,300 per year; years 11-15, \$1,550 per year; years 11-15, \$1,550 per year; years 16-20, \$1,800 per year; and years 21-25, \$2,000 per year. Commissioner Anderson moved to approve the Lease Agreement as presented by Staff. Commissioner Wolden seconded the motion, which passed unanimously. **(Contract No. 03989)**
4. Staff presented Supplement No. 2 to Personal Services Agreement with Sally Stronczek, who provides counseling services for the ARIS program. This supplement adds to the compensation section the long distance charges incurred while providing phone consultation. Commissioner Wolden moved to approve the Supplement as presented by Staff. Commissioner Anderson seconded the motion, which was unanimously approved. **(Contract No. 03845)**
5. Staff presented a Personal Services Agreement with Stan Weeks, Inc. to provide client technical support services for IBM Systems and Storage products at a rate of \$125 per hour for services rendered, not to exceed \$5,000 per calendar year. The Contract will commence on June 15, 1998 and will continue until

terminated. Commissioner Wolden moved to approve the Agreement as presented by Staff. Commissioner Anderson seconded the motion, which passed unanimously. **(Contract No. 03990)**

6. Staff presented a Resolution calling for public hearing for supplemental budget for the Big Lake Management District and the Edison Cleanwater District Subarea. The public hearing will be held on Tuesday, July 7, at 11:00 a.m. Commissioner Wolden moved to approve the Resolution as presented by Staff. Commissioner Anderson seconded the motion, which passed unanimously. **(Resolution No. 17026)**

**PUBLIC HEARING – TO CONSIDER TESTIMONY RE: PROPOSED SKAGIT COUNTY CODE SECTION 14.04.126, MINERAL RESOURCE OVERLAY.**

Chairman Hart opened the public hearing.

Gary Christensen, Assistant Director with the Planning & Permit Center, presented the Board with a report from Staff regarding the proposed Skagit County Code Section 14.04.126, Mineral Resource Overlay. He advised that the County issued a DNS on this matter on April 28, 1998. The DNS has been modified to include comments that have been received. The interim ordinance was made available for public review on June 4, 1998.

Mr. Christensen explained that this draft interim ordinance would allow new mineral resource extraction activities to be applied for through a designation process and would provide a mechanism for obtaining a mining permit, including the requirement for a hearing before the Hearing Examiner. He further noted that this ordinance has been drafted based on Comprehensive Map Natural Resource Lands designation areas. Mr. Christensen stated that the Department would recommend that the draft ordinance be approved as proposed based on findings as stated in the Staff Report. He advised that the interim ordinance would be in place for 6 months until repealed or amended.

Chairman Hart opened the floor for public testimony.

Barbara Rudge, on behalf of Friends of Skagit County, stated that her written comments had been previously submitted. She stated that the ordinance does not require nor does the Comprehensive Plan contain, a map as to where these areas are located in the County. She noted that such a map would be helpful to property owners and buyers, Planning Staff, and the Hearing Examiner. She further commented on the role of the Hearing Examiner in the required hearing, indicating that the ordinance states that the Hearing Examiner must review the applicant's submittal and approve it. Ms. Rudge stated that there is no criteria allowing the Hearing Examiner to deny an application. Consequently, Ms. Rudge explained that the hearing itself is not appropriate or necessary since the application would automatically be approved. She stated that there needs to be criteria in the ordinance to value the public good of having a mineral extraction area in a specific area. She asked the Board to modify the ordinance so the Hearing Examiner has some good solid options to base his consideration. She submitted written comments to the Board.

June Kite, 1863 Starbird Road, Conway, stated that the draft is poorly organized and lacking in information and is difficult to follow. She detailed specific sections of the ordinance that were not clear in their organization. She made specific language changes, suggesting alternate areas of the ordinance and clarifying areas of concern in her mind.

Charles Shaw, geologist and resident of LaConner, stated that usable minerals are not found everywhere in Skagit County, and that it is unreasonable to impose regulations that would require such low-value materials to be hauled from an uneconomical distance. He stated that the haul distance is a critical matter. He asked the Board to please keep this in mind when making changes to the ordinance.

Mary Lewis, Conway, expressed concern that the mineral overlay uses mineral extraction as its primary criteria even though the subject land has been used for other things and people have lived there with other things in mind. She commented on the necessity to establish regulations for hours of operation that are reasonable for neighboring citizens. She indicated that the neighbors should be able to petition an area for removal of a mineral extraction operation.

Andrea Needham, Mount Vernon, indicated that she is a geologist, and expressed the need to clarify the ordinance to reclassify specific designations of different mineral resource areas. She commented on the need to consider potential habitat and wildlife areas. She stated that no existing permits should be grandfathered. She briefly discussed the difficulties of an adjacent property owner being required to maintain a 300-foot buffer from such a mineral extraction operation. She stated that the County cannot preclude landowners from the reasonable use of their property, and that this is a potential "takings" issue. She explained that hours of operation should not be allowed around the clock regardless of the density of the surrounding area, and that each operation needs to be evaluated for its specific circumstances. She further commented that the Hearing Examiner should be able to deny an application, and not automatically approve all applications. She further commented on safety concerns. She suggested that the county needs to review designated mineral lands on a regular basis and develop a plan with an annual review.

Sharon Hemmett, 1949 Tyee Road, Conway, expressed concern that things from the past need to be considered regarding this proposal. She referenced the difficulties the neighboring property owners have had with the Wilder operation and property. She emphasized that the history of the Wilder matter should carry some weight in the future. She asked why this had been ignored.

Richard Langabeer, Ferndale, spoke to his previous testimony concerning the mineral resource area lands designation. He reminded the Board that this is an interim development regulation. He stated that the mineral resource lands had been reviewed through the Comprehensive Plan process. He stated that the Comprehensive Plan contemplated as does the Growth Management Act the several steps in the classification and categorization of mineral resource lands. He re-emphasized that the designation process was accomplished in the process of the Comprehensive Plan. He detailed this process and the criteria for each of these areas. He commented on the Citizen Advisory Committee process in this regard, and that a separate process should not be established in this ordinance.

Mike Crawford, Vice President/General Manager of Concrete Nor'West, advised the Board that he was on the Citizens Advisory Committee. He stated some concern with the mineral resource overlay and the related requirements of the Growth Management Act. He noted the need for the continuation of legally established uses. He stated that to force individuals to go back through the process after legally establishing uses, would cause a legal mess that would be staggering. He expressed the need to maintain the current infrastructure.

Simon Vester, 1498 Beaver Lake Road, stated that there is enough industry in the valley and that we do not need any more disturbances than we already have. He stated that he is a neighbor to a gravel pit, and commented on the noise therefrom. He further commented on the adverse affects of heavy vehicles on County Roads.

Larry Wellman, Bellingham, commented on the need to preserve mineral extraction facilities close to the end use of such materials. He stated that the conflict arises from the fact that growth management tried to avoid land use conflicts, while maintaining the close proximity of the resources to population centers. He indicated that to give the Hearing Examiner the authority to deny an application just because the neighbors do not want it there is not appropriate. He stated that protecting natural resource areas is not always a very popular action, and that he can appreciate the concern of the neighboring citizens.

Bill Vaux, 518 Heather Court, Anacortes, asked for clarification of the existing buffer requirement

Barbara Rudge, Friends of Skagit County, commented on the remarks by Mr. Langabeer and stated that the process of designation of the natural resource lands was done by "the seat of the pants" by the Planning Commission. She stated that it certainly was not the classification process that was called for in the Comprehensive Plan. She stated that the Planning Commission did not consider the quantity, location, or proximity to adjacent property owners. It was not that type of process that gave consideration and weight to these areas. Ms. Rudge stated that, at this point, the County has a responsibility to make sure that the applicant proves that he has the quantity and quality in the area, that his application is consistent with the criteria, and that the impacts on the neighborhood and adjacent property owners are mitigated.

Andrea Needham, 2220 Tyee Road, Mount Vernon, echoed Ms. Rudge's comments, and stated that a review of natural resource land is warranted. She again referenced the Wilder property in the Conway area.

Pat Bunting, Edison, detailed the Citizen Advisory Committee process, including the composition of the committee, and the designation criteria that was decided upon and used. She commented that there was much work put into the original committee's work. Ms. Bunting stated that the ordinance did a very good job at trying to relay the information that the CAC had put into the Comprehensive Plan. She stated that the proposed ordinance is more strict than any other application requirement within Skagit County.

Chairman Hart noted that written testimony on this matter would be accepted until Friday at 4:30 p.m.

There being no further public comment forthcoming, Commissioner Wolden moved to close the public hearing, holding the written comment period open until Friday, June 26, at 4:30 p.m.. The motion was seconded by Commissioner Anderson and passed unanimously. The public hearing was closed.

**PUBLIC HEARING – TO CONSIDER TESTIMONY RE: THE POSSIBLE ADOPTION OF THE SHORT CONSERVATION AND RESOURCE DEVELOPMENT (CaRD) ORDINANCE.**

Chairman Hart opened the public hearing.

Kendra Smith, Senior Planner, advised that this hearing is to consider a non-project legislative action to consider an interim Ordinance amending Skagit County Code 14.08. The Ordinance allows for an alternative process to the short subdivision (short plat), referred to as the Short CaRD, which provides for the clustering of lots and the retention of open space through land divisions of four or fewer parcels. She reviewed the Staff Findings and Analysis. Ms. Smith stated that based on the proposal, the information contained within the file, the staff report, analysis and findings, the Planning and Permit Center recommends that the Board of County Commissioners adopt the amendments to SCC14.08, the Short CaRD Ordinance, on an interim basis for a period of six months, or until such time that it is repealed or amended.

Barbara Rudge, on behalf of Friends of Skagit County, indicated that "Friends" is a strong supporter of clustering but has concern for some of the aspects of the proposed ordinance. She explained that one concern is that the ordinance does not specify how the open space area will be used and how it is required to be platted. Since there is an increase in density in the rural areas as a result of this ordinance, the applicant should be careful how he uses the open space that is remaining. She suggested specific amounts of open space to be required. She stated that "Friends" does not want to see accessory buildings in open space areas, so she suggested language eliminating accessory buildings. She expressed concern about how the open space will be delineated, i.e., part of four smaller parcels, or one large parcel of open space. She explained that even if these concerns are addressed, the ordinance still allows the possibility of urban growth in rural areas, and she displayed a map showing that this may not be a good look for the rural area. Ms. Rudge stated that she would like to see the development accessed by one private driveway to the clustered development.

Stoney Bird, Mount Vernon, stated that the main concern he has is that an interim ordinance does not offer the opportunity for rigorous commentary on the proposal. He explained that in passing a Short CaRD ordinance there is a danger of not dealing with the overall issue of CaRDS in general, and the possibility of pushing through something that needs further work. He further commented on the possible uses of the open space. He stated that all subdivisions that occur within an Urban Growth Area need to conform to the CaRD ordinance. He discussed the need to develop the Long CaRD ordinance prior to the Short CaRD.

Marianne Manville-Ailes stated that she was on the Citizens Advisory Committee (CAC) and was pleased to see a starting point with the interim ordinance. She felt that the proposed ordinance is fairly good and that it is going to resolve much of the heartburn that landowners have had. She stated that there may be merit in going back to the recommendations from the CAC regarding the issues of open space and future development. She stated that there is confusion as to whether open space lots are included with the other lots or are considered as separate tracts. She also stated that individuals should not be precluded from applying for a Long CaRD when that becomes an option.

Marianne Kooiman, Guemes Island, spoke on behalf of the Guemes Island Property Owners Association. She commented on the island's unique problems including water, overplating, and the protection of critical areas. She asked the board to protect the rural and fragile beauty of Guemes Island through appropriate policy statements in new ordinances. She recommended specific language changes in a written statement.

Bob Rose, Skagitians to Preserve Farmland, gave comments regarding agricultural land. He said that it is distressing that the ordinance is drafted to indicate that it would override the existing zoning ordinance. He discussed his concern about the recreational use of land in the agricultural zone, which would be a contradiction of intent. He expressed concern that the language in the ordinance is restrictive regarding the open space tracts. He indicated that there is a need and desire for a CaRD, but that clear and precise language in this regard is required. He stated that the CAC needs to clarify some of the issues, and that perhaps the Conservation Futures Advisory Committee could draft the strong language necessary for plat notes. Mr. Rose indicated that this is an ordinance that supplies a good beginning, but needs further clarification.

Curtis Johnson, Chair of the Farmland Legacy Committee, noted that the Committee had trepidation regarding the Short CaRD that would apply to 80 acres or more and would like to see a sentence included in this regard. Recreational facilities being allowed in agricultural zoning is also a concern and is in conflict with Conservation Easements. Regardless of these minor problems, Mr. Johnson advised that the committee thinks that this is an idea whose time has come.

Glen Veal, Guemes Island, asked if this is designed to increase density in any way. Ms. Smith noted that there are two areas that allow density to be increased, rural reserve and rural resource. She explained the specific conditions of each designation. Mr. Veal supported Marianne Kooiman's statements and stated that he has worked a long time to try to establish some policies and goals appropriate for Guemes Island. He commented on the island's sole source aquifer and seawater intrusion problems. He indicated that it is appropriate that density not be increased on Guemes Island, and that a variance procedure for Guemes Island needs to be developed.

Joost Businger, Guemes Island, stated that the population is growing and will continue to grow, but the land area is not growing. He commented that developers are in a position to make quick and outrageous profits. This situation leads to the degradation of the environment. Mr. Businger stated that this growth needs to be managed with a minimum impact to the environment. He expressed concern that it appears that the Board is bending the rules so that developers get their way. He expressed fear that this ordinance may be misused.

Gail Nicolls, 678 West Shore Drive, Guemes Island, stated that she supports the comments of Ms. Kooiman, and expressed the concern for adequate water for Guemes Island residents.

Dee Estes, commented on specific problems of her property, and was advised to meet with Kendra Smith following this hearing.


There being no further public comment forthcoming, Commissioner Anderson moved to close the public hearing. Commissioner Wolden seconded the motion, which passed unanimously. The Board advised that written testimony will be taken until 4:30 p.m. on Friday, June 26.

Commissioner Wolden asked the Conservation Futures Advisory Committee to suggest language for the plat and also consider the area of Guemes Island.

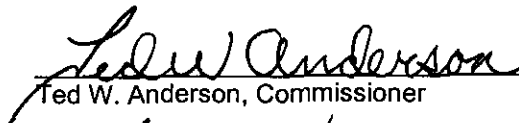
**ADJOURNMENT.**

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

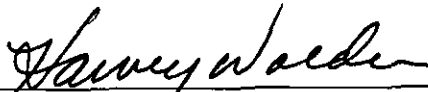
**BOARD OF COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON**



Robert Hart, Chairman



Ted W. Anderson, Commissioner



Harvey Wolden, Commissioner



ATTEST:



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