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**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
Tuesday, August 11, 1998**

- 7:30 a.m. – 8:30 a.m. Commissioners' Staff Meeting.
- 8:30 a.m. – 9:00 a.m. Work Session – Operations Division Manager/District Maintenance Supervisors.
- *T 9:00 a.m. – 10:00 a.m. Public Works Department – Chal Martin, Director.
 - 1) Presentation – Certificate of Commendation on the Retirement of Al Carlson.
 - 2) Signature – Quit Claim Deed in favor of Max and Thresa Benjamin to correct a Scrivener's Error in a Right-of-Way Deed.
 - 3) Miscellaneous
- 10:00 a.m. – 11:00 a.m. Executive Session – Personnel, Litigation and Land Acquisition.
- 11:00 a.m. – Noon Planning & Permit Center – Tom Karsh, Director.
 - 1) Review and Possible Adoption of an Interim Ordinance amending Skagit County Short Subdivision Regulations (Skagit County Code 14.08) relating to Interim Short Conservation and Reserve Development Subdivision Requirements (Short CaRD).
 - 2) Review of Proposed Interim Ordinance relating to Skagit County Code Section 14.04.126, Mineral Resource Areas Overlay.
 - 3) Miscellaneous.
- 1:30 p.m. – 2:00 p.m. Bid Opening – Edison Slough Drainage Improvement Project.
- 2:00 p.m. – 2:30 p.m. Decisions following Public Hearings held August 4, 1998:
 - 1) Supplemental Budget – Special Paths Fund #102.
 - 2) Consideration of the Repeal of Existing Skagit County Code Section 9.04.105 – Nonmotorized Use of the Cascade Trail, and adding a New Chapter to Title 9 entitled Parks and Public Trails, which includes two new Sections entitled Motor Vehicles on the Cascade Trail and Impoundment of Motor Vehicles Operated on the Cascade Trail.

The Skagit County Board of Commissioners met in regular session on Tuesday, August 11, 1998, with Commissioners Robert Hart, Ted W. Anderson and Harvey Wolden present.

PUBLIC WORKS DEPARTMENT – Chal Martin, Director.

1. Presentation – Certificate of Commendations on the Retirement of Al Carlson.

Cliff Butler, Road Maintenance Supervisor, reviewed the work history of Al Carlson, and his contribution to the County. The Board presented Mr. Carlson with a commendation and plaque, and thanked him for his years of service to the County.

2. Signature – Quit Claim Deed in favor of Max and Thresa Benjamin to correct a Scrivener's Error in a Right-of-Way Deed.

Dave Baltz, Public Works Staff, explained the need for clarification of the ownership of a 30 foot by 20 foot piece of property currently belonging to the County. Mr. Baltz briefly explained the history of this request. Chairman Hart moved to approve the execution of a Quit Claim Deed in favor of Max and Thresa Benjamin. Commissioner Anderson seconded the motion, which passed unanimously. **(Deed No. 0455)**

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3. Miscellaneous.

There were no miscellaneous items for discussion.

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, August 11, 1998, Board, by a majority vote, did approve for payment those vouchers included in the above-mentioned list and further described as follows:

Warrants numbered 25705 through 25705 from Clearing Fund 696 in the total dollar amount of \$5,191.92 (Transmittal No. C-53-98).

2. Staff presented for the Board's consideration the Record of the Proceedings for Tuesday, August 4, 1998. Commissioner Wolden moved to approve the Minutes as presented by Staff. Commissioner Anderson seconded the motion, which passed unanimously.

PLANNING & PERMIT CENTER – Tom Karsh, Director.

1. Review and Possible Adoption of an Interim Ordinance amending Skagit County Short Subdivision Regulations (Skagit County Code 14.08) relating to Interim Short Conservation and Reserve Development Subdivision Requirements (Short CaRD).

Kendra Smith, Assistant Director, gave a brief overview of the proposed Interim Short CaRD Ordinance. She advised that there has been public participation starting with a Citizen Advisory Committee and written public comment. Further, a public hearing was held and additional written comments were solicited. She explained that implementing this ordinance would allow the County to increase density only by the clustering of homes.

Chairman Hart noted that this had been proposed since the visioning process began in 1990. He explained that this is an interim ordinance that will be finetuned and followed up with a permanent ordinance, which will become a part of the Development Code. Chairman Hart stated that this is an attempt to give people the option to develop their property while preserving resource lands at the same time.

Chairman Hart moved to approve an Interim ordinance amending portions of the Short Subdivision Regulations (SCC 14.08) relating to Interim Short CaRD (Conservation and Reserve Development) Subdivision Requirements as presented by Staff. Further, these regulations will be effective as of August 24, 1998. Commissioner Wolden seconded the motion.

After a brief discussion, the question was called for, and the motion passed with a unanimous vote. **(Resolution No. 17098)**

2. Review of Proposed Interim Ordinance relating to Skagit County Code Section 14.04.126, Mineral Resource Areas Overlay.

Chairman Hart indicated that it had been planned to adopt this Ordinance today, but that there are still some concerns regarding the issue of MRA 1, 2, 3 classifications. He explained that basically the County has many sites that already have DNR permits or have gone through the Special Use process. Consequently, the question remains that if the MRA classifications do not make any difference, why include them in the Mineral Resource Areas Overlay Ordinance? He questioned whether the County would want to make people go through an involved process a second time resulting in double jeopardy to the property owner. He asked if perhaps there are some legal ramifications to require this second process.

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Commissioner Wolden indicated that there were good comments received during the solicited written comment period. He agreed with Commissioner Hart that there are too many requirements included in the proposed Ordinance that go beyond the intent of the Comprehensive Plan.

Chairman Hart asked if an inventory was done. He stated that people who have permits in hand and have gone through the process need to be included in such an inventory. He expressed the need to complete the mineral resource overlay section so that the people affected can get on with their lives. He asked if perhaps a rider could be added to give a 120-day period to review the inventory and for anyone who has evidence of permits on file and has gone before the Hearing Examiner can take that information before the Planning Commission for hearings once the permanent ordinance has been put in place.

Gary Christensen, Assistant Director of the Planning Department, stated that the nuts and bolts and specific details need to be determined for the implementing ordinances. There is confusion and clarification is being sought. Mr. Christensen stated that a review of the latest correspondence received indicates that there are still some issues that need to be clarified. Further, the MRA designations need to be reviewed, and do need to be included in the Ordinance as they are included in the Comprehensive Plan. He stated that with regard to existing uses, there is no intent to preclude anyone who has attained an existing permit to continue to operate. He explained that the draft ordinance would apply to new or expanding operations.

Commissioner Anderson stated that this was also his concern, that there are several viable operations throughout the County and it is unfair to make them go back to square one. In addition, there are several instances where the courts have decided what is acceptable. He expressed the need for surrounding uses needing to conform. He stated that there is a big difference in operating a gravel pit and in operating a batch plant. He indicated that we have gone beyond the scope of our intent in this proposed Ordinance.

Chairman Hart briefly discussed the classifications of the different MRA's. He again questioned the need to include these classifications in the proposed Ordinance.

Mr. Christensen explained that how we get to a formal MRA 1,2,3 designation could be through subsequent events or through a window of opportunity where landowners could submit information. He said that some mining operators submitted information during the formation of the Comprehensive Plan. He indicated that the Department has asked that DNR produce a list of sites throughout the County, and that approximately 40 sites have been identified. Mr. Christensen suggested that perhaps the Department could, during this window of opportunity, contact each of these permitted DNR site owners and those who have responded, and let them have the opportunity to augment our files. That information could assist with the formal designation process of an MRA 2 or 1. He explained that during the Comprehensive Plan process, particular boundaries or sites were not given a market threshold evaluation. By contacting landowners and asking for information, the County can assure that we have created a record that we can maintain that would enable us to grant those MRA 2 or 1 designations. He advised that this would be the cleanest and most defensible method.

Chairman Hart expressed concern that before we make this process more complex, we already have a soils analysis and a mineral resource overlay that was a part of the Comprehensive Plan, and therefore it should be fairly simply to do a quick analysis on cubic yards of gravel and rock.

Mr. Christensen indicated that then we would have a value associated with a site, which would be helpful if we are challenged on an MRA designation.

Chairman Hart asked about proceeding with an interim ordinance, and then going forward with details after the interim ordinance is adopted.

Mr. Christensen indicated the correctness of Chairman Hart's comment. He stated that an interim ordinance is the only mechanism that will allow new applicants to apply, and an MRA designation can then be assigned at a future date. He stated that it is the new operator that is not even able to submit an application that needs relief. He stated that the County needs to adopt an interim ordinance and then go through a time period to request necessary information to then grant an MRA 2 or 1 designation.

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Mr. Christensen further noted that the one component we are now lacking is this market threshold commercial value.

Chairman Hart indicated the need to get the interim ordinance ready for adoption, and a process for developing criteria for an MRA 2 and 1 designation. He stated that then we can proceed through Development Regulations when it is sent forward to the Planning Commission..

A discussion ensued on the MRA designation requirements.

Mr. Christensen suggested that when the County is looking at designating MRA 2's and the market and commercial values and impacts have been gathered, perhaps this should then be addressed by the Hearing Examiner.

Chairman Hart concurred that the Hearing Examiner would be the proper venue for review.

A discussion ensued on the existence of residential areas within resource lands, and Commissioner Anderson asked if a landowner has an option to have the designation removed.

Mr. Christensen indicated yes, if there are higher density rural areas, it may preclude us from including it in the mineral resource areas overlay. He further commented that commercial operations in some areas of residential areas may need to be limited.

Chairman Hart asked if the property owner could go to a public hearing before the Planning Commissioner for this type of determination, at no cost to the landowner. Mr. Christensen confirmed this fact.

Mr. Christensen next discussed the need for more specificity regarding the availability of water and power at particular sites. He advised that the specific language came out of the Comprehensive Plan, which was developed from language included in relevant WAC's. He stated that the comments received probably mean we need to make some specific criteria, and the existing language appears to be somewhat subjective. Staff has talked about getting representation from the industry to get more detail to expand on this criteria. He stated that this would be something that the Department would want to address before bringing this back before the Board.

A brief discussion ensued about the need for specificity in this language.

Commissioner Anderson expressed concern about small "mom and pop" gravel pit operations.

Tom Karsh, Director, explained that operations of less than 3 acres in size do not require state surface mining permits, and by our zoning ordinances would be a nonconforming use.

Commissioner Anderson stated that many of these area businesses have been in existence for years, building up a business, and then are classified as pre-existing non-conforming. By this definition, they are being put out of business.

Mr. Karsh indicated that there has been a moratorium on new mining operations ever since the County was invalidated, and we need to provide a mechanism for those people who have not been able to come forward.

Commissioner Wolden concurred with Commissioner Anderson that there are some pre-existing non-conforming issues that need to be addressed.

Mr. Karsh stated that there is no intent to make all existing operators come forward for a review. He detailed his concern that this area of the Comprehensive Plan needs to have this legislation carefully crafted.

Commissioner Anderson expressed the need to make clear our intentions, so that such intentions are not lost when interpreted in another venue.

Chairman Hart asked how soon the Department could bring back an interim ordinance for the Board's consideration.

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Mr. Christensen stated that he would like to contact various industry representatives and collect suggested changes to the criteria language discussed earlier. Then the Department will get back to the Board as soon as possible with a proposed ordinance.

3. Miscellaneous.

Ms. Smith stated that there is a January 20 deadline in putting the Long CaRD together. She advised that the proposed Ordinance would have to be submitted to CTED 60 days in advance. She briefly detailed the schedule for reconvening the Citizens Advisory Committee, Planning Commission consideration and deliberation, public review and SEPA.

Chairman Hart noted, in this regard, that the Short CaRD will also have to be submitted for finalization.

Mr. Karsh asked the Board for conceptual approval to reestablish the same CAC to work through this process. The Board indicated their approval of reestablishing the existing CAC.

A discussion ensued on whether to accept applications and the need to include a disclaimer as used before in similar situations. The Board indicated their approval of a disclaimer process being instituted.

BID OPENING – EDISON SLOUGH DRAINAGE IMPROVEMENT PROJECT.

Jennifer Aylor, Surface Water Management Division Staff, opened the following bids.

Paragon Construction Co.
PO Box 924
Blaine, WA 98231-0924
Bid Bond Attached – Addendum acknowledged.
\$284,416.08

Pacific Road & Bridge Co.
PO Box 5438
Everett, WA 98206
Bid Bond Attached – Addendum acknowledged.
\$394,876.52

She advised that the Engineer's Estimate was \$222,923.86.

Chairman Hart confirmed with Staff that the bids will be reviewed and a bid award will be forthcoming within the next two weeks.

DECISIONS FOLLOWING PUBLIC HEARINGS HELD AUGUST 4, 1998:

1. Supplemental Budget – Special Paths Fund #102.

Commissioner Wolden stated that a Special Paths Fund was established in 1974, and needs to be supplemented to proceed with proposed maintenance to the Cascade Trail.

Commissioner Wolden moved to approve the Supplemental Budget for Special Paths Fund #102 in the sum of \$250,000. Commissioner Hart seconded the motion.

Commissioner Anderson stated that the cart was before the horse as he thought a plan would be in place to determine the full scope of the project. He stated that by calling the work to be done "maintenance," the project is not fully disclosed nor is a SEPA review process required. He stated that the Board promised the people when the Parks and Recreation Plan was adopted, that there would be a formal public process regarding the scope of the Cascade Trail project.

Commissioner Wolden stated that there is a certain amount of maintenance that needs to be done to the Trail.

Mike Woodmansee, County Administrator, stated that the project is exempt from an EIS checklist, as delineated under applicable State law.

Commissioner Anderson stated that if this is going to be the formal opening of the trail, there has never been a public process to determine the scope of the project or where the trailheads are to be located. He indicated that \$250,000 is a substantial amount of money to commit to this project

After a brief discussion, the question was called for. Commissioners Wolden and Hart voted for the motion, and Commissioner Anderson voted "no." The motion passed. **(Resolution No. 17099)**

2. Consideration of the Repeal of Existing Skagit County Code Section 9.04.105 – Nonmotorized Use of the Cascade Trail, and adding a New Chapter to Title 9 entitled Parks & Public Trails, which includes two new Sections entitled Motor Vehicles on the Cascade Trail and Impoundment of Motor Vehicles Operated on the Cascade Trail.

Commissioner Anderson asked about private roadway crossings for people who live along the Trail.

Mr. Woodmansee explained that this proposed ordinance does not relate to vehicles that cross the Trail. He discussed the draft easement that is being worked on which enables the use of the corridor.

Commissioner Anderson stated that his point is that he does not want to pass this ordinance if it will apply to someone merely crossing the trail to get to their property. He stated that his objective has been to try to stop the unauthorized use of the trail by motorized vehicles and the inherent harassing of adjoining property owners.

Commissioner Wolden stated that there is no question about people crossing the trail to get to their property

Mr. Woodmansee clarified that the draft easements merely afford the people the ability to further clarify their crossing easement should they so desire. The County pays all recording fees for the processing of such documents.

Chairman Hart stated that it is not the intention of the County to block access to anyone's property. He reiterated that the opportunity to formalize an easement is an option and the County would grant such an easement at no cost to the property owner in order to clarify the situation.

Commissioner Wolden stated that no one is going to be arrested for crossing the trail to their own property.

Commissioner Wolden moved to approve an Ordinance repealing Skagit County Code Section 9.04.105 – Nonmotorized Use on Trails and adding a new chapter under Skagit County Code Section 9 entitled Parks and Public Trails and Impoundment of Motor Vehicles Operated on the Cascade Trail. Commissioner Hart seconded the motion.

Commissioner Anderson indicated that he would like further clarification of the rights of adjoining property owners to cross the trail to their property.

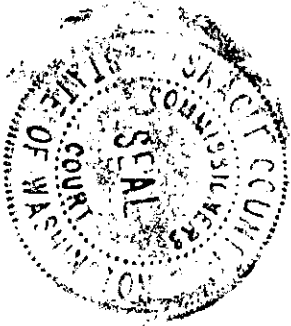
The question was called for, and Commissioners Hart and Wolden voted for the motion with Commissioner Anderson voting "nay." The motion passed. **(Resolution No. 17100)**

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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

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