

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
Monday, October 12, 1998**

8:30 a.m. – 8:45 a.m.	Public Comment Period.
	CONSENT AGENDA MISCELLANEOUS
9:00 a.m. – 10:00 a.m.	Work Session – Deepwater Slough.
10:00 a.m. – 11:00 a.m.	Appeal of the Hearing Examiner's Decision Denying the Variance Application of Chuck and Wendy Munson to Locate a Single Family Residence within an Industrial Forest Zone Outside a Fire District (PL97-0545).
11:00 a.m. – 11:30 a.m.	Consideration of the Hearing Examiner's Recommendation for Approval of an Agricultural Variance for Scott MacMurchie and Delois Fox for Property located at 377 Washington Street, Blanchard (AG97-0541).
11:30 a.m. – Noon	1998 Boating Program Review.
1:30 p.m. – 4:30 p.m.	Budget Work Session.

The Skagit County Board of Commissioners met in regular session on Monday, October 12, 1998, with Commissioners Robert Hart, Ted W. Anderson and Harvey Wolden present.

PUBLIC COMMENT PERIOD.

Tom Solberg, Alger, spoke regarding the Alger sub-area plan, and asked that the Board allow the plan to proceed.

Commissioner Wolden stated that a sub-area plan is to allow the people in the area to decide what lot sizes should be, not leave it up to the County to decide. He explained that people in smaller areas need the opportunity to decide what size the lots should be in their particular area.

CONSENT AGENDA.

Commissioner Wolden moved to approve the Consent Agenda for Monday, October 12, 1998, and Commissioner Anderson seconded the motion. The motion passed with a unanimous vote.

COMMISSIONERS' OFFICE:

1. Record of the Proceedings of Monday, October 5, 1998.
2. Record of the Proceedings of Tuesday, October 6, 1998.
3. Resolution outlining the Legal Holidays to be observed for 1998. **(Resolution No. 17172)**

SECOM:

4. Personal Services Agreement with Al Tate to provide technical assistance to the SECOM Director in the selection, configuration, installation, testing and acceptance of the Planet MAARS Enhanced 9-1-1-telephone system for the Cascade Communications Center. The contract will entail no more than 200 hours of work at a rate of \$65 per hour, with a total not-to-exceed amount of \$13,000. **(Contract No. 04091)**

SHERIFF:

5. Resolution calling for a Public Hearing for the partial repeal of and additions to the existing Skagit county Code Title 9, Chapter 9.04, Boating and Recreational Activities. **(Resolution #17173)**

PARKS & RECREATION:

6. Resolution awarding the bid for 1,800 pieces of Pressure Treat 2" x 12" x 16' lumber to Hardware Sales, Inc., 2034 James Street, Bellingham for the total amount of \$32,909.18. **(Resolution No. 17174)**
7. Contract with Allied Concrete Construction, Inc. for construction of backstop and dugouts at the Dream Field for a total bid amount of \$52,552.50. **(Contract No. 04092)**

PUBLIC WORKS DEPARTMENT:

8. Resolution appointing Community Rating Program Coordinator (Jennifer Aylor) and Community Rating System Annual Recertification. **(Resolution No. 17175)**
9. Resolution Calling for a Public Hearing to consider a Speed Limit Revision on Avon Street, No. 30600. The public hearing will be held November 3, 1998, at 9:00 a.m. **(Resolution No. 17176)**
10. Resolution Calling for a Public Hearing to consider a Speed Limit Revision on Lyman Hamilton Highway, No. 94020. The public hearing will be held November 3, 1998, at 9:00 a.m. **(Resolution No. 17177)**
11. Resolution Calling for a Public hearing to consider a Speed Limit Revision on West Shore Road, No. 17510. The public hearing will be held November 3, 1998, at 9:00 a.m. **(Resolution No. 17178)**
12. Resolution Establishing the Eligibility List for Procurement of Maintenance Materials. **(Resolution No. 17179)**

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, October 16, 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 29604 through 29638 from Clearing Fund 696 for a total dollar amount of \$282,929.47 (Transmittal No. C-69-98); and

Warrants numbered 29639 through 29992 from Clearing Fund 696 for a total dollar amount of \$506,013.41 (Transmittal No. C-70-98); and

Payroll warrants numbered 23213 through 23835 in the total dollar amount of \$549,506.65 (Transmittal No. P-50-98).

2. Staff presented a Resolution Approving an Interlocal Cooperative Agreement Between Skagit County and Skagit Transit and the Interlocal Agreement itself. This agreement would allow the County to perform reimbursable work, provide materials and equipment rental for work on Skagit Transit's facilities as requested by Skagit Transit for the calendar years 1998 through 2002, similar to agreements with various Dike and Drainage Districts. Commissioner Anderson moved to approve the Resolution and Agreement as presented. Commissioner Wolden seconded the motion, which passed unanimously. **(Resolution No. 17181, Contract No. 04093)**

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3. Staff presented a Personal Services Agreement with James W. Nelson to provide legal services at Mental Health and involuntary commitment hearings at least two to three mornings per week at the rate of \$2,000 per month. The contract will run from October 1, 1998 through December 31, 1998, for a total not-to-exceed amount of \$6,000. Commissioner Anderson moved to approve the Agreement as presented by Staff, and Commissioner Wolden seconded the motion. The motion passed with a unanimous vote. **(Contract No. 04094)**
4. Alison Mohns, Planning Staff, presented a Resolution declaring an Emergency and waving bidding requirements relating to the Edison Community Drainfield. She briefly explained the conditions that exist which require the Edison drainfield to be resized, and that Wilson Engineering, the original Contractor, is proposing to add a modified trench to the existing field. Commissioner Hart moved to approve the Emergency Declaration as presented by Ms. Mohns. Commissioner Wolden seconded the motion, which passed unanimously. **(Resolution No. 17180)**
5. Staff presented Supplement No. 1 to a Personal Services Agreement with Paul Schissler. Mr. Schissler's scope of work will be increased to provide, through various subcontractors, appraisal services, title insurance, escrow/closing services, and other real estate services which are associated with the Community Development Block Grant Disaster Recovery Grant. Mr. Schissler's compensation will increase from \$25,000 to \$85,000. **(Contract No. 03844)**

APPEAL OF THE HEARING EXAMINER'S DECISION DENYING THE VARIANCE APPLICATION OF CHUCK AND WENDY MUNSON TO LOCATE A SINGLE FAMILY RESIDENCE WITHIN AN INDUSTRIAL FOREST ZONE OUTSIDE A FIRE DISTRICT (PL97-0545).

Brandon Black, Assistant Planner, gave a brief history of the variance request to locate a single family residence within an Industrial Forest zoning district outside of a fire district. The applicant is requesting a variance from Skagit County Code 14.04.122(2)(a) and 14.04.122(5) to both locate within an Industrial Forest zoning district and reduce the setback requirements.

He advised that the variance request proposal does not meet criteria as follows:

- 1) The residence will not be located within the boundaries of a fire district;
- 2) The residence will not be accessory to timber resource management activities;
- 3) The residence will not be able to meet the 200' slash abatement requirement around the exterior of the building; and
- 4) The residence cannot meet the safety zone cleared of flammable vegetation of 100 feet downhill on sloped ground.

Mr. Black advised that the hearing before the Hearing Examiner was held on July 8, 1998. Based on current Skagit County Code, staff recommended denial of the variance request. Staff submitted conditions in the Staff Report in the event the Hearing Examiner would elect to approve the request. The Hearing Examiner issued a written decision to deny the request on July 27, 1998.

Mr. Black advised that a reconsideration request was also submitted to the Hearing Examiner, and that the Hearing Examiner issued a decision of denial after reconsideration on August 25, 1998. Thereafter, a timely appeal was filed with the Skagit County Board of Commissioners.

Mr. Black stated that the Board has the following options:

- 1) After examining the written request for appeal, the Board may deny the request and allow the Examiner's decision to stand;
- 2) Remand the matter for reconsideration by the Hearing Examiner pursuant to Section 14.01.057; 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.

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Commissioner Wolden confirmed that the Koma Kulshan Plant is the only fire service available to this lot. He further confirmed that a meeting had been held with the Birdsvew Fire Department and that an agreement was pending for fire protection for a rate of \$100 per year. Mr. Black stated that, to his knowledge, there is no formal agreement in place with the Birdsvew Fire Department.

Chuck Munson, 16509 NE 27th Street, Bellevue, gave a brief history of the Munson's attempted purchase of the property on the west side of Bakerview Road, and the subsequent need to determine if the property was a certifiable building lot. He detailed the first set of meetings with Planning Staff, and explained that the Paulson's, who presently own the site, purchased it 30 years ago as a single family residential site with the hopes of building a residence on the site. Mr. Munson stated that one of the obstacles in this plan, has been that the property is located outside of the First District 10 boundaries. As a consequence, mitigation is necessary. He related the meetings held with Fire District 10 and the agreement to provide service, together with the fire-safety building materials that would be used in construction including the use of brick, steel studs, concrete flooring, simulated slate roof, and installation of a sprinkler system. Mr. Munson explained that they would be happy to include the building materials in an agreement to assist in reaching their goal.

Wendy Munson, 16509 NE 27th Street, Bellevue, WA 98008, stated that they had relied on a variance being granted as there is no possible use of the property for timber management, and "reasonable use" of the property is residential. She indicated that mitigation measures were prepared in concert with the Fire Marshall and DNR and each of the development standards of 14.04.122(a) can be mitigated or are not relevant to the subject property. The mitigation measures have been approved by County and State Fire Safety personnel. Additionally, the Munson's have proposed measures that go beyond those required. She stated that they have looked carefully at the Comprehensive Plan, and the Planning Department has only looked at the zoning code. Ms. Munson stated that looking at the Comprehensive Plan criteria for designation, there are no grounds for listing this as industrial forest, as this area contains eight lots, many of which have residences.

Ms. Munson stated that all nearby property owners were notified about their impending project, and there was verbal and written support, with no public opposition.

Ms. Munson next spoke to the concern about setting precedent by allowing this project to go forward. She indicated that the Board can feel confident that there are no more than 4 or 5 lots within the County that would have any kind of similar relationship with the Munson property. Ms. Munson stated that this approval would be in harmony with the general purpose of the land use regulations and would recognize that their home would not harm forestry activities in the area. She further explained that the presence of a home would abate the unauthorized camping use of the property. She stated that the zoning ordinance cannot always regulate every circumstance that may exist.

Ms. Munson indicated that they do not have the contract with the fire district because the permit application has not been finalized, and the variance procedure needs to be completed. The Fire Commissioners have indicated their approval of such a contract, however.

She stated that the crux of the variance issue is that the lot is too small for anything other than a residence. Further, Ms. Munson noted that the requirement for a timber management plan is perplexing because there is not any of their property that will be used for timber harvesting or growing activities. Additionally, the Munson property is separated from the adjacent Crown Pacific property by a wetland, and consequently, Crown Pacific is not interested in obtaining this small parcel. She stated that the lot certification has been accomplished. Ms. Munson next stated that there is no other use for this site as recreational use would be reasonable, but if the property is not a timber resource site, it cannot be used for recreation. Ms. Munson stated that approving this variance would not be a precedent-setting decision.

Commissioner Anderson complimented Ms. Munson on her well-prepared presentation.

Mrs. Munson reviewed the location of the subject property, explaining that the area is a hamlet or small neighborhood, and that a house is currently being built directly across the road from the subject property.

Chairman Hart clarified with Staff that there was no opposition to the Munson proposal presented at the Hearing Examiner's public hearing.

Commissioner Anderson noted that the subject property has access directly off of a paved road. Further, the property is close to Koma Kulshan and the area is definitely a hamlet in the industrial forest zone. He stated that the fire issue can be resolved in one of two ways: The first is the Munson's willingness to construct their residence with materials that offer fire protection; the second is to sign a contract with Fire District No. 10. Commissioner Anderson stated that the overriding issue is the reasonable use of the property. He indicated that if all a person can do is pay taxes on the land it is unfair when others in the area have been afforded the right to improve their property. Commissioner Anderson indicated that to deny the opportunity to the Munson's to move forward would not be good government.

Chairman Hart stated that this is not a request for a Comprehensive Plan amendment, and that the Comprehensive Plan is very clear in this regard. However, this is one of those areas where there is a uniqueness, and the Munson's do have a legal lot of record. If the former owner, Mr. Paulson, had applied for a building permit, he probably would have been approved. Chairman Hart stated that the total issue here is that this site is so small. He concurred with Commissioner Anderson that a reasonable use variance is the only thing that fits this situation, and that it would not set a precedent for anything else as this is a unique piece of property that is a legal lot of record and simply does not fit the standard criteria.

Commissioner Wolden noted that there are no special topography conditions, and that the depth of the lot is acceptable.

Mr. Black explained that variances are not reviewed under the Comprehensive Plan and are usually requested to waive compliance with dimensional requirements.

Tom Karsh, Planning Department Director, commented on the various requirements of the Comprehensive Plan and the variance procedures of the County.

Chairman Hart commented briefly on the fire safety requirements for such a piece of property.

Commissioner Anderson moved to overturn the Hearing Examiner's decision as to deny the Munson's would remove all reasonable use of an existing lot of record. Further, a variance should be granted on the setback requirements, and the Munson's should be directed to include steps to provide adequate fire prevention and protection.

Commissioner Wolden clarified that the intent of the motion is to include utilization of a 3,000 gallon water tank and foam, to the legal extent possible, and to contract with the local fire district to provide fire protection.

Commissioner Hart seconded the motion. Upon call for the question, the motion passed unanimously. **(Resolution to be provided by Staff at a Later Date).**

CONSIDERATION OF THE HEARING EXAMINER'S RECOMMENDATION FOR APPROVAL OF AN AGRICULTURAL VARIANCE FOR SCOTT MACMURCHIE AND DELOIS FOX FOR PROPERTY LOCATED AT 377 WASHINGTON STREET, BLANCHARD (AG97-0541).

Marge Swint, Planning Staff, reviewed the exact location of the unique piece of land in question. She advised that Department policy has been that when property has two zoning designations, the applicant is allowed to divide along the line of change. She detailed the location of the proposed homesite. Ms. Swint further explained that there will be two conservation easements on the property. She reviewed a map of the property, together with photographs of the existing property.

Commissioner Anderson moved to approve the Hearing Examiner's Recommendation for Approval of an Agricultural Variance for Scott MacMurchie and Delois Fox for property located at 377 Washington Street in Blanchard. Commissioner Hart seconded the motion, which passed unanimously. **(Resolution No. 17182)**

1998 BOATING PROGRAM REVIEW.

Will Reichardt, Patrol Sargent with the Sheriff's Office, reviewed the Department's mission of providing safe and enjoyable waterways within Skagit County through continuing education, vessel safety inspections, and

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enforcement actions as may be required. He stated that regular patrols must occur for all major waterways in Skagit County in order to obtain funds from the State Parks & Recreation Department. Sargent Reichardt explained that the State is pushing the County to decriminalize many of our County ordinances in this regard. All serious boat accidents and fatalities must be investigated and a report submitted to the State.

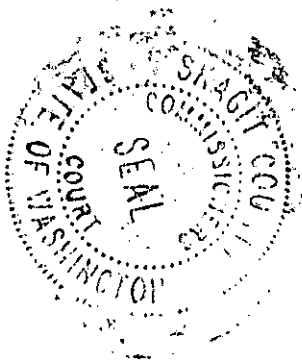
Sargent Reichardt reviewed the 1998 Goals of the Department to maintain or increase levels of boating educational services, and to increase boat patrols and ramp inspections by 30% over 1997. The goals were attained, as they were able to increase patrols by 36% over 1997. He noted that grant funding was received to purchase a new outboard motor. Sargent Reichardt reviewed statistics regarding complaints received and boating accidents during the 1998 season. He further detailed the challenges facing the Department regarding the Swinomish Slough, Campbell Lake, Big Lake and Lake Cavanaugh.

The Board complimented Sargent Reichardt on the great job that was done this summer by the Department.

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