

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
Monday, February 22, 1999**

8:00 a.m. – 9:00 a.m.	Executive Session – Litigation, Personnel & Land Acquisition.
9:30 a.m. – 9:45 a.m.	Public Comment Period.
CONSENT AGENDA MISCELLANEOUS	
10:00 a.m. – 11:00 a.m.	Appeal of the Hearing Examiner's Decision by Dewey Hyatt, Successor to John Schmidt, regarding Review of the Conditions of the Approval of Special Use Permit No. SPU-94-034 requested by Rick and Mary Jo Wiseman.
11:00 a.m. – Noon	Discussion – Skagit Conservation District Long-Term Funding Options.
1:15 p.m. – 1:30 p.m.	Farmland Legacy Program – Approval of Conservation Easement Protecting 34.35 Acres at 15761 and 15999 Kamb Road.
1:30 p.m. – 2:00 p.m.	Work Session – 1999-2001 Biennium Centennial Clean Water Grant Application Proposed Samish Bay Water Quality Monitoring Program.

The Skagit County Board of Commissioners met in regular session on Monday, February 22, 1999, with Commissioners Ted W. Anderson, Harvey Wolden, and Robert Hart present.

PUBLIC COMMENT PERIOD.

Dave Button, 1039 Sterling Road, Sedro Woolley, spoke on issues regarding the Skagit River and possible liabilities at the Howard Miller Steelhead Park at Marblemount. He noted the need for another launch just below the present launch. He stated that this is a very dangerous area. He indicated that the usage has doubled or tripled because of the publicity of the Eagle Festival. The Board suggested contacting the Forest Service to see if they would be in favor of assisting with the necessary permits to allow such improvements.

CONSENT AGENDA.

Commissioner Wolden moved to approve the Consent Agenda for Monday, February 22, 1999, removing Item 4 until Mr. Kaufman could be contacted to see if he is still willing to serve on the Boundary Review Board. Commissioner Hart seconded the motion, which passed with a unanimous vote.

COMMISSIONERS' OFFICE:

1. Record of the Proceedings of Tuesday, February 16, 1999.
2. Resolution appointing Penny Snarrenberg to the Mental Health Advisory Board for a three-year term January 11, 1999 until January 10, 2002. **(Resolution No. 17324)**
3. Resolution appointing Kris Carson to the Developmental Disabilities Board for a three-year term February 1, 1999 until January 31, 2002. **(Resolution No. 17325)**
4. Resolution reappointing Jerry Kaufman to the Washington State Boundary Review Board for a four-year term February 1, 1999 through January 31, 2003. **(THIS ITEM WAS DELETED)**

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5. Resolution reappointing Virginia Doty to the Darrington Library District Board of Trustees for a five-year term effective February 20, 1999 and expiring on February 19, 2004. **(Resolution No. 17326)**
6. Agreement with Economic Development Association of Skagit County for the proactive marketing of Skagit County for potential business and industry. The County will provide EDASC with quarterly payments of \$11,250 for a total payment of \$45,000 during calendar year 1999. **(Contract No. 04271)**
7. Amendment No. 4 (Final) to Loan Agreement No. L9400014 Between the State of Washington department of Ecology and Skagit County to reflect the final loan amount for the Skagit County Water Quality Improvement Fund Project. **(Contract No. 02045)**

PERSONNEL:

8. Out-of-State Travel Request for Stephanie Wood to attend the National Public Employers Labor Relations Association Annual Training Conference in Miami, Florida April 18-23 for a total amount of \$1,935. **(Approved)**

CONSERVATION FUTURES:

9. Out-of-State Travel Request for Richard Doenges to attend American Farmland Trust's 12th Annual Conference – "Purchase of Agricultural Conservation Easements: The Next Generation." The conference is in Perrysville, Ohio March 28-30, 1999, for a total amount of \$1,030. **(Approved)**

SHERIFF:

10. Out-of-State Travel Request for Edward M. Goodman to attend a two-day seminar at the National Center for Missing and Exploited Children in Arlington, Virginia, on April 11 and 12, 1999. Motel and airfare are paid by the National Center for Missing & Exploited Children, therefore only meals of approximately \$100 will be paid for by Skagit County. **(Approved)**

AUDITOR:

11. Resolution to Authorize a Change in the Election Board and Counting Board Compensation. **(Resolution No. 17327)**

SECOM:

12. Resolution approving Interlocal Cooperative Agreement between Skagit County and the Skagit Emergency Communications Center. **(Resolution No. 17328)**

FACILITIES:

13. Vendor Services Agreement with ANDA Construction, Inc. for building alterations to the Skagit County Administration Building per attached drawings for a not-to-exceed amount of \$25,000 excluding sales tax. The contract commences on January 1, 1999 and will continue until either party terminates by giving 30 days notice. **(Contract No. 04272)**
14. Vendor Services Agreement with Refrigeration & Heating to provide a change-out of heating/cooling unit for the Community Action Building. Total compensation is not-to-exceed \$3,500, and the contract will commence on 2/9/99 and continue until terminated. **(Contract No. 04273)**

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HEALTH:

15. Interagency Work Order with the Department of Social and Health Services (DSHS) to provide for the publication of the Health Department's child care report in the total dollar amount of \$3,000. **(Contract No. 04274)**
16. Guest Speaker Contract with Arthur J. Hayward to provide a presentation entitled "Personal Perspectives on HIV/AIDS for a presentation fee of \$25. **(Contract No. 04275)**
17. Contract with Affiliated Health Services to continue providing Youth Tobacco Prevention services as part of the County's Consolidated Contract with the Washington State Department of Health. Such services will be reimbursed at a rate of \$1,180 for a period of 12 months, January through December 1999. **(Contract No. 04276)**
18. Interagency Agreement with the State Department of Health for receipt of grant monies for two State Department of Health projects relative to the Enhancement Drinking Water Grant totaling \$5,000. **(Contract No.04277)**

PARKS & RECREATION:

19. Contract Amendment to Interlocal Agreement with the Burlington-Edison School District for the purpose of amending Section 4 and 5 of the original Interlocal Corporation Agreement dated August 4, 1987. Said changes agree that the County will charge fees for users of this facility with said fees being paid to the County and the County shall return 90% of these fees to the School to offset costs associated with field maintenance per Section 5, Maintenance of Grounds. County shall retain 10% for Administration and Scheduling fees per Section 4. **(Contract No. 00650)**

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 22, 1999, 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 39270 through 39541 from Clearing Fund 696 in the total dollar amount of \$3,211,770.55 (Transmittal No. C-11-99);

Warrants numbered 39542 through 39554 from Clearing Fund 696 in the total dollar amount of \$61,681.77 (Transmittal No. C-12-99).

2. Staff presented a Memorandum of Agreement with the Burlington Chamber of Commerce for tourism promotion during calendar year 1999. The County will provide \$2,500 in one lump sum payment. Commissioner Wolden moved to approve the Agreement as presented by Staff. Commissioner Hart seconded the motion, which passed with a unanimous vote. **(Contract No. 04278)**
3. Staff presented a Memorandum of Agreement with the Concrete Chamber of Commerce for tourism promotion during calendar year 1999. The County will provide \$3,000 in one lump sum payment. Commissioner Wolden moved to approve the Agreement as presented by Staff. Commissioner Hart seconded the motion, which passed with a unanimous vote. **(Contract No. 04279)**

4. Staff presented a Resolution containing Certifications of Compliance authorizing a Community Development Block Grant Application. Staff explained that this is a requirement by the State in conjunction with the CDBG application for assistance in the construction of a community facility to serve low and moderate-income citizens of eastern Skagit County. Commissioner Wolden moved to approve the Resolution as presented by Staff. Commissioner Hart seconded the motion, which passed with a unanimous vote.
(Resolution No. 17329)

5. Staff presented two Dance License Applications for the Pleasant View Inn Tavern and the Skagit Valley Grange No. 620. Staff advised that the Sheriff had been contacted and had no problem with the issuance of these two Dance Hall Licenses. Commissioner Wolden moved to approve the Application for Dance License for the Skagit Valley Grange No. 620 and the Pleasant View Inn Tavern. Commissioner Hart seconded the motion, and it was approved with a unanimous vote. The necessary paperwork was signed.
(APPROVED)

APPEAL OF THE HEARING EXAMINER'S DECISION BY DEWEY HYATT, SUCCESSOR TO JOHN SCHMIDT, REGARDING REVIEW OF THE CONDITIONS OF THE APPROVAL OF SPECIAL USE PERMIT NO. SPU-94-034 REQUESTED BY RICK AND MARY JO WISEMAN.

Pat Hayden, Attorney for Dewey Hyatt, owner of the property at issue, stated that this is basically a dissolution case being tried as a land use matter. John Schmidt was the original owner of the property who obtained a Special Use Permit to remove rock and build a road to an eventual homesite. Mr. Hayden commented on the great animosity of Mr. Schmidt's ex-wife, Mary Jo Wiseman, which occurred during the permit process. Mr. Hayden indicated that Mr. Hyatt is embroiled in a controversy that is blown out of proportion. Mr. Hayden next explained to the Board the exact location of the subject property and the relevant access for Mr. Hyatt and neighboring properties. He also explained the history of this appeal. Mr. Hayden stated that Mr. Schofield, the Hearing Examiner, affirmed the special use permit, but invoked conditions that resolved arguments between the parties. He stated that his client accepted all of the conditions except for one – Mr. Hyatt would like to remove rock beginning at 7:00 a.m. rather than 8:00 a.m. Mr. Hayden stated that his client is endeavoring to comply with the other conditions of the Special Use Permit. He explained that contractors who might want to purchase the rock begin their work day at 7:00 a.m., and that the starting time of 8:00 a.m. poses a hardship on his client by not allowing him to sell the rock at an early hour.

At this point, Mr. Furlong objected to the facts that Mr. Hayden presented, stating that several of his comments were not a part of the original record.

Mr. Hayden reiterated the reasons for his client wanting the 7:00 a.m. start time, commenting on the lack of restrictions for farmers in the area to run diesel equipment at any time.

Mr. Hayden pointed out that his client sells rock about 30 days per year.

Todd Power, 10252 District Line Road, Burlington, stated that he does not have a problem with the earlier start time as long as the trucks do not stack up and idle until they are loaded.

Brad Furlong, Attorney for Rick and Mary Jo Wiseman, 904 So. Third Street, Mount Vernon, countered that this is not a domestic dispute and that anytime quarrying activity comes up for permitting, a number of concerns are raised in the neighboring community. He gave several examples of such controversial quarry activities and the adherent hardships to adjacent neighborhoods. He gave a brief history of this item, including that the original Special Use Permit was to be an accommodation to build a driveway to put a residence at this location. He detailed the conditions of the original Special Use Permit. Mr. Furlong pointed out that since Hearing Examiner Schofield did not modify the start time from the original Special Use Permit, there is really no new issue for the

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Board to consider. He stated that this late request for a change some 1-1/2 years later should be rejected and not considered. Mr. Furlong stated that Hearing Examiner Schofield has now three times made the same decision based on all of the evidence before him.

He handed out several documents from the official record of the Hearing Examiner for the Board's review and read from the record regarding the 8:00 a.m. start-up time.

A discussion ensued on the specific timing and activities of the dump trucks waiting to load and the start times of the crews.

Mr. Furlong stated that, in his opinion this appeal is not timely as Mr. Schofield did not ever consider changing the hours of operation, and that the evidence in the record supports the actions taken by Mr. Schofield. He indicated that it would be highly unusual for the Board to step in at this point and change the conditions of the Special Use Permit.

Mr. Hayden's rebuttal included pointing out that the Special Use Permit does not apply to a quarry operation, but to the building of a driveway, which is consistent with the zoning of the area. He stated that his client has a large amount of rock to sell as a result of the building of the proposed driveway. Mr. Hayden further indicated that this appeal is timely and that Mr. Schofield had jurisdiction to modify the permit, therefore this appeal is appropriate. Consequently, the Board also has jurisdiction to modify the conditions of the Special Use Permit.

Mr. Furlong reiterated that Hearing Examiner Schofield had not modified the hours of operation. He stated that the responsibility of the Board is to carefully consider the findings of the Hearing Examiner and not make special exceptions for Mr. Hyatt.

John Moffat, Chief Civil Deputy, upon query from the Board, indicated that no appeal was filed as to whether the Hearing Examiner exceeded his jurisdiction. Mr. Moffat indicated that under the Special Use Permit portion of the County Code, the Hearing Examiner can review the conditions of a special use permit at any time on request. He commented on the need to find substantial evidence to overrule the Hearing Examiner in this regard, and noted the need to consider only the record that was presented before the Hearing Examiner.

Mr. Moffat detailed the options open to the Board in this matter. He stated that the Board can affirm the Hearing Examiner's decision, or overturn the Hearing Examiner if the Board decides that the Hearing Examiner's decision was not supported by substantial evidence. He advised that remanding the matter back to the Hearing Examiner would not be an option and cited recent cases before the Court of Appeal which confirmed this.

Chairman Anderson asked if there is anything that precludes the Board from taking additional time to consider the record and seek legal counsel. Mr. Moffat advised that the Board is not required to issue an immediate decision.

Chairman Anderson indicated that he would like to take some additional time to consider the evidence, and Commissioner Hart concurred.

Commissioner Wolden stated that, in his opinion, the Hearing Examiner had been very consistent and he could see no reason to consider ruling against the Hearing Examiner.

Chairman Anderson indicated that he would like some time to make sure the decision made is legally sound.

Mr. Furlong cautioned the Board about the requirements of the Open Public meetings Act, stating that such deliberations must take place in a public forum. Commissioner Anderson assured Mr. Furlong that the Board would individually seek legal counsel's advice, and would not be meeting collectively regarding this matter.

After conferencing with Staff regarding the Board's schedule, Commissioner Hart moved to reconvene to make a final decision on this matter on March 8, 1999 at 2:00 p.m. The motion was seconded by Commissioner Wolden and was approved with a unanimous vote.

DISCUSSION – SKAGIT CONSERVATION DISTRICT LONG-TERM FUNDING OPTIONS.

Carolyn Kelly, Skagit Conservation District, discussed the programs of the District and the desires of the Board regarding the operation of the Conservation District.

Various funding mechanisms were discussed including the ability to levy special assessments to finance the operations of the Conservation District. The ability to fund the programs of the Conservation District as relates to the formation of the Clean Water District was also reviewed.

Mike Woodmansee, County Administrator, advised that any effort to establish this predictable funding source must be accomplished by August of 1999.

Ms. Kelly indicated that the District needs guidance in this matter.

Commissioner Hart responded that the District needs to determine what programs they want to focus on, what funding would be required, and list other possible funding sources. He stated that it is difficult for the Board to assist with a funding source without knowing specifics in regards to programs and required monies.

Chairman Anderson directed the District to come back during a Work Session with a strategy including looking at long-term funding through the Clean Water District.

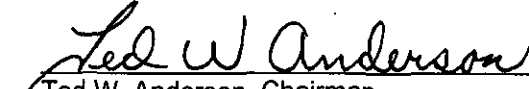
FARMLAND LEGACY PROGRAM – APPROVAL OF CONSERVATION EASEMENT PROTECTING 34.35 ACRES AT 15761 AND 15999 KAMB ROAD.

Rich Doenges, Conservation Futures Director, reviewed the specifics of the land in question and commented on the public and private partnerships involved in the Farmland Legacy Program. He reviewed the history of this program and the need to seek out these types of partnerships. He stated that most of the financial burden is being borne by the property owner in this particular case. Mr. Doenges detailed the specifics of this conservation easement transaction, advising that this will extinguish one development right for the sum of \$55,262.81. Commissioner Wolden moved to approve the documents to effectuate this transaction. Commissioner Hart seconded the motion, and it passed unanimously. **(Resolution No. 17330, Contract No. 04280)**

ADJOURNMENT.

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


**BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**



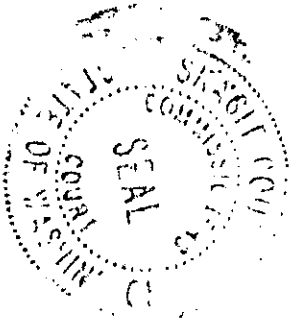
Ted W. Anderson, Chairman




Harvey Wolden, Commissioner



Robert Hart, Commissioner



ATTEST:



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