

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
Tuesday, April 13, 1999**

7:30 a.m. – 8:30 a.m. Commissioners' Staff Meeting

8:30 a.m. – 9:00 a.m. Work Session – Planning & Permit Center

*T 9:00 a.m. – 10:00 a.m. Health Department – Peter Browning, Director

- 1) Signature on Interlocal Agreement for Cost Sharing on a Special Benefit Study.
- 2) Proposed Changes and Additions in the Health Department Fee Schedule.
- 3) Affiliated Health Services Tobacco Prevention Programs.
- 4) Children with Special Health Care Needs Program Report
- 5) Communicable Disease Report
- 6) Miscellaneous.

10:30 a.m. – 11:00 a.m. Discussion and Possible Adoption of Revisions to the Interim Short CaRD Ordinance.

11:00 a.m. – 12:00 p.m. Public Hearing – Consideration of Testimony re: Amending Sections of the Critical Area Ordinance, Skagit County Code, Section 14.06, specifically the exemption for diking and drainage systems.

1:30 p.m. – 1:45 p.m. Proclamation – Arbor Day – Soil Conservation District.

2:00 p.m. – 3:00 p.m. Renaming the Skagit Public Safety Building the Larry E. Moller Public Safety Building.

3:00 p.m. – 4:00 p.m. Executive Session – Personnel and Litigation.

7:00 p.m. Growth Management Meeting – Mount Vernon Public Library

The Skagit County Board of Commissioners met in regular session on Tuesday, April 13, 1999, with Commissioners Ted W. Anderson, Harvey Wolden and Robert Hart present.

BOARD OF HEALTH – Peter Browning, Director.

1. Signature on Interlocal Agreement for Cost-Sharing on a Special Benefit Study.

Ken Willis, Environmental Health Division, explained the Interlocal Agreement for Cost-Sharing on a Special Benefit Study with Public Utility District #1 of Skagit County for the Marblemount Area, and indicated that the cost to Skagit County would not to exceed \$6,000. Commissioner Wolden moved to approve the Interlocal Agreement as presented by Staff. Commissioner Hart seconded the motion, and it passed with a unanimous vote. Staff will prepare the approving Resolution for Consent Agenda next week. **(Contract No. 04362)**

2. Proposed Changes and Additions in the Health Department Fee Schedule.

Mr. Willis advised that there would be small changes to the fee schedule for the County Health Department, including a fine for violation of laws and regulations for public sewage, and sewage that is part of a municipal or sewer system. Mr. Willis explained that the only enforcement available now is through a court process. Commissioner Wolden moved to approve a call for public hearing to consider testimony regarding the Health Department fee schedule for May 3, 1999 at 11:00 a.m. Commissioner Hart seconded the motion, which passed unanimously.

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Staff will prepare the appropriate Resolution and notice for the legal advertisement in this regard.

3. Affiliated Health Services Tobacco Prevention Programs.

Peter Browning, Director, introduced Carol Wetherill from Affiliated Health Services, Youth Tobacco Prevention Coordinator. Ms. Wetherill, in turn, introduced two Anacortes High School students who gave a brief overview of their involvement in the Program. Ms. Wetherill gave a presentation on the various aspects of the program goals, including the peer education program entitled Teens Against Tobacco Use (TATU).

4. Children with Special Health Care Needs Program Report.

Donna Gustin, Public Health Nurse, spoke regarding children with special health care needs, discussing the types of children involved, and descriptions of such chronic conditions. She discussed the various financial issues that families of these children have. She reviewed the role of the public health nurse in this regard, and the various networking with state and local resources.

5. Communicable Disease Report.

Maryl Skjei, Public Health Nurse, reviewed a list of reported communicable disease conditions in Skagit County for 1998, together with a list of sexually transmitted diseases.

6. Miscellaneous.

There were no miscellaneous items for discussion.

PARKS, RECREATION & FAIR.

1. Parks Projects Update.

Peter Mayer, Interim Director, gave an update on the status of various projects for the Department. He discussed the major renovation at Donovan Park and the theft of landscaping materials at this park, stating that the value of the stolen plants is estimated at \$500. He commented on work being done on Guemes Island at Young's Park to provide kayak access. He briefly discussed a proposed litter dumping survey for the Department of Ecology to be accomplished at Grandy Lake.

Mr. Mayer discussed the efforts of the Treasurer's Office in putting together a property listing under Skagit County's authority. A particular parcel in Rancho Del Mar off of Rosario Road has recently been under scrutiny due to concerns over maintenance and illegal dumping at the site.

Mr. Mayer discussed the status of the Dreamfield backstops.

Mr. Mayer spoke regarding the Highway 9 Skagit River Railway Bridge and the impending scheduling of debris removal and possible demolition of the bridge.

Dennis Lind, Interim Director, spoke regarding the proposed Frailey Mountain Shooting Range, and the efforts to get Louie Requa of Skagit Surveyors and Dave Hough, Planning Consultant, to walk the site and address some of the concerns of the Shorelines Hearings Board.

Mr. Lind next discussed the 3-on-3 Tulip Basketball Tournament, advising that approximately 30 teams have registered.

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Mr. Lind gave a review of the end of the recreational activities for the winter, and the beginning of new activities for the Spring season.

Mr. Lind discussed the activities next week for Youth Appreciation Week.

Mr. Lind reviewed the status of the Clear Lake Beach circulation system, and the intent to get information out to potential bidders in the near future.

Mr. Lind advised that the Blackburn Road Project has been temporarily put on hold.

2. Fairgrounds Update.

Mr. Lind expressed appreciation to the Board for meeting with the Fair Board last week

3. Miscellaneous.

There were no miscellaneous items for discussion.

DISCUSSION AND POSSIBLE ADOPTION OF REVISIONS TO THE INTERIM SHORT CARD ORDINANCE.

Tom Karsh, Director, advised the Board that when they adopted Ordinance No. 17352, the Short CaRD Ordinance, on March 9, 1999, there was a subsequent appeal by Friends of Skagit County (FOSC) to the Western Washington Growth Management Hearings Board (WWGMHB), and the appeal stated that the Ordinance did not give good direction on the cluster sub-division process with lands adjacent to mineral resource areas. Upon consultation with legal counsel, Staff believes that it could be argued that this is not a violation of the Comprehensive Plan, but for the sake of clarity, it has been suggested that additional language be included that would confirm the intention to conform to the County's Comprehensive Plan.

Mr. Karsh advised that these are believed to be non-substantive changes, and are just for purposes of clarification.

Chairman Anderson questioned the reason for prohibiting clustering with a quarter mile of resource lands. He commented that he thought this to be a substantive change

Mr. Karsh explained that this would not preclude clustering, and would merely not exceed the densities as stated in the Comprehensive Plan.

Gary Christensen, Assistant Director, concurred that it is not the intent to preclude clustering, but to avoid land use conflicts in the future. He noted the need to maintain as great a distance as possible between a residential development and a mineral resource area.

Commissioner Hart stated that in his mind this is not clear and is not simple.

John Moffat, Chief Civil Deputy, stated that the intent of the proposed amendment to the Ordinance was to make the original Ordinance consistent with the Comprehensive Plan.

Chairman Anderson suggested that the language in the Comprehensive Plan should be used if the intent is to be consistent with the Comprehensive Plan.

Commissioner Hart concurred that the language from the Comprehensive Plan, Paragraph 6.6, should be used rather than the more restrictive language used in the draft submitted to the Board.

Louie Requa, Planning Commission, drew a picture to demonstrate the problems with the language in the draft ordinance, and agreed that the language in the Comprehensive Plan should replace the language in the draft ordinance.

Mr. Karsh indicated that the Department would make the changes suggested and submit it to the Board for approval.

PUBLIC HEARING – CONSIDERATION OF TESTIMONY RE: AMENDING SECTIONS OF THE CRITICAL AREA ORDINANCE, SKAGIT COUNTY CODE, SECTION 14.06, SPECIFICALLY THE EXEMPTION FOR DIKING AND DRAINAGE SYSTEMS.

Chairman Anderson opened the public hearing.

Tom Karsh, Director, read the Staff Report as previous submitted by Kendra Smith, Assistant Director. The Critical Area Ordinance allows for certain exemptions. Exemption (9) deals with the operation and maintenance of diking and drainage systems. This exemption was one of many that were appealed to the Western Washington Growth Management Hearings Board in Case No. 96-02-0025. The item was referred to the Planning Commission for review and public hearing, and the Planning Commission made a recommendation in a Recorded Motion.

Mr. Karsh advised that after reviewing the WWGMHB Order and Decision, Staff felt the Planning Commission's recommendation would not withstand another appeal, and that the County would then be found to be out of compliance and placed into invalidity, which would take this exemption away entirely. Subsequently, Staff met with representatives of Diking Districts, Skagit Systems Cooperative and Sky Miller of the Public Works Department to draft language that would be agreeable to all of the parties concerned and withstand an appeal. There were two major areas of concern within the exemption. The first issue dealt with natural watercourse versus modified watercourse. The second dealt with all of the sub-flood control zones being exempt. It was agreed upon by the parties present to limit the exemption to only artificial watercourses and to only those sub-flood control zones listed within the exemption. This means that if a project does not fall within the exemption, it does not mean that it cannot occur, but rather, that the project would need to submit a plan to satisfy the Critical Area ordinance. This would be especially true for the sub-flood control zones.

Mr. Karsh further explained that there are several definitions the Planning Commission has not reviewed such as definitions for dike, diking, drainage and operation and maintenance. The definitions the Planning Commission did review are the remainder of the proposal and are included with the Recorded Motion.

Sky Miller, Public Works Department Surface Water Management Division, listed the sub-flood control zones within the County.

Mr. Karsh stated that it is his understanding that this matter is a continuing effort to come into compliance with the Growth Management Act and Critical Area requirements.

Doyle McClure, 7827 Parker Road, Sedro Woolley, spoke on behalf of Friends of Skagit County, and provided the Board with a copy of a letter from Friends, which stated support of the text of Exhibit 2 as provided by Staff. He pointed out the need to correct the grammar on line 20, changing "to" to "toward." He commented on the long-term protection of critical areas which the County committed to resolve before the end of March in Case No. 98-2-007. He stressed the desire for a cooperative resolution rather than an appeal, but indicated the need to see some evidence of progress in addressing these issues. He asked the Board to help staff move forward.

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Gary Jones, PO Box 1245, Mount Vernon, on behalf of several diking and drainage districts, particularly those that intervened in this WWGMHB matter, indicated that this is a very necessary exemption to continue to maintain dike and drainage systems to allow them to comply with Corps of Engineer standards. He commented that one of the difficulties is that regulations do not take into account Mother Nature and floodplain issues. He stated that compromises have been made, and detailed the various districts that have been meeting to reach an agreeable position. He indicated that a biologist has been employed, and the districts anticipate that as a result of the proposed exemption, additional staff support would be needed to identify their obligations and a long-term plan regarding fish habitat. He indicated the districts' ability to work with Skagit Systems Cooperative and to provide flood protection. He stressed the need to have a fair application of the Critical Area Ordinance so that public safety issues are addressed. Mr. Jones advised that the language as proposed is very compatible with what was suggested by the districts, and the issue about artificial watercourses is covered to the satisfaction of the Hearings Board. He asked about the possibility of mapping the areas that are exempt to provide clarification for Staff.

Commissioner Hart commented that many of the original dikes were saltwater dikes.

Mr. Jones clarified the need to coordinate interaction of letting more water in or out, to continue the viable use of agricultural land which needs to be protected by some sort of dike. He stated that there is a lot of potential for doing things that may have negative impact on farming, but will have sustainable impact on fish habitat.

Larry Wasserman, Skagit Systems Cooperative, PO Box 368, LaConner, stated that he appreciated the opportunity to work with Staff in trying to construct language that was acceptable to all parties. He stated that he supported the language in Exhibit 2, and commented on appropriate levels of protection for fish. He suggested adding an amendment such as a map that readily shows the areas that are tidally inundated. He suggested language stating "dikes and levees subject to direct inundation of salt water."

Randy Good, 25512 Minkler Road, Sedro Woolley, member of Hansen Creek Advisory Committee, asked the Board to consider more of the exemptions in addition to the ones listed. He commented on the Hansen Creek situation.

There being no further public comment forthcoming, Commissioner Wolden moved to close the public hearing. Commissioner Hart seconded the motion, which passed unanimously. The public hearing was closed.

Commissioner Hart indicated that the Exhibit 2 language is an opportunity to secure exemptions without further appeals and litigation, and agreed that the corrections in semantics suggested should be made.

Commissioner Wolden agreed with Commissioner Hart's comments.

Commissioner Hart stated that there are difficulties but these are long-term strategies to make things better for flood control/drainage and for salmon enhancement.

Chairman Anderson stated that he does not like being in this position because dike and drainage infrastructure is important and the districts need to go about their normal maintenance activities, but the Hansen Creek situation deserves an exemption. He stated that if Hansen Creek is not maintained, it creates a tremendous problem for neighboring agricultural activities. He stated that the issue is always one of parity and fairness, and he stated that he does not think it fair for any committee to exclude someone in order to maintain the exemption in total.

Commissioner Hart stated that the key point in the Critical Area process is that the County needs to commit additional resources besides what is available through the sub-flood control zones.

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Commissioner Hart moved to adopt the draft Ordinance amending sections of the Critical Area Ordinance, making the grammatical and semantic changes as noted in the testimony taken. Commissioner Wolden seconded the motion. Upon call for the question, Commissioners Hart and Wolden voted for the motion; Commissioner Anderson voted "nay." The motion passed. **(Staff to provide Ordinance at a Later Date)**

PROCLAMATION – ARBOR DAY – SOIL CONSERVATION DISTRICT.

Commissioner Hart read the Proclamation into the record, proclaiming April 14, 1999, as Arbor Day in Skagit County. Commissioner Hart moved to approve the Proclamation as read. Commissioner Wolden seconded the motion, which passed with a unanimous vote.

RENAMING THE SKAGIT COUNTY PUBLIC SAFETY BUILDING THE LARRY E. MOLLER PUBLIC SAFETY BUILDING.

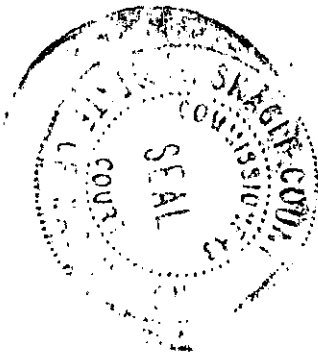
Chairman Anderson read the Resolution, which officially changed the name of the Skagit County Public Safety Building to the Larry E. Moller Public Safety Building, to commemorate the contributions that Judge Moller made to the citizens of Skagit County. Commissioner Hart moved to approve the Resolution as read, and Commissioner Wolden seconded the motion. The motion passed with a unanimous vote. **(Resolution No. 17397)**

MISCELLANEOUS.

1. Staff presented a Resolution transferring surplus computer equipment to the Burlington-Edison High School. The value of the computer equipment involved is less than \$50,000. Commissioner Wolden moved to approve the Resolution as presented by Staff. Commissioner Hart seconded the motion, which passed unanimously. **(Resolution No. 17408)**

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

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ATTEST:



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