

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
Monday, August 23, 1999**

10:00 a.m. – 11:00 a.m. Appeal by Dena Blatt of the Hearing Examiner's Decision under an Administrative Appeal filed with the Skagit County Planning & Permit Center following a Determination of the Skagit County Building Official for Denial of a Building Permit for Property located at 1274-A Marine Drive, Anacortes, Washington (PL99-0288)

**CONSENT AGENDA.
MISCELLANEOUS.**

1:30 p.m. – 2:00 p.m. Executive Session – Personnel, Litigation and Land Acquisition.

The Skagit County Board of Commissioners met in regular session on Monday, August 23, 1999, with Commissioners Ted W. Anderson, Harvey Wolden, and Robert Hart present.

APPEAL BY DENA BLATT OF THE HEARING EXAMNER'S DECISION UNDER AN ADMINISTRATIVE APPEAL FILED WITH THE SKAGIT COUNTY PLANNING & PERMIT CENTER FOLLOWING A DETERMINATION OF THE SKAGIT COUNTY BUILDING OFFICIAL FOR DENIAL OF A BUILDING PERMIT FOR PROPERTY LOCATED AT 1274-A MARINE DRIVE, ANACORTES, WASHINGTON (PL99-0288).

Corey Schmidt, Building Official, opened the meeting by advising that the Department has been diligently trying to obtain all of the information necessary to complete this building permit. He reviewed the fact that the Hearing Examiner concluded that the applicant had not adhered to the provisions of the Skagit County Code and therefore determined that the denial of the Building Permit was appropriate.

John R. Shultz, Attorney representing Appellant Dena Blatt, advised that this case has a long history and is one of the most complicated he has ever seen. He commented on his client's deteriorating health, noting that this situation has been financially and emotionally devastating to her. He stated that he was amazed at the items that the Hearing Examiner did not place into evidence. He reviewed the submission of the various surveys of the property, and the lack of inclusion in the Hearing Examiner's record. Mr. Shultz stated that this is a glaring example of the many administrative errors in this matter.

A discussion ensued regarding the submission, with Mr. Schmidt confirming that it is the appellant's responsibility to make sure that the information is submitted for the record.

Chairman Anderson confirmed with staff that the Hearing Examiner did not have the survey referenced by Mr. Shultz at the time of the hearing before the Hearing Examiner.

Commissioner Wolden confirmed with staff that the survey is not a part of the Hearing Examiner's record, but it now is a part of the Building Permit file.

Chairman Anderson reaffirmed to those present that this hearing is based on the record before the Hearing Examiner, and that no subsequent information can be considered. He confirmed with Mr. Shultz that he could reference the document at this meeting, but that he could not submit the document into the record.

Mr. Shultz proceeded to review the history of the subject project and building permit application process. He stated that the appellant is seeking a decision to either accept the building permit as is or with

appropriate conditions or remand this back to the Department and the Hearing Examiner to address issues. Mr. Shultz advised that two variances are pending on this matter, and there have been a number of discussions with the Planning Department. He stated that Ms. Blatt has offered a global settlement of the entire matter including a hold harmless and indemnification to the County. Mr. Shultz indicated that this would seem to be a solution to this whole problem.

Mr. Shultz reviewed the history of the appellant's ownership of the house, noting that Ms. Blatt has owned the subject house for ten years, and that such house was build 30 years ago in a geotechnical hazardous zone, about 30 feet from a 107-foot drop down into Burrows Bay. Ms. Blatt lives there alone and it was her plan to have her daughter come to take care of her as needed as she aged.

Mr. Shultz acknowledged that Ms. Blatt made a big mistake when she hired a contractor, assuming that the permit requirements would be taken care off. The addition was started after the contractor assured Ms. Blatt that the permit requirements had been met, and the work was nearly 95% completed while Ms. Blatt was in California. An enforcement action was started to require her to remove the addition, and when no action was taken, the matter was referred to the Prosecuting Attorney. The prosecution is currently held in abeyance pending the completion of this administrative process.

Mr. Shultz advised that Ms. Blatt applied for a building permit in October 1997, and has offered to do anything to keep the structure intact. It is estimated that it would cost \$100,000 in damages to tear the addition down, and geotechnical reports have indicated that there is greater damage to the environment by removing the addition than there is in leaving it as is. Mr. Shultz quoted from the geotechnical engineer's report in this regard. Mr. Shultz further read from Skagit County Code Compliance Officer Jon Schmidt's letter to Ms. Blatt dated June 16, 1998, wherein the building permit was denied. Mr. Shultz reviewed in detail the reasons for the denial of the building permit including that the geotechnical report negatively affects the slope, lack of 30-foot wide buffer behind the property, the addition does not meet the setbacks required, and the addition added a fourth bedroom which exceeds the scope of the existing septic system.

Mr. Shultz stated that now the Planning Department has imposed many more requirements, including asking for a shoreline substantial development application. He reviewed the particulars of the variance requests now in progress.

Mr. Shultz acknowledged that the reality of the situation is that the building was built without a permit. He stated that his client has gone through and continues to go through the process to mitigate these problems. He stated that good progress has been made, but that his client is determined to fight that this structure not be torn down. He reviewed the various problems that have been addressed by his client. He reiterated that this project poses no threat to adjacent neighbors, no threat to the bluff, and no threat to critical areas, yet his client is being forced to jump through all of these hoops which change on a daily basis. He suggested that no one in the Planning Department wants to make the call to allow the building to remain standing.

Mr. Shultz reviewed discrepancies in the findings of the Hearing Examiner as far as footage from the water and bluff, and he also disputed the Hearing Examiner's findings regarding the buffer zone required at the back of the property.

Mr. Shultz reiterated that there is no benefit in removing the addition and that it has been shown that removing the addition will cause harm to the bluff and to the value of the property. Mr. Shultz stated that this fact was ignored by the Hearing Examiner. He disputed the fact that an additional bedroom would be added, noting that the basement of the existing house was reported to be used as a bedroom, which is not the case.

Mr. Shultz noted that the Hearing Examiner found that there was a kitchen in the unit provided for use by Ms. Blatt's daughter, but the Planning Department has been told that Ms. Blatt will remove the kitchen if

required to do so. He stated that the Hearing Examiner also made reference in Conclusion No. 9 that this single family residence was a multi-family residence or duplex as a result of this remodeling. Mr. Shultz indicated that this information was not included in the letter from Jon Schmidt, and therefore is an improper conclusion of law for the Hearing Examiner to base his denial.

Mr. Shultz summarized that the appellant is willing to do whatever she can to avoid removing the addition. The addition has no adverse impact on neighbors, or the existing slope according to the geotechnical reports. He noted that his client is going through the variance process. He asked the Board to review this matter closely, and at the very least acknowledge the confusion in the Hearing Examiner's findings, and remand this matter back to the Hearing Examiner so it can be reconsidered to the satisfaction of the Planning Department. He also stated that the Board could approve the permit with conditions, or approve her proposal to grant a hold harmless agreement, conditioned on the Prosecutor's approval.

Chairman Anderson indicated that the Board would like to digest what has been presented, look at the options available, and render an informed decision. He confirmed with Staff that such a decision would be issued on Tuesday, September 7, at 1:30 p.m.

Corey Schmidt briefly discussed the complicated piecemeal process that the appellant has used to obtain this building permit. He reported that the Department has only received snippets of geotechnical information. Basically, it appears that economic considerations have overshadowed the geotechnical requirements. He gave examples of the Department not getting the information needed to process a building permit, and the many delays encountered by staff..

Jon Schmidt, Code Compliance Officer, stated that it took over 1-1/2 years to obtain the survey information requested.

Corey Schmidt confirmed that the building permit application was made in 1997, but that the geotechnical information was not made available for quite some time after that date.

Commissioner Wolden asked to see the building permit for the original house built on the site.

CONSENT AGENDA.

Commissioner Wolden moved to approve the Consent Agenda for Monday, August 23, 1999. Commissioner Hart seconded the motion, and it passed with a unanimous vote.

COMMISSIONERS' OFFICE:

1. Record of the Proceedings for Monday, August 9, 1999.
2. Record of the Proceedings for Tuesday, August 10, 1999.
3. Record of the Proceedings for Monday, August 16, 1999.
4. Record of the Proceedings for Tuesday, August 17, 1999.

ADMINISTRATIVE SERVICES:

5. Resolution for and Interlocal Agreement with the Concrete School District for construction of a children's playground wherein the County will provide \$12,000 in funding. **(Resolution No. 17537, Contract No. 04544)**
6. Resolution for and Interlocal Agreement with the Sedro Woolley School District for construction of a permanent restroom facility at the Janicki Playfields on Cook Road wherein the County will

provide \$45,000 in funding. (Resolution No. 17538, Contract No. 04545)

YOUTH & FAMILY SERVICES:

7. Personal Services Agreement with the YMCA – Y's Kids Program to provide for after school child care at Madison, Bayview and Edison Elementary Schools at the rate of \$25 per child or \$30 per family registration fees. The contract begins January 1, 1999 and will continue until terminated. (Contract No. 04546)
8. Personal Services Agreement with Susan Gardner, M.S.W., C.S.W., to provide individual, family and group therapy at hourly rates detailed in Exhibit "B," beginning August 1, 1999 and continuing until terminated. (Contract No. 04547)
9. Personal Services Agreement with Jennifer Finstad Clarke to provide individual therapy at hourly rates detailed in Exhibit "B," beginning August 1, 1999, and continuing until terminated. (Contract No. 04548)
10. Interagency Agreement with the State Department of Social and Health Services detailing the Skagit Target Site Grant 1999-00. The contract begins July 1, 1999 and will terminate on December 31, 1999, with the maximum considerable payable under the agreement set at \$75,000. (Contract No. 04549)

SHERIFF'S OFFICE:

11. Agreement with Tracker Business Systems to act as Exclusive Agent for the County for recovery management of healthcare costs incurred by inmates of the Skagit County Jail. The Contractor warrants that the County will recover not less than \$7,000 per year from the date of the contract. The contract begins on the date of execution and will remain in full force and effect for 5 years thereafter, unless sooner terminated. (Contract No. 04550)

BEST SELF:

12. Personal Services Agreement with Skagit Valley Family YMCA to provide a swimming facility and personnel for swimming instruction to Mount Vernon and Burlington Best SELF participants for the period May 1, 1999 through August 31, 1999. Compensation is at the rate of \$60 per hour for facility user fee and \$10 per hour for Staff fee, and will not exceed \$20,000 for the term of the Agreement. (Contract No. 04551)

NOXIOUS WEED CONTROL:

13. Resolution for and Interlocal Agreement with the Washington State Department of Agriculture wherein Skagit County shall furnish the necessary personnel, equipment, material and/or services and otherwise do all things necessary for or incidental to the performance of work set forth in the plan of work for the period July 1, 1999 through December 31, 2001. The parties have estimated that the cost of accomplishing the work shall not exceed \$40,000 payable by the State to Skagit County. (Resolution No. 17539, Contract No. 04552)

PLANNING & PERMIT CENTER:

14. Vendor Services Agreement with Skagit Business Services to provide general office support including but not limited to clerical, filing and photocopying for a lump sum of \$1,500 plus Washington State Sales Tax. The contract begins on July 15, 1999 and will continue until terminated. (Contract No. 04553)

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15. Amendment No. 1 to a personal services Agreement with E.D. Hovee & Company extending the duration of the contract through September 30, 1999. **(Contract No. 04159)**
16. Development Agreement among the City of Mount Vernon, Skagit County, and Wilson Auto Brokers for property located within the City's urban growth area. **(Contract No. 04554)**

HUMAN SERVICES:

17. Interagency Work Order with DSHS – Division of Alcohol & Substance Abuse (DASA) for the period July 1, 1999 through June 30, 2001. The biennial amount of \$1,444,722 continues to cover Substance Abuse Treatment services offered in the community. **(Contract No. 04555)**

PUBLIC WORKS DEPARTMENT:

18. Resolution Authorizing the County Engineer to Prepare Condemnation Documents for the Cook Road Improvement Project, #63000-6, for the Board of County Commissioners Official Action. **(Resolution No. 17540)**
19. Resolution Regarding the Sale of Excess Property to the Town of Concrete for the amount of \$1,765. **(Resolution No. 17541)**
20. Participating Agreement GCA 1900 between Skagit County and WSDOT obligating the County to reimburse the State for providing Bridge Painting Inspection Services and Training on two Skagit county Bridges. Inspection services and training shall be provided for the Skagit County Contract: Steel Bridge cleaning and Painting – Skagit River Bridge #40070 at Marblemount and Samish River Bridge #40114 at Burlington. The estimate of costs is \$10,182. **(Contract No. 04556)**

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 23, 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 51300 through 51683 from Clearing Fund 696 in the total dollar amount of \$3,779,793.19 (Transmittal No. C-61-99).

2. Staff presented a Resolution regarding a sick leave transfer request to the account of Joanne Ostlund of the Planning & Permit Center. After a brief discussion, wherein the parameters of the request were outlined in comparison to the Personnel Policies and Procedures, Commissioner Wolden moved to approve the Resolution allowing a sick leave transfer to the account of Joanne Ostlund. Commissioner Hart seconded the motion, which passed unanimously. **(Resolution No. 17543)**
3. Staff presented a Resolution for and Interlocal Agreement with the City of Mount Vernon regarding the installation of fiber optic cable in conjunction with the E-911 Center. Commissioner Wolden moved to approve the Resolution and Interlocal Agreement as presented by Staff. Commissioner Hart seconded the motion, which passed unanimously. **(Resolution No. 17543, Contract No. 04557)**

- Staff presented, on behalf of the Auditor's Office, an agreement with ImageMax, Inc. regarding microfilming to image format conversion. The Contractor will process approximately 1,000,000 pages of existing documents, and this contract is based upon RFP #160 with Clark County, Washington. Commissioner Wolden moved to approve the agreement as presented by Staff, and Commissioner Hart seconded the motion. The motion passed with a unanimous vote. **(Contract No. 04558)**

ADJOURNMENT.

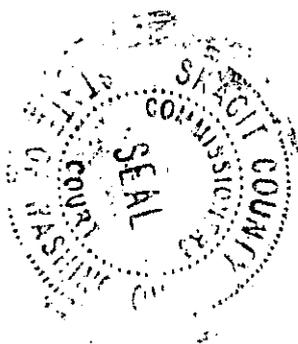
Chairman Anderson made a motion to adjourn the proceedings. Commissioner Wolden seconded the motion and it passed unanimously.

**BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

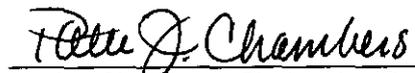

Ted W. Anderson, Chairman


Harvey Wolden, Commissioner


Robert Hart, Commissioner



ATTEST:


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