

**RECORD OF THE PROCEEDINGS  
SKAGIT COUNTY BOARD OF COMMISSIONERS  
Tuesday, April 4, 2000**

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.
9:00 a.m. – 10:00 a.m.	<u>Public Works Department – Chal Martin, Director.</u> 1) Signature – Samish Bay Watershed Centennial Clean Water Grant Contract. 2) Miscellaneous.
10:00 a.m. – 11:00 a.m.	<u>Planning &amp; Permit Center – Tom Karsh, Director.</u> 1) Discussion and Possible Action regarding Gary Frizzell Variance Appeal, No. PL00-0034. 2) Request for Approval of Out-of-State Travel Requests for Diana Barnett and Jon Schmidt to attend the annual Code Enforcement Business and Education Conference, Pasadena, California, May 10-12, 2000. 3) Discussion and Possible Action regarding Amended Vendor Services Agreement with Skagit Business Services. 4) Miscellaneous.
11:00 a.m. – Noon	Deliberation and Possible Action – Re-Adoption of Sections .095 and .096 (Agricultural Land Buffers) of the Critical Area Ordinance, Ordinance No. 17712.
1:00 p.m. – 2:00 p.m.	Discussion of Planning Commission Recommendations on Growth Management Act Compliance Matters.

The Skagit County Board of Commissioners met in regular session on Tuesday, April 4, 2000, with Commissioners Harvey Wolden, Robert Hart, and Ted W. Anderson present.

**PUBLIC WORKS DEPARTMENT – Chal Martin, Director.**

**1. Signature – Samish Bay Watershed Centennial Clean Water Grant Contract.**

Mike Cawrse, Surface Water Management, discussed the Samish Bay Watershed Centennial Clean Water Grant Program. This monitoring project focuses on nonpoint pollution sources, and the collection of fecal coliform water quality data to be used to bracket problem areas within the Samish Watershed. Of major concern is the level of fecal coliform contamination directly related to the status of shellfish beds in Samish Bay. He reviewed the exact locations of the sampling sites. There are four tasks involved in this grant, project management, water quality monitoring, data management, and sampling coordination. The total project cost is \$250,000.

Mr. Cawrse reviewed the local match requirement, which totals \$31,200 for the year 2000; 2001 will be \$27,800, and 2002, \$9,638. This totals \$62,500.

Chal Martin, Director, confirmed that Mr. Cawrse would be reviewing the data as it is collected. Mr. Cawrse stated that as the data is reviewed, and problems arise, action would address the situation as required.

Commissioner Anderson noted the need to be packaged in a way that the information will be usable to the public.

## RECORD OF THE PROCEEDINGS

Tuesday, April 4, 2000

Page #2

Commissioner Hart asked how this would be coordinated with the 2514 process. Mr. Cawrse said that the coordination is on a database level, so that there is no duplication of effort.

Commissioner Hart moved to approve the grant with the Department of Ecology for the Centennial Clean Water Fund Grant Agreement for the amount of \$250,000. Commissioner Anderson seconded the motion, which passed unanimously. **(Contract No. 04845)**

### 2. Miscellaneous.

- A. Mr. Martin advised that Robin LaRue, Solid Waste Division Manager, would be retiring at the end of May.
- B. Mr. Martin advised that there were several Cook Road issues to be discussed.
  - i. Steve Flude, Assistant County Engineer, presented a Vendor Services Agreement with Anvil Corporation for materials testing services in regards to the Cook Road project. Mr. Flude advised that the total amount payable of the Agreement is \$85,000. He advised that the decision was made to have the materials testing people on site to avoid the delay of travel time, and that is the reason for the higher level of compensation. After a brief discussion, Commissioner Hart moved to approve the Vendor Services Agreement with Anvil Corporation as presented by Mr. Flude. Commissioner Anderson seconded the motion, which passed unanimously. **(Contract No. 04846)**
  - ii. Mr. Flude presented a Standard Consultant Agreement with Landau Associates for geotechnical services in conjunction with the Cook Road project. The contract amount is for \$95,500, and Mr. Flude explained that this amount would be subtracted from Landau's current on-call contract with the County. Commissioner Hart moved for approval of the contract with Landau Associates, and Commissioner Anderson seconded the motion. The motion passed with a unanimous vote. **(Contract No. 04847)**
  - iii. Mr. Martin noted that the community has been told that the Cook Road project would cost around \$10,000,000. Now the project cost is estimated to be \$8,900,000. Mr. Martin reviewed a detailed list of the Cook Road Cost Estimates.
  - iv. Mr. Martin reviewed a problem with a property owner about the proximity of a detention pond to her property.
  - v. Mr. Martin discussed the issue of the two services stations located along I-5 and the detour signs that affect these businesses. Liability issues have arisen that may require the contractor to change the signage on I-5 that would indicate that these businesses are open, and that Cook Road is closed beginning at the railroad tracks.
  - vi. Mr. Martin noted that WSDOT did a super job of installing the light at Collins Road.
  - vi. A lengthy discussion ensued regarding a possible permanent light at Highway 9 and Highway 20, within the City limits of Sedro Woolley. The difficulties of traffic at that intersection were discussed. It was suggested that perhaps a temporary flagger could be placed there, but Mr. Martin explained that it was felt that the intersection was too dangerous for a flagger, but that it could be done on a temporary basis but not for the life of the project.

Commissioner Hart asked about the possibility of funding this light, and that perhaps monies generated from road fund interest could be used in this regard. He explained that road fund interest is placed in the general fund, and use of the money for this traffic light would be appropriate and would meet all legal tests.

## RECORD OF THE PROCEEDINGS

Tuesday, April 4, 2000

Page #3

Commissioner Anderson expressed his interest in finding a way to make this work, to avoid someone getting hurt and frustration with the Cook Road project.

Alicia Huschka, Budget Director, explained that such monies would be a transfer from the general fund and would not involve road fund dollars. Consequently, she did not feel that the State Auditor would question the use of the funds from the General Fund.

- C. Mr. Martin next discussed the proposed Anacortes Parking Lot near the Guemes Ferry. He explained some stumbling blocks that were slowing the project involving easements. He stated that these issues should not stop the County from building the parking lot. He did not ask for any action from the Board, but expressed the need to press on with building the parking lot. The Board indicated their approval of such course of action.
- D. Mr. Martin reviewed a conversation with staff members of the Skagit Council of Governments (SCOG) regarding the County's commitment in 1992 to be the affiliate center for the census. This would mean that the County would keep the library on the census reports that come in and would be responsible for answering questions. Former employee Dave Baltz was handling this duty. He advised that there is no budgeted money to provide for this service. Both Commissioners Hart and Wolden indicated that maintaining the census information is very important, and provides invaluable information.

Commissioner Anderson suggested that between the Mapping and Public Works Departments, the County should be able to handle this in a collaborative way.

### **PLANNING & PERMIT CENTER – Tom Karsh, Director.**

#### **1. Discussion and Possible Action regarding Gary Frizzell Variance Appeal, No. PL00-0034.**

Tom Karsh, Director, reviewed the provisions of the Resolution regarding the Gary Frizzell Variance Appeal, wherein the Board had overturned the Hearing Examiner's decision. He stated that he had worked closely with Staff and Chief Civil Deputy John Moffat to develop adequate findings for the Resolution. After a brief discussion and review of the document, Commissioner Anderson moved for approval of the Resolution as presented by Mr. Karsh. Commissioner Hart seconded the motion, which passed unanimously. **(Resolution No. 17827)**

#### **2. Request for Approval of Out-of-State Travel Requests for Diana Barnett and Jon Schmidt to attend the Annual Code Enforcement Business and Education Conference, Pasadena, California, May 10-12, 2000.**

Corey Schmidt, Assistant Director, reviewed the specifics of subject out-of-state travel requests for Diana Barnett and Jon Schmidt to attend the Annual Code Enforcement Business and Education Conference in Pasadena, California. The Board discussed the possibility of sending one employee to each of the semi-annual meetings, glean information from both meetings. A discussion ensued on the similar costs of flying to the West Coast and to the East Coast.

Commissioner Hart moved to approve the out-of-state travel requests for Diana Barnett and Jon Schmidt. Commissioner Anderson seconded the motion, which passed unanimously.

A lengthy discussion ensued regarding the role of code enforcement in Skagit County.

## RECORD OF THE PROCEEDINGS

Tuesday, April 4, 2000

Page #4

### **3. Discussion and Possible Action regarding Amended Vendor Services Agreement with Skagit Business Systems.**

Corey Schmidt, Assistant Director, presented Addendum No. 1 to an agreement with Skagit Business Services, now named Skagit Business & Staff, LLC. The amendment would reflect changes to hourly rate charges. Commissioner Hart moved to approve the Addendum as presented by Commissioner Hart. Commissioner Anderson seconded the motion. The motion passed with a unanimous vote. **(Contract No. 04553)**

### **4. Miscellaneous.**

- A. Mr. Karsh presented a Term Deed of Natural Resource Land Easement with Darlene Krangnes. After a brief discussion, Commissioner Hart moved to approve the Term Deed of Natural Resource Land Easement, and Commissioner Anderson seconded the motion. The motion passed with a unanimous vote. **(Contract No. 04848)**
- B. Mr. Karsh distributed a memo what would be discussed in the afternoon regarding the Planning Commission recommendations on Growth Management Act compliance matters.
- C. Mr. Schmidt advised that Thursday, April 27, the Planning & Permit Center would close for two hours for a training and customer service session. Phone calls will be taken, but the front door will be locked to walk-ins.
- D. Commissioner Anderson discussed the possibility of hiring a retiring DNR employee to handle forest practice applications on a contract basis.

### **DELIBERATION AND POSSIBLE ACTION – RE-ADOPTION OF SECTIONS .095 AND .096 (AGRICULTURAL LAND BUFFERS) OF THE CRITICAL AREA ORDINANCE, ORDINANCE NO. 17712.**

Chairman Wolden stated that this session was scheduled to take action of the re-adoption of Sections .095 and .096 (Agricultural Land Buffers) of the Critical Area Ordinance, Ordinance No. 17712. He stated that the re-adoption was approved by the Board at the public hearing held on Monday, April 3, 2000. The Board signed the appropriate document as submitted by Staff. **(Ordinance No. 17828)**

The Board discussed the wordsmithing that needs to be done to the document before it becomes a permanent ordinance. Commissioner Hart suggested that the agricultural community made several suggestions for changes that were acknowledged by the Board that they needed to be made.

John Moffat, Chief Civil Deputy, noted that one of the things done in the past in conjunction with the public participation process, was to put out two versions and let the public comment on the proposed changes. He stated that the signed version, however, would remain the same until any changes were formally adopted

Commissioner Hart commented on the need to meet with the people suggesting changes to flush out their thoughts, together with checking verbiage from other jurisdictions.

Kendra Smith, Assistant Director, confirmed that she would make a stab at making the changes that were proposed, working with ASC and NRC, to put this out for public review.

### **DISCUSSION OF PLANNING COMMISSION RECOMMENDATIONS ON GROWTH MANAGEMENT ACT COMPLIANCE MATTERS.**

Jay Derr, Buck & Gordon, reviewed that he would provide a summary of the work that the Planning Commission has completed regarding Growth Management Act (GMA) compliance matters. He indicated that Staff is in the process of putting together for the Board a red-lined version of proposed changes to the Countywide Planning Policies, Comprehensive Plan and the Unified Development Code. He stated that the schedule is to have the

## RECORD OF THE PROCEEDINGS

Tuesday, April 4, 2000

Page #5

documents distributed to the Board by April 11th, with a meeting of the Board scheduled for April 18 to discuss specific comments, questions and suggested changes or alternatives. He stressed that there would be no decisions issued today, and that this session is just a review of the work done by the Planning Commission.

Mr. Derr proposed to review in detail a Memorandum dated March 30, 2000 from Staff to the Board detailing the proposals of the Planning Commission in this regard.

Commissioner Hart asked if once the Comprehensive Plan is adopted, would the Countywide Planning Policies go away. Mr. Derr responded that the County has chosen to use the CWPP as an extra tool, and that once the Development Code is finalized, the CWPP would in fact go away.

Mr. Derr next discussed Forest Lands, noting that the Planning Commission reviewed the secondary forest criteria, had quite a controversial debate, and did not end up with any consensus. Staff had proposed some tweaks to the existing criteria but no consensus was reached. He added that there were "night and day" opinions on this topic. An effort was made to get more logical boundaries in regards to designated forest lands, doing away with the arbitrary quarter-mile band of secondary forest designations.

Mr. Derr reviewed the proposed revisions regarding residential uses in industrial forest.

Mr. Derr next spoke to the edits that were done to Objective 7, Rural Areas. He advised that these were done to adhere to HB 6094 and to include correct boundaries. He indicated that a large new section relates to rural study areas to be considered as new rural centers and for potential rural development. Mr. Derr commented that a new section was added which relates to the rural study areas.

Commissioner Hart asked about a rural study area being a precursor to sub-area planning. He commented that the community is supposed to get together and work on the planning process, rather than such study being initiated by Staff. He asked for more clarification of the proposal to develop rural study areas.

Mr. Derr explained that Staff has added more description as to what would be looked at in each study area. He indicated that the intent was not to pre-judge the outcome, but to scrutinize these areas more closely. In other words, the language proposed is trying to flag topics to review without predetermining the eventual outcome. Such study becomes a vehicle to decide what the longer term future will be.

Mr. Derr next discussed the Big Lake Urban Growth Area (UGA), and the proposal to take the sewer district boundary to identify what should be studied as a part of the community planning process. He stated that the proposal specifically acknowledges larger parcels that would be included in this rural village study area even though they are existing large parcels. He reviewed factors such as utilizing the CaRD Ordinance, clustering, and preserving open space to create a permanent edge to the rural village area. He indicated that on an interim basis, such property would still have the 5-acre limit, but would have a potential for zoning of 1 unit per acre with parcels being developed through the CaRD process.

Commissioner Anderson asked about the outcome of the Perry-Dietz property questions.

Gary Christensen, Assistant Director, stated that the Fall Proposal had an attachment to the Big Lake Rural Village that would put the Perry-Dietz property in as rural village property. This would eventually be included on the community planning process.

Commissioner Hart commented on the need not to split parcels.

Mr. Christensen stated that the November 8, 1999 Memorandum addresses the issue of where properties were bisected.

Commissioner Anderson stated that he understood that the Perry-Dietz matter had been taken care of earlier by Staff.

## RECORD OF THE PROCEEDINGS

Tuesday, April 4, 2000

Page #6

Mr. Derr recalled that he had talked to the subject property owners and thought there had been an easy solution proposed. Mr. Christensen confirmed that he had spoken to the property owners since the interim proposal.

A discussion ensued on the boundaries of the Perry-Deitz property together with the history of the issue.

Mr. Derr indicated that he would find out by April 18 the exact status of the Perry-Dietz property. He stated that if the property is not included in the rural village, he will determine the fastest action possible to get this accomplished.

Mr. Christensen stated that the interim ordinance on rural village simply adopted the UGA boundary for Big Lake. He discussed various processes to create the record to make the types of changes requested by Perry-Dietz.

Mr. Derr next discussed the effects of drainage on both the sewer district and Big Lake itself.

Commissioner Anderson asked if "reasonable use" of property would kick in as part of the Critical Area Ordinance (CAO) where there are cases of slope and steepness.

Mr. Derr stated that the CAO does provide for reasonable use of property, and addresses health and safety issues to a higher degree if outside of a sewer district.

Mr. Derr spoke briefly about Objective 11, Rural Centers, noting that changes to rural center designations and drawing logical boundaries around rural center designations and potential for new rural center designations were proposed. Clarifications were added to time frames for commencing and phasing new rural center designations.

Mr. Derr discussed Objective 17, Master Planned Resorts, noting that the majority of the members of the Planning Commission felt that there were so many things going on they were uncomfortable proposing regulations in this regard without further public comment.

Chairman Wolden commented on the need to assign staff to complete the objective.

Commissioner Hart stated that many of these issues have had six or seven years of debate, and that decisions need to be made. He asked whether this objective might be tied in to the State's regulations for major industrial designations, and Mr. Derr indicated that it is tied in, and that the County-wide Planning Policies are silent on Master Planned Resorts.

Commissioner Hart noted the need to go through a major public hearing process when completing the section on Master Planned Resorts. Mr. Derr concurred that a Master Planned Resorts sections needs to be made a part of the Skagit County Code. He stated that there is plenty of public process on particular siting of a project, but not on the concept of originally asking for a Master Planned Resort. He indicated that the majority of the Planning Commission recommended pulling this out of consideration at this point.

Commissioner Anderson stressed that it would take much convincing for him to delete this section, because if the title is not included, it would never be considered and acted upon.

Mr. Derr explained that the policies are included, and the next step would be to write the code language. He stated that the Board may want to say to the Planning Commission that you want this language included.

Chairman Wolden commented that there are a number of areas that need to find alternative ways to making a living, and perhaps destination resorts may be the answer. He urged Mr. Derr to leave the language in place regarding Master Planned Resorts.

The Board next discussed Objectives 18 and 20, Cottage Industry and Rural Business. Mr. Derr explained that rural business started out as basically non-confirming existing uses that serve the community. The Planning

## RECORD OF THE PROCEEDINGS

Tuesday, April 4, 2000

Page #7

Commission made distinctions between Rural Business and Cottage Industry to clarify differences. Use of existing historic public facilities and services would not be permitted under Cottage Industry, as well as an increase of permitted full-time employees. Rural Business changes proposed would allow additional expansion, depending on whether Rural Business use was in existence prior to July 1, 1990.

Commissioner Hart stated that this would legitimize many existing businesses.

A discussion ensued regarding home-based businesses and their effect on both Rural Businesses and Cottage Industry designations.

Mr. Derr reviewed Chapter 5, Natural Resource Lands Element, commenting on new policy language applying right-to-farm policies to Natural Resource activities generally. Also, expanded existing policy would be added regarding public festivals to apply to Natural Resource lands generally.

Mr. Derr stated that Chapter 7, Urban Growth Area Element, was clarified and had language added which identified special purpose districts.

In Chapter 9, Transportation Element, Mr. Derr stated that a proposal was made to delete language regarding rail banking programs in rail corridors. He indicated that this is an amendment to get away from confusion regarding property rights in railbanking programs.

Mr. Derr stated that Chapter 10, Public Water, was clarified, adding the fact that the coordinated water system was completed consist with the Public Water System Coordination Act. Further, Chapter 11, Capital Facilities, had detailed standards added regarding the provision of fire protection services.

Mr. Derr next discussed the proposed changes to the Skagit County Code, particularly Chapter 14, as follows.

14.02.030 – The Planning Commission recommended staff consider using the Whatcom County language on interpretations. Staff reviewed interpretation language from various surrounding jurisdictions, and decided that the proposed language was clear and comprehensive. No change was recommended at this point.

14.02.050 – Clarifications were made to make clear that, consistent with current common law vesting, Skagit County applicants can vest future development rights to the level of detail the applicant chooses to show in the application document.

14.04 – Certain definitions were added or changed to provide greater consistency with the provisions of ESB 6094 and to clarify or accompany substantive changes made to other code provisions.

14.06 – Certain universal edits were made to the code to provide greater clarity. Instead of classifying applications based on “type,” this code now distinguishes between various “levels” of applications. Additionally, “notice of application” is now referred to as a “notice of development application.” Also, a process was added whereby written requests for interpretations are filed; the Administrative Official researches the original intent of the language at issue, and then publishes a written response within 30 days. Appeals are available for aggrieved parties.

14.06.070 – Some clarifications to “pre-development” and “pre-application” processes have been suggested, including addition of a verification form to record decisions made at the pre-application conference.

14.06.110, .140, and .170 – The Fall Package of proposed amendments provided a burden of proof set at the substantial evidence level. After consideration of this standard, and other standards commonly used, a “clearly erroneous” standards has been substituted as the standard of review. Also, Staff reports that are generated pursuant to an appeal shall be submitted to the appellant and other parties of record the same day it is provided to the Hearing Examiner.

## RECORD OF THE PROCEEDINGS

Tuesday, April 4, 2000

Page #8

14.10 – Variances – A new process was established by which the Public Works Department administratively decides whether or not to grant engineering alternatives sought from Public Works or road standards. These variance requests are treated separately from administrative variances.

14.12 – SEPA – There are certain thresholds for categorical exemptions in SEPA that are flexible and set by the local jurisdiction. This section codifies the fill or excavation exemption at 500 cubic yards, which is the maximum allowed under the SEPA rules. It also exempts fill or excavation classified as Class 1, 2 or 3 forest practice under RCW 76.09.050.

Chapter 14.16 – Zoning – Mr. Derr indicated that there was much discussion among the Planning Commission regarding the rural intermediate zone of 2-1/2 acre designation. He briefly reviewed the history of this zoning.

Commissioner Hart asked about the restrictive language regarding accessory buildings and the removal of temporary housing. Mr. Derr indicated that this language is being softened and that temporary housing will no longer have to be removed once the underlying use has transpired.

Chapter 14.18 – Land Divisions – Mr. Derr indicated that substantial revisions have been made to this chapter, replacing existing language with clearer language. He discussed some of the detailed language changes, especially those dealing with aggregation. A lengthy discussion ensued regarding the CaRD provisions, with Mr. Derr explaining that the Short CaRD had been simplified. He further explained that the Long CaRD had not been completed, noting that a significant portion of the Planning Commission did not feel that the Long CaRD was appropriate.

Commissioner Hart suggested that perhaps the Long CaRD should be left in like the master Planned Resort section, even though what we have right now is not very workable.

Commissioner Anderson commented that the Short CaRD is very good the way it is written. The Long CaRD, however, would have to have some sort of clustering formula for both economic reasons and structure restraints.

Commissioner Anderson left the proceedings at this point for another appointment.

14.24 – Critical Areas Ordinance – It was indicated that this section now contained further clarification of delineation problems. Also, details of the requirements of a farm conservation plan were added. A new requirement was added that mitigation mandated under a site assessment must be completed prior to the final acceptance of the development permit. Additionally, detailed criteria were added regarding when and under what circumstances this mitigation could be bonded for.

14.28 – Concurrency – Mr. Derr explained that SEPA Categorical Exemptions would be removed from concurrency exemptions. Peak hour trip threshold for concurrency would be reduced from 20 trips to 4 trips, to match short plat regulations.

Chapter 14.32 - Drainage - It was explained that the changes to the drainage ordinance were not substantial.

The changes to road standards were briefly discussed.

Tom Karsh, Director, thanked the members of the Planning Commission, Staff, and various Consultants for their hard work in developing the suggested changes to these documents. He commented that the County now has a greatly improved product.

**RECORD OF THE PROCEEDINGS**

**Tuesday, April 4, 2000**

**Page #9**

**ADJOURNMENT.**

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

**BOARD OF COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON**

\_\_\_\_\_  
Harvey Wolden, Chairman

\_\_\_\_\_  
Robert Hart, Commissioner

\_\_\_\_\_  
Ted W. Anderson, Commissioner

ATTEST:

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