

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
Tuesday, June 20, 2000**

7:30 a.m. – 8:00 a.m.	Commissioners' Staff Meeting.
8:00 a.m. – 8:30 a.m.	Executive Session – Personnel, Litigation and Land Acquisition.
8:30 a.m. – 9:00 a.m.	Work Session - Planning & Permit Center Work Program.
9:00 a.m. – 10:00 a.m.	Work Session – Development Enforcement.
10:00 a.m. – 10:30 a.m.	Executive Session – Personnel, Litigation and Land Acquisition.
*T 10:30 a.m. – Noon	Discussion and Possible Action on Planning Commission Recommendations re: Skagit County Efforts to Address Growth Management Act Compliance Issues.
1:30 p.m. – 2:00 p.m.	Bid Opening – Dalles Fish Passage Project.
2:00 p.m. – 3:00 p.m.	Executive Session – Personnel, Litigation and Land Acquisition.

The Skagit County Board of Commissioners met in regular session on Tuesday, June 20, 2000, with Commissioners Harvey Wolden, Robert Hart, and Ted W. Anderson present.

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, June 20, 2000, 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 73039 through 73085 from Clearing Fund 696 in the total dollar amount of \$55,223.53 (Transmittal No. C-40-00).

2. Staff presented a Personal Services Agreement with Jana M. Suchy to develop a multimedia advertising campaign to promote, inform and educate Skagit County citizens about the Health Department's new On-Site Sewage Operation, Monitoring and Maintenance Program. Compensation will be at the rate of \$40/hour for a minimum of 80 hours work per month for up to four months, with a not-to-exceed amount of \$15,000. Commissioner Hart moved to approve the Agreement as presented, and Commissioner Anderson seconded the motion. The motion passed with a unanimous vote.

**DISCUSSION AND POSSIBLE ACTION ON PLANNING COMMISSION RECOMMENDATIONS RE:
SKAGIT COUNTY EFFORTS TO ADDRESS GROWTH MANAGEMENT ACT COMPLIANCE ISSUES.**

Chairman Wolden opened the discussion on possible action on Planning Commission recommendations regarding Skagit County's efforts to address Growth Management Act Compliance Issues.

Tom Karsh, Director, Planning and Permit Center, explained that the discussion is a continuation of yesterday's meeting. He indicated that he had spoken to Commissioner Hart about recommendations regarding lot certification. The question is how a change to the legal lot of record in the current code

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might effect testamentary divisions of land. In the proposed code, it has been acknowledged that you can go forward and create individual lots that can be bought and sold and used for different purposes provided they are consistent with zoning. If someone requests a development permit, the Planning and Permit Center is going to look at minimum lot sizes and other dimensional constraints. If the lots are undersized, permits will not be issued for development. The lots could probably be used for camping and other recreational purposes.

Commissioner Anderson noted that this is important because at one time if someone had testamentary property they automatically had building rights. People should be well aware of CaRD provisions if they are deciding to do something like that.

Commissioner Wolden asked about mining provisions. Do people who live around such a site in a residential area have the opportunity to comment or have a hearing?

Commissioner Anderson said he thought the Hearing Examiner would suffice as the property owner would have the opportunity to comment. There is some dissatisfaction with the wording, as it appears to deviate somewhat from the RCW's.

Jay Derr, of Buck and Gordon, explained that the Board adopted a mining ordinance about one year ago. The Planning Commission was not involved in that process. There was a Hearings Board appeal while staff worked on revisions to the development code. The Planning Commission did recommend some reorganization and edits to Comp Plan policies on mineral land designation to make it more clear what the process should be. The ordinance itself hasn't changed much. The section that gets at the heart of what the questions are is 14.6.055, Section 5, which states that you cannot have a mining operation until you have a mining permit. All applications are to be reviewed by the Hearing Examiner. He is able to approve a permit with conditions. If the project cannot be approved, based on whatever reason, and the conditions cannot be mitigated, the Hearing Examiner can refuse the mining permit.

Pat Hayden spoke, stating that in a previous draft of this ordinance criteria the Hearing Examiner used to make his decision was removed when a three-tier classification system was abandoned. These criteria should not have been removed and should be reinstated. The criteria are in the WAC's and should be inserted into the ordinance.

After an appeal was filed there was some discussion about whether to revise the ordinance to create a three-step process. That effort was abandoned as it was determined unnecessary to have three steps as two were enough.

Commissioner Wolden said, everything that was covered in three steps is covered in two.

Mr. Derr said that is correct, but there are some people in the County arguing that there needs to be a three-step process.

Commissioner Anderson asked, relative to a special use permit in a mineral resource overlay area, if the testimony is overwhelming and the impact is too great, the Hearing Examiner can deny the application?

Mr. Derr agreed that there is one qualifier. If it is found that the testimony is overwhelming and the impact is too great, the Hearing Examiner can deny the request. Section 9 states that if the impact can be mitigated, the Hearing Examiner can approve the project.

Commissioner Hart stated that there are two principles here that come from state language. One is in the GMA, which says that natural resources must be designated and protected before going on with the rest of the process. The legislature says there should be one hearing and they should not go back time after time to a public hearing process. He said that is his objection to this process, that there is more than one hearing on the same issue. That is not appropriate.

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Mr. Hayden said he does not care whether there is a two or three step process, but the WAC criteria should be included in the Hearing Examiner criteria as it enables a broader discussion and is not just limited to noise or traffic.

Commissioner Wolden said, in his opinion those issues are satisfied because once there is a public hearing all the issues can be brought forward.

Commissioner Hart said that anyone proposing to open a quarry would receive an economic assessment before going through the process.

Commissioner Wolden added, once all the mitigating criteria are listed, that's where the process actually begins.

Mr. Derr noted that if there is something that needs to be removed, that could be done in about two years when the designation criteria will be revisited.

Mr. Derr then went on to talk about the legal lot of record issue and the Dykstra issue. If there are no other questions on what is being done with the legal lot of record in the code, the question is what items do the Commissioners wish to refer back to the Planning Commission and under what schedule.

Commissioner Hart said he does not wish to see any of these questions referred back to the Planning Commission, but would like to see a motion where issues are referred back and then they come back on a 6 months basis and prioritize them. There may be a need for more analysis before sending something back to the Planning Commission. There would be a little more single issues study. There is a need to look at the budget and staffing level and then make a decision about what needs to be done first.

Mr. Derr suggested to Tom Karsh that the next step might be for the Planning Department to put together these issues and present them to the Commissioners.

Commissioner Hart wondered if staff is going to be tied up for a year doing appeals.

Mr. Derr said there will be appeals and there will be some compliance items. There is always miscellaneous cleanup.

Commissioner Wolden said that secondary forest and industrial forest issues have been discussed numerous times. The criteria on secondary forest need to be reviewed to see if it still stands.

Commissioner Hart stated that some of these issues have been debated since growth management passed ten years ago. The people on one side or the other have not changed their positions during that time. There are a lot of issues the Planning Commission can deal with more quickly. Maybe a citizen's advisory committee would be feasible. Obviously, there will not be a code and comp plan that makes everyone happy.

Mr. Derr referred to a chart the Commissioners received with the 23 items that were referred back from yesterday's meeting and suggested that they could be voted on individually.

After further discussion, the Commissioners voted on the following motions on the Comprehensive Plan/UDC Package:

1. Commission Hart voted to adopt the Countywide Planning Policy revision (1.1, 1.7, 12.17) as recorded by the CWPP Committee on June 15, 2000 based on the recommendation of the Planning Commission (recommendation 1). Commissioner Anderson seconded the motion, which was carried.

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2. Commissioner Hart motioned to approve Adoption of the Comprehensive Plan Amendments in the Planning Commission Recorded Motion, except retain the current Comprehensive Policies regarding Industrial Forest and Secondary Forest designation based on the recommendation of the Planning Commission (recommendation 2). Commissioner Anderson seconded the motion, which was carried.
3. Commissioner Hart motioned to approve Adoption of the Unified Development Code as outlined in the Planning Commission recommendation (recommendation 3), except a) adopt the 6/19/00 Board version of CaRD, but deleting the language in 14.18.300(7)(c)(ii) of that version and replacing it with the phrase, "an approved landscape plan", b) retain the current code provisions relating to single family residences in the Industrial Forest zone, c) update Appendix A of 14.28 to match Table 4-3 in the CWSP (fire flow) and d) specify permanent adoption of city codes within UGA's in 14.02 as outlined in Executive Summary transmittal memo.

Commissioner Anderson stated that he has problems with the drainage ordinance in terms of 5,000 square feet triggering an engineered drainage plan for a site. He said he is not sure they would be doing something for the average property owner that is really beneficial, even if the intent is honorable. The costs may go way up. The board had earlier looked at going to 10,000 square of impervious surface.

Commissioner Hart restated the motion, to adopt the Unified Development Code as is except for deleting Section a) and then voting on that separately. Commissioner Anderson seconded the motion, which was carried.

Commissioner Hart motioned to approve the adoption of Section a. to adopt the 6/19/00 Board version of CaRD, but deleting the language in 14.18.300(7)(c)(ii) of that version and replacing it with the phrase, "an approved landscape Plan". Commissioner Wolden seconded the motion. Commissioner Anderson was opposed. The motion carried 2 to 1

Commissioner Hart motioned to approve Chapter 14.32 of the Unified Development Code drainage ordinance. Commission Wolden seconded the motion. Commissioner Anderson was opposed, noting that 10,000 square feet would be acceptable. The motion was carried 2 to 1.

4. Commissioner Hart motioned to repeal the interim ordinances as specified in the Executive Summary transmittal memo. Commissioner Anderson seconded the motion, which was carried.
5. Commissioner Hart motioned to approve adoption of the Town of Concrete UGA and land use designations (recommendation 17) and development regulations within the Concrete UGA as interim regulations until Concrete completes its GMA development regulations, per the Executive Summary memo. Commission Anderson seconded the motion, which was carried.
6. Commissioner Hart motioned to approve adoption of the Adoption of the land use/zoning map as proposed by the Planning Commission (recommendation 4). Commissioner Anderson seconded the motion, which was carried.
7. Commissioner Hart motioned to approve adoption of the Transportation System Plan amendments as recommended by the Planning Commission (recommendation 12). Commissioner Anderson seconded the motion, which was carried.
8. Commissioner Hart motioned to approve adoption of the Coordinated Water System Plan Regional Supplement per the Planning Commission recommendation (recommendation 11). Commissioner Anderson seconded the motion, which was carried.

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9. Commissioner Hart motioned to approve adoption of recommendation 5 of the Planning Commission Recorded Motion (Title 15 revision adopting zero threshold for grading in critical areas).

Commissioner Wolden asked about zero threshold?

Jay Derr explained that if located in a critical area or buffer, its threshold is zero. You are not supposed to be modifying critical areas or their buffer. You would trigger permit review if you were in this area. This provision was adopted by an earlier ordinance, 16185, and this carries that forward.

Commissioner Wolden asked if everything is classified on the map? Mr. Karsh replied that they would be forced to go out and investigate if something wasn't mapped.

Mr. Derr added that this threshold triggers review, otherwise the Critical Areas Ordinance doesn't get triggered.

After further discussion Commissioner Wolden seconded the motion. Commissioner Anderson was opposed. The motion carried 2 to 1.

10. Commissioner Hart motioned to adopt recommendation #6 of the Planning Commission Recorded Motion (Bayview Ridge). Commissioner Anderson seconded the motion, which was carried.
11. Commissioner Hart motioned to approve recommendation #8 of the Planning Commission Recorded Motion (sunsetting provisions for unused existing conditional use permits, special use permits, and contract rezones). Commissioner Anderson seconded the motion, which was carried.
12. Commissioner Hart motioned to approve adoption of recommendation #9 of the Planning Commission Recorded Motion (initiate Big Lake subarea plan), and add to adopting ordinance of this package requirement that the large parcels on the east side of the rural village (Overlook Golf Course area, shown on Exhibit A of Ordinance 17523, if developed prior to adoption of the subarea plan, be developed pursuant to a CaRD. Commissioner Anderson seconded the motion, which was carried.
13. Commissioner Anderson motioned to refer back to the Planning Commission for further consideration recommendation #10 of the Recorded Motion (Secondary and Industrial Forest designation criteria), and adding the expectation that the Planning Commission will reconsider the provisions for single family residences within the Industrial Forest as part of this work. Commissioner Hart seconded the motion, which was carried.

Mr. Derr stated, this is fairly high priority and it needs to go back for reconsideration.

Commissioner Hart said he did not think there would be consensus in this matter. He said he did not place that high a priority on it and would not want to see it displace other, more urgent things.

Mr. Derr noted the rest of the items are refer-backs, except for 23.

Commissioner Wolden said it is important to set up a timeline and criteria for looking at these particular issues. There are people in the county who have invested a lot of time on them. The process needs to move forward so people can have some idea of what they can and what they cannot do.

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Mr. Derr stated that these matters could be referred back to the Planning Commission by approving the motions. Staff can still meet with the Planning Commission and put together a relative priority list to bring back to the County Commissioners to fine tune later.

Commissioner Hart said he did not mind referring them back, but there does need to be some kind of project management. The big issues have already been sent back to the Planning Commission. He expressed concern about the Planning Commissions' workload.

Commissioner Anderson noted that there are a lot of people vested in moving forward and he has no problem prioritizing.

Commissioner Hart suggested referring the balance of recommendations back and then to try and establish priorities in terms of time and money.

14. Commissioner Hart motioned to refer section 14.24.400 (Geological Hazardous Areas) to a TAC (item #13 in the Recorded Motion). Commissioner Anderson seconded the motion, which was carried.
15. Commissioner Hart motioned to refer back to the Planning Commission for further consideration item #14 of the Recorded Motion (Master Planned Resort development regulations). Commissioner Anderson seconded the motion, which was carried.
16. Commissioner Hart motioned to refer back to the Planning Commission for further consideration item #15 of the Recorded Motion (consider other existing uses for potential SRT designation). Commissioner Anderson seconded the motion, which was carried.
17. Commissioner Hart motioned to refer back to the Planning Commission for further consideration item #19 of the Recorded Motion (dock definition). Commissioner Anderson seconded the motion, which was carried.
18. Commissioner Hart motioned to refer back to the Planning Commission for further consideration item #20 of the Recorded Motion (B & B definition). Commissioner Anderson seconded the motion, which was carried.
19. Commissioner Hart motioned to refer back to the Planning Commission for further consideration item #21 of the Recorded Motion (shooting clubs). Commissioner Anderson seconded the motion, which was carried.
20. Commissioner Hart motioned to refer back to the Planning Commission for further consideration item #22 of the Recorded Motion (impoundments). Commissioner Anderson seconded the motion, which was carried.
21. Commissioner Hart motioned to refer back to the Planning Commission for further consideration item #23 of the Recorded Motion (Public Open Space – revisit possible conflict with state or federal jurisdiction). Commissioner Anderson seconded the motion, which was carried.
22. Commissioner Hart motioned to refer back to the Planning Commission for further consideration item #24 of the Recorded Motion (special use criteria). Commissioner Anderson seconded the motion, which was carried.
23. Commission Hart motioned to adopt additional findings distributed at 6/19/00 BOCC meeting. Revise Finding 1 to clarify that the 418 and 214-acre figures are approximate, add findings for the final ordinance, which address the CWPP Policy Committee recommendations, and revise the

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CaRD findings in the Planning Commission Recorded Motion to address the BOCC version, as revised. Commissioner Anderson seconded the motion, which was carried.

Mr. Derr noted that there is one other item not on the matrix. He explained that the Commissioners' version of CaRD was approved, with language changes regarding landscaping. There was some discussion about working further on long CaRD, which is not included on the list of recommendations. The Commissioners may wish to refer this back now or at some time in the future.

Commissioner Hart said he had no problem if they don't work with referring them back.

Commissioner Anderson motioned to refer back the long CaRD ordinance to the Planning Commission for further study. The motion was not carried for lack of a second.

Commissioner Wolden suggested letting the matter lie to see where it goes.

Commissioner Hart then motioned that the Commissioners direct the Planning Department, with the Planning Commission, to return with a review and prioritization of budget and staffing and time levels for consideration. Commissioner Anderson seconded the motion, which was carried.

Commissioner Anderson pointed out that this all began with House Bill 2929 and the creation of the Growth Hearings Board. One of the goals of growth management was preservation of private property rights. He expressed concern about some of the things that have been done in the rural areas such as zero allocation of commercial industrial lands and the difficulties working through some of the boards.

Mr. Karsh advised that two additional decisions are needed from the Commissioners. One decision is a date to bring back for signature the adopting ordinance. The other decision is an effective date. He recommended that an effective date of July 24 would be appropriate.

After discussion, it was the decision of the Board that the adopting ordinance be signed on July 6, with an effective date of July 24.

Mr. Karsh then thanked the Planning Commission and the citizens who have been involved in the process.

Commissioner Anderson suggested that it would be appropriate to consider compensation for the Planning Commission.

BID OPENING – DALLES FISH PASSAGE PROJECT.

John Abenroth and Penny Harrison from the Public Works Department were present for a bid opening for the Dalles Fish Passage Project. The following bids were received

Beaver Marsh Blacktop, Inc.	Bid Bond	\$ 77,944.51
Hartness Timber and Development	Bid Bond	\$ 76,491.15
Interwest Construction, Inc.	Bid Bond	\$112,975.00
Strider Construction	Bid Bond	\$ 94,355.00
SRV Construction	Bid Bond	\$ 77,665.00
Larry Brown Construction	Bid Bond	\$ 85,045.00

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Pacific Road and Bridge Co.	Bid Bond	\$ 93,195.00
Harkness Contracting, Inc.	Bid Bond	\$ 57,218.00
Callen Construction	Bid Bond	\$ 82,375.00
Brad Mason Trucking Company	Bid Bond	\$ 97,325.00

Mr. Abenroth advised that the bids would be inspected with a recommendation brought to the Commissioners within the next week to two weeks.

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:

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