

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
Wednesday, February 7, 2001**

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| 8:30 a.m. – 9:00 a.m. | Work Session – Operations Division Manager/District Maintenance Supervisors. |
| *T 9:00 a.m. – 10:00 a.m. | <u>Public Works Department – Chal Martin, Director.</u> <ol style="list-style-type: none">1) Presentation- Certificate of Commendation to James Karcher for Service to Skagit County from June 24, 1991 through March 2, 2001.2) Discussion – Road Maintenance Practices under Section 4(d) of the Endangered Species Act.3) Discussion – Costs Associated with Implementation of Section 14.24.120, Buffers on Agricultural Lands.4) Discussion – Solid Waste Topics.5) Discussion and Possible Action – Jackman Creek and Key Salmon Habitat Acquisition Grant Revisions.6) Discussion and Possible Action – Skagit Council of Governments Salmon Recovery Plan Grant and Hansen Creek Grant Revisions.7) Discussion and Possible Action – Hart Slough/Skiyou Slough Grant Revision.8) Discussion and Possible Action – Flood Control Assistance Account Program (FCAAP) Priority Ranking and Application.9) Discussion and Possible Action – Delegation to the Risk Manager the Authority to sign Right-of-Entry Documents by which Private Landowners give Skagit County Staff Permission to Enter Private Property.10) Miscellaneous. |
| *T 10:00 a.m. – 11:00 a.m. | <u>Planning & Permit Center – Tom Karsh, Director.</u> <ol style="list-style-type: none">1) Discussion – Planning Commission Action on Colson, Portis, Cook and Mathis Properties per the Western Washington Growth Management Hearings Board Order (Case #99-2-0016).2) Discussion – Department Draft Report on Year 2000 Comprehensive Plan Amendment Proposals.3) Update – Planning Commission Deliberations on the Strategic Plan for the Protection of Wild Salmonids, Skagit County Code 14.24.130.4) Miscellaneous. |

The Skagit County Board of Commissioners met in regular session on Wednesday, February 7, 2001, with Commissioners Ted W. Anderson, Don Munks, and Ken Dahlstedt present.

PUBLIC WORKS DEPARTMENT – Chal Martin, Director.

1. Presentation – Certificate of Commendation to James Karcher for Service to Skagit County from June 24, 1991 through March 2, 2001.

This Certificate was presented to Mr. Karcher on Tuesday, February 6, 2001, during the Work Session with the Road Supervisors.

2. Discussion – Road Maintenance Practices under Section 4(d) of the Endangered Species Act.

Chal Martin, Director discussed regional road maintenance standards that Skagit County and other local jurisdictions would need to be adopting. He stated that he had met with representatives of various local cities and towns for the purpose of discussing regional road maintenance standards and the need to adopt the same standards countywide. He indicated that the implementation of such standards is difficult and will add costs, however regional road standards that have been suggested outline best management practice standards. He stated that the Department thinks the suggested standards are good. We think standards are good.

Chairman Anderson said the Board would be happy to adopt the regional road standards when the State adopts them also. He indicated that if the County adopts what the State has not, we would be accepting another unfounded mandate.

Mr. Martin explained that these road standards are driven by the Federal Endangered Species Act (ESA). He said that the State Department of Transportation is working on developing their own standards. It is anticipated that the State standards would differ from the model developed within the tri-county area. He stated that there is a good possibility that the State will not be adopting statewide standards. Mr. Martin indicated that the process is being drive by National Marine Fisheries Service (NMFS).

Chairman Anderson stated that as a local jurisdiction, the County does not have any responsibility for habitat. That is the State's responsibility, and the County is not going to be on point again. He indicated that he did not have a problem with adopting the regional standards, but does not want to get caught in a trap with WSDOT eventually adopting different standards.

Mr. Martin stated that NMFS is close to saying the regional standards and the tri-county model are official documents. If the County adopts the document, too, there would be protection for the County under the 4(d) Rule.

Chairman Anderson reiterated that when we get NMFS approval, then he would be willing to consider adopting the regional road standards.

Commissioner Munks commented on the suit brought by the Builders Association to the 4(d) rule, which may change what is required. He stated that, in the interim, the County does not want to be caught in the third party lawsuit that has been threatened.

Mr. Martin agreed that the situation has been muddied by this lawsuit, however, it is generally accepted that if the County is showing progress, taking on what are generally accepted to be best management practices and showing willingness to work in that direction, that would mitigate the effect of the third-party lawsuits that Commissioner Munks spoke of.

Commissioner Dahlstedt asked if the cities are willing to work together to find a common process.

Mr. Martin indicated that he had received positive input from local public works directors and road supervisors to the proposed standards.

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Commissioner Dahlstedt indicated that working together would help mitigate costs.

Mr. Martin concurred that if local jurisdictions are all working from the same standards, it would certainly help alleviate unexpected costs.

Chairman Anderson stated that he would be willing to formally adopt these standards when the County has something in writing tell us what the standards are.

3. Discussion – Costs Associated with Implementation of Section 14.24.120, Buffers on Agricultural Lands.

Mr. Martin next discussed a cost estimate for a part of the Critical Areas Ordinance (CAO) that has to do with buffers on agricultural lands in the County. Previously, the Board gave several departments direction on how to proceed with implementation of this ordinance. Mr. Martin reviewed a summary sheet of cost estimates, together with back-up information that he had prepared. He stated that he had prepared the cost estimate, based on his own methodology, number of parcels, and tempered with his own judgment. He indicated that for a five-year program of this magnitude, he estimated it would cost approximately \$54,000,000. He reviewed the particulars of his calculations.

Chairman Anderson thanked Mr. Martin for his financial analysis and information on potential impacts to local taxpayers.

Mr. Martin expressed his desire to collect input on his cost estimate, stating that the document he has prepared provides a reasonable framework for such discussions. He discussed the level of staffing that would be necessary to implement and manage this type of program. He commented that volunteers would be utilized, but are difficult to manage as most have other full-time jobs. Just organizing the volunteers will be a large administrative task.

Chairman Anderson stated that one of the largest details is the determination of where the money will come from to administer and implement the program.

A discussion ensued on the impending order from the Western Washington Growth Management Hearings Board (WWGMHB), and the timeline that would be imposed to accomplish tasks.

Commissioner Munks spoke to the frustration of not being able to go forward while waiting for the ultimate mandates from the State and Federal governments. Unfortunately, these mandates come unfunded, and permits to perform the necessary tasks are not forthcoming. He indicated that Mr. Martin's cost estimate could be plus or minus 30% by the time extra people are hired to complete the work and put the program together.

Commissioner Dahlstedt stated that his biggest concern is the cost of the program. He explained that the magnitude of the project is greater than the Mount Vernon and Burling school bond projects, just to put it in perspective. He indicated that if the State is going to mandate the County to fulfill all of these requirements, then the State is going to have to get out their checkbook to assist with the costs involved.

4. Discussion – Solid Waste Topics.

Dave Brookings, Public Works Administrator, reported that the Department has two remote compactor sites at Sauk and Clear Lake, which have trailers that are manned by attendants who conduct business therein. He reviewed a photograph of one such trailer, noting that the Department has been trying to emphasize a neat appearance and high quality of service. The photograph revealed that the trailers are in quite disrepair and need replacing. Mr. Brookings asked the Board to approve \$10,000 for each site to purchase new trailers.

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After a brief discussion, Chairman Anderson confirmed that the money would come out of the facilities budget for solid waste. The Board concurred that the trailers are in disrepair and need replacing, and authorized Mr. Brookings to go forward with replacement.

Mr. Brookings next informed the Board that it would be necessary to close the Clear Lake site during the one-week installation of new compactors at that facility. He stated that he would give adequate notice to the public so as to inconvenience as few people as possible.

Mr. Brookings next discussed the need to perform an analysis at the transfer station to look at modifications. He stated that the Department was successful in demolishing and removing the old incineration equipment, which has opened up some room and given potential to make modifications to improve efficiencies. Originally, the Department had submitted in the budget a \$750,000 line item for such modifications, including a \$50,000 cost for analysis and planning. At budget time, the Board agreed to proceed with the analysis in order to make sure that this would be a good business move, so the \$750,000, was struck from the budget until the analysis could be completed. Consequently, the Department is now asking for re-instatement of the \$50,000 for such analysis and study. He stated that the Department is in the process of developing a scope of work, and has had preliminary discussions with a consultant utilizing a low-tech emphasis. It is estimated that such an analysis will cost approximately \$40,000. Mr. Brookings stated that this is not something that is in the Department's budget, but is something they would like to pursue, with the Board's permission.

Chairman Anderson confirmed that Mr. Brookings was asking to restore the \$50,000 line item so that the Department could proceed with the analysis. Mr. Brookings affirmed Chairman Anderson's statement.

Commissioner Dahlstedt cautioned that the impacts to the budget need to be discussed.

On query from Chairman Anderson, Mr. Martin confirmed that the Department has an available source of funding to cover this amount.

Mr. Brookings concurred that this would not impact the Department's budget, but would merely shift funds from one item to another.

The Board indicated that they would approve of such a budget amendment.

5. Discussion and Possible Action – Jackman Creek and Key Salmon Habitat Acquisition Grant Revisions.

Ric Boge, Surface Water Management, indicated that he would be covering this item for Derek Koellman. He reviewed background information that the County was granted two awards in 1999, one was with the Aquatic Lands Enhancement Account (ALEA), through the State, with the money being awarded to the IAC. He reviewed the particulars of the ALEA grant. He explained that there was a shortage in meeting the necessary match for this grant, and that difficulties ensued in obtaining the donation of some of the properties. At the same time, the Jackman Creek acquisition was not moving along as anticipated. Mr. Boge reported that the ALEA money is only available through the end of May of this year, and that is why the Department is asking to reallocate the monies from the Jackman Creek grant to the Key Salmon Habitat Acquisition Grant, so that purchase and sale agreements and acquisition can proceed.

Upon query from Chairman Anderson, Mr. Boge distributed a map for the Board's review of the subject parcels currently identified with willing property owners who want to participate in this program.

Commissioner Munks asked if the willing sellers came forward to sell their land, rather than the County stepping on their rights as property owners? Mr. Boge confirmed that these are in fact willing property owners and an extensive preliminary process was completed for the sale of their properties.

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Commissioner Munks next asked once the grant monies purchase these properties, who is then responsible for maintenance and control of the properties? Are there other groups that control the activities on these properties? Would the County be able to access and use these areas, and who would have ultimate control over usage?

Mr. Boge responded that initially the owner, who would be the County, is responsible for who gets to use that property and who doesn't. There are, however, options to delegate such responsibilities to other groups such as Skagit Fisheries Enhancement Group, Conservation District, Seattle City Light, and the Nature Conservancy, among others.

Commissioner Munks commented that the County needs to control what happens on these properties, and not get in a bind with the issue of public use. He further commented that this would remove 600 acres of land from the tax roles, and asked about the financial impact to Skagit County.

Mr. Boge indicated that he did not have that information, but that all of the properties are within the flood plain. Mr. Martin stated that the Department could certainly get the answers to Commissioner Munks' questions and report back next week.

The Board indicated that they would like to delay taking action until they had the tax impact information.

6. Discussion and Possible Action – Skagit Council of Governments Salmon Recovery Plan Grant and Hansen Creek Grant Revisions.

Mr. Boge stated that the requested action of the Board would take some of the money out of the Skagit Council of Governments (SCOG) Salmon Recovery Plan Grant and utilize such funds for Phase II of the Hansen Creek Project. This would involve the reallocation of \$40,000.

After a brief discussion, Commissioner Munks moved that the Board of County Commissioners sign the grant amendments reallocating \$40,000 from the SCOG: Salmon Recovery Plan grant to the Hansen Creek Grant. Commissioner Dahlstedt seconded the motion, which passed with a unanimous vote. **(Contract Nos. 04513, 04604)**

7. Discussion and Possible Action – Hart Slough/Skiyou Slough Grant Revision.

Mr. Boge asked the Board to approve a Grant Revision for the Hart Slough/Skiyou Slough projects. The grant amendment requests the removal of Skiyou Slough from the scope of the project because the Skagit Conservation District has already developed a feasibility study for this slough. The County does not wish to duplicate efforts in this matter. Based upon the costs of recent feasibility studies conducted by the County, the entirety of the grant would be required to complete a detailed study on Hart's Slough.

Commissioner Munks moved to approve the grant amendments removing Skiyou Slough from the scope of the Hart Slough/Skiyou Slough Grant. Commissioner Dahlstedt seconded the motion, which passed unanimously. **(Contract No. 04516)**

8. Discussion and Possible Action – Flood Control Assistance Account Program (FCAAP) Priority Ranking and Application.

Mr. Brookings advised that he needs a signature from the Board in order to submit an application for the Flood Control Assistance Account Program (FCAAP). He explained that every two years the State Department of Ecology (DOE) allocates approximately \$4,000,000 to distribute across counties for the purpose of improving flood control and flood management plans. Skagit County assembles a list of projects after surveying diking districts and other jurisdictions, and then ranks the projects submitted. This year the County received five applications – one from LaConner, one from Sedro Woolley, two projects from Dike District No. 5, and one from Skagit County (the Skagit River Feasibility Study). Mr.

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Brookings reported that a county distribution is limited to \$500,000. This year Skagit County had requests for \$660,000 for use of FCAAP funds. After reviewing the projects, it was decided that the Skagit River Feasibility Study is of the highest ranking. He asked the Board to approve the ranking and sign the application.

Commissioner Munks moved to approve the FCAAP ranking and application as presented by Mr. Brookings. Commissioner Dahlstedt seconded the motion, which passed with a unanimous vote.

9. Discussion and Possible Action – Delegation to the Risk Manager the Authority to sign Right-of-Entry Documents by which Private Landowners give Skagit County Staff Permission to Enter Private Property.

Mr. Martin reviewed the process for proposing for rights-of-entry on private property. He stated that process has been discussed with the Risk Manager and the Civil Division of the Prosecuting Attorney's Office regarding a system that involves notifying the Board of the Departments' intent, but delegating the paperwork processing to the Risk Manager.

Chairman Anderson stated that he had no problem giving the Risk Manager this authority, but wanted to be advised of the properties affected.

Commissioner Munks expressed concurrence on the need to expedite the paperwork and to allow the Risk Manager to sign right-of-entry documents. He moved to approve a Resolution delegating to the Risk Manager the authority to sign right-of-entry documents by which private landowners give Skagit County staff permission to enter private property. Commissioner Dahlstedt seconded the motion, which passed unanimously. **(Resolution No. 18168)**

10. Miscellaneous.

There were no Miscellaneous Public Works items for discussion.

PLANNING & PERMIT CENTER – Tom Karsh, Director.

1. Discussion – Planning Commission Action on Colson, Portis, Cook and Mathis Properties per the Western Washington Growth Management Hearings Order (Case #99-2-0016).

Guy McNally, Planning Department Staff, gave a progress report dealing with the four remanded properties in the Western Washington Growth Management Hearings Board ("WWGMHB") Case #99-2-0016. He reviewed a memorandum dated January 10, 2001, which was transmitted to the Board outlining the Department's report and recommendation. Mr. McNally advised that the Planning Commission held a public hearing on January 30 on the four subject properties. He reviewed the particulars of the specific properties involved, together with the actions taken by the WWGMHB. He reported that following the public hearing, the Planning Commission has recommended that the properties known as Portis and Colson be redesignated to rural reserve.

The other two properties, Cook & Mathis, are located in the Birdview area. Both of those properties were redesignated from rural resource to a rural reserve designation. Mr. McNally reported that the Department, in its initial recommendation, recommended a return to the rural resource designation based on an analysis of the 1997 map. There was new information submitted during the January 30th public hearing that has led the Planning Commission to recommend that the hearing date be extended to February 13, with the comment period being extended until close of business today. Upon receipt of comments from the property owners, the Department will revise their recommendation and will issue a report back to the Planning Commission on February 13.

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Commissioner Munks spoke to the issue of notification to surrounding property owners, stating that most individuals do not read the legal section of the newspaper to determine if their property is affected.

A discussion ensued regarding notification issues.

Mr. McNally advised that since the Planning Commission had made a recommendation on the Portis and Colson properties, it would be necessary to schedule a time for the Board to consider such recommendation. It was determined that the Board would consider the Planning Commission's recorded motion on Tuesday, February 20, at 11:30 a.m.

2. Discussion – Department Draft Report on Year 2000 Comprehensive Plan Amendment Proposals.

Kirk Johnson, Associate Planner, reviewed the process for review of the Year 2000 Comprehensive Plan Amendment Proposals. He advised that in Resolution No. 18090, the Board authorized the Department to move forward on three individual Comprehensive Plan Amendment (CPA)/Rezone requests and one County-initiated technical mapping correction as part of the Year 2000 CPA annual review cycle. The three individual CPA/Rezone requests are remaining from the original 1997 round of CPA redesignation requests and are referred to as "Ruble and Adjoining," "Engleson and Adjoining," and "Palmer-Adjoining." The Planning Commission recommended their approval in November 1998, but the Board deferred these proposals to the 1998 CPA annual review cycle because not all of the properties included in the Planning Commission recommendation had undergone legally required public review and comment. Growth Management Act appeals and an eventual County suspension of individual CPA requests further delayed their review until now.

Mr. Johnson advised that the Department intends to recommend approval of the three amendments consistent with recorded motion of the Planning Commission. He reviewed the specifics of each of the requests.

Mr. Johnson advised that all property owners whose property is included in these proposed amendments were informed of the Board's authorization to proceed by individual letter dated December 27, 2000. These same property owners will also receive a copy of the Department Report and SEPA Addendum when it is mailed out for public review in the near future. He stated that the Department anticipates that review and final adoption of these amendments should occur by the middle of 2001.

Mr. Johnson reported that these four identified CPA/Rezone proposals are the only ones that the County can process through the annual Year 2000 review cycle under the requirements of RCW 36.70A.130 and Skagit County Code 14.08.020, which require that amendments to a comprehensive plan be considered no more frequently than once every year so the cumulative effects of the various proposals can be ascertained. The deadline for amendments to be eligible for the 2001 CPA annual cycle is July 31, 2001.

3. Update – Planning Commission Deliberations on the Strategic Plan for the Protection of Wild Salmonids, Skagit County Code 14.24.130.

Kendra Smith, Assistant Director, gave some background of the development of the Strategic Plan for the Protection of Wild Salmonids contained in Skagit County Code 14.24.130. She stated that in 1996 the County adopted the Critical Area Ordinance (CAO), which immediately was under attack for not having a strategic plan. The County adopted subsequent sections on how to proceed with protection of those fisheries. In that adopted section and through appeals, the County made additional amendments to adopt the State's plan, which was only a draft plan. The County was appealed and the WWGMHB directed the County to adopt a plan, regardless of whether the State adopted a plan or not. The County then developed a plan and adopted same, with the plan having two phases. These phases were immediate action items, and items to be accomplished long range. The County was appealed on this plan, and the WWGMHB directed Skagit County to make changes within 180 days.

Ms. Smith reported that there was a definite time crunch, and, consequently, the County worked with the Watershed Council to utilize their plan. A public hearing was held and written comments were received from the Audubon Society, Friends of Skagit County and the Tribes regarding this section. The Planning Commission held their deliberations. She advised that they did not have the majority five votes to pass on a recommendation to the Board. Four members were in favor, one was opposed, one abstained, and one had to leave early. Consequently, they moved to extend their deliberations to February 13th to have more time to look over the plans and have the two new members of the Planning Commission review tapes of the hearing held in October to familiarize themselves with the public testimony. Deliberations will continue on Tuesday, February 13th.

4. Miscellaneous.

Tom Karsh, Director, briefly discussed the recent final decision of the WWGMHB regarding the Unified Development Code and related regulations. He stated 215 issues were appeared from numerous groups and individuals, and were evaluated by the WWGMHB and consolidated into five separate cases. The Department and legal staff is in the process of reading the orders and deciding what the next course of action will be. Recommendations will be coming to the Board shortly. Mr. Karsh reported that these final decisions and orders would be available on the County website under the Planning Department's section.

ADJOURNMENT.

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

BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

Ted W. Anderson, Chairman

Kenneth A. Dahlstedt, Commissioner

Don Munks, Commissioner

ATTEST:

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