

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
Tuesday, April 3, 2001**

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) Signature – Grant Agreement with the Washington State Department of Community, Trade, and Economic Development for \$1.5 Million from a Shoreline Block Grant to assist the County with initial implementation of Skagit County Code Section 14.24.120, Ongoing Agriculture on Agricultural Lands.2) Discussion and Possible Action – Compensation for Science Advisory Panel.3) Miscellaneous.
10:00 a.m. – 10:45 a.m.	<u>Planning & Permit Center – Tom Karsh, Director.</u> <ol style="list-style-type: none">1) City of Burlington Annexation Proposals:<ol style="list-style-type: none">A) Waldschmidt Acres.B) Sager.2) Miscellaneous.
10:45 a.m. – 11:00 a.m.	Public Comment Period.
11:00 a.m. – 11:30 a.m.	Presentation – Request for Restoration of Funding to City Libraries.
11:30 a.m. – Noon	Work Session – Marine Resources Committee.
1:30 p.m. – 3:00 p.m.	Tour of Solid Waste Operations.
3:00 p.m. – 3:30 p.m.	Consideration and Possible Action on Draft Interim Ordinances Responding to Western Washington Growth Management Hearings Board Compliance Orders to: <ol style="list-style-type: none">1) Repeal all Rural Marine Industrial Designations and return those sites to their previous designations;2) Repeal all changes made to the Big Lake Rural Village in the 2000 Comprehensive Plan and Unified Development Code.3) Adopt all City Regulations relating to Concurrency, which the County has not yet adopted.
5:30 p.m.	Public Hearing – To consider testimony and comments on Skagit County Code Section 14.24.120 (Ongoing Agriculture on Lands Designated Ag-NRL) of the Critical Area Ordinance #18069, which was adopted on November 27, 2000. The public hearing is to allow the agricultural community and others to express their concerns with the adopted Ordinance. (Hearing Rooms “B” and “C”)

The Skagit County Board of Commissioners met in regular session on Tuesday, April 3, 2001, with Commissioners Ted W. Anderson, Don Munks, and Kenneth A. Dahlstedt present.

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PUBLIC WORKS DEPARTMENT – Chal Martin, Director.

1. Signature – Grant Agreement with the Washington State Department of Community, Trade , and Economic Development for \$1.5 Million from a Shoreline Block Grant to asst the County with initial implementation of Skagit County Code Section 14.24.120, Ongoing Agriculture on Agricultural Lands.

Chal Martin, Director, reviewed the parameters of the proposed grant agreement with the Washington State Department of Community, Trade and Economic Development to begin implementation of the riparian buffer program. He reviewed that clauses have been added by the County that clarify the County's position regarding the receipt of such funds. These are as follows:

Paragraph 10.B states: "The County, by entering in this Agreement, does not thereby commit to continue the Program described in Attachment A beyond the effective period of this Agreement."

Paragraph 15.A, last sentence states: "The Department will not attempt to recapture state funds expended in compliance with this Agreement."

Mr. Martin reviewed that the agreement term runs through November 30, 2002. Mr. Martin advised that with these added protections for Skagit County, the Department recommends approving the Agreement as proposed.

Commissioner Anderson concurred that with the proposed changes, the Agreement met with his approval.

Commissioner Dahlstedt reviewed a meeting held the previous evening with representatives from various State agencies and legislators wherein the Board expressed that accepting this money did not mean that the County was making a long-term commitment to the program. The Board indicated that if further funding was not ascertained, the program would be stopped.

Commissioner Munks concurred with Commissioner Dahlstedt's remarks, indicating that the State agencies also had confirmed that taking this initial \$1.5 million would not bind the County to the continuance of the program.

Commissioner Munks moved to approve the Grant Agreement with the Washington State Department of Community, Trade and Economic Development as presented by Mr. Martin. Commissioner Dahlstedt seconded the motion, which passed with a unanimous vote. **(Resolution No. 18217, Contract No. 05250)**

2. Discussion and Possible Action – Compensation for Science Advisory Panel.

Mr. Martin next discussed the issue of compensation for the Science Advisory Panel (SAP) in support of Skagit County Code 14.24.120. He reported that good arguments have been established on both sides of this matter.

Chairman Anderson agreed that there were many concerns about establishing a precedent, as the County has many volunteer Boards which do not receive compensation. However, some do, such as the Board of Equalization. He stated that he favored compensating the SAP members who are not being paid for their time through other government agencies or private employers. He indicated that the SAP consists of professional people with impressive credentials, and that their value to the SAP is much more than the compensation levels being discussed. He expressed his fear that some of these individuals might resign because of the time commitment away from their businesses.

Commissioner Munks reviewed that many of the County's boards and commissions spend a tremendous amount of time volunteering to serve the community. However, the SAP requires a certain amount of expertise and learning in order to participate. Therefore, it seems right that some sort of compensation should be afforded to those individuals who are not being paid for their time. He expressed the fear that without compensation, the SAP could end up with just agency people on it.

Commissioner Dahlstedt concurred with the remarks of Commissioners Munks and Anderson.

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Commissioner Dahlstedt moved to approve the Resolution establishing a \$100 per meeting stipend for the members of the Science Advisory Panel not directly employed by Federal, State, or Local Resource agencies or otherwise paid to participate as a panel member. Commissioner Munks seconded the motion, which passed unanimously. **(Resolution No. 18218)**

3. Miscellaneous.

Mr. Martin next discussed the efforts that would be made relative to public outreach for the Agricultural Buffers issue. He stated that an informational brochure is being developed, and suggested that the cover letter be signed by the Board. He reviewed that the brochure would explain the program to alleviate confusion on many of the pertinent issues. He indicated that the mailing would be sent out to 1,000 to 1,200 property owners most likely to be affected.

Chairman Anderson suggested that Mr. Martin might want to avail himself to submit something to the "Voices of the Valley" section of the Skagit Valley Herald. He indicated that such a submittal is a good way to get information out a many people.

A lengthy discussion ensued regarding the Board's meeting the previous evening with representatives from various State agencies and our legislators regarding the buffer program and lack of funding for same.

PLANNING & PERMIT CENTER – Tom Karsh, Director.

1. City of Burlington Annexation Proposals:

A) Waldschmidt Acres.

Gary Christensen, Assistant Director, reviewed the exact location of the proposed annexation. He explained that only one lot in this island of property is being proposed for annexation. He stated that it does not seem clear why the City did not propose to include the entire island of land.

Chairman Anderson noted that in order to be consistent with the Growth Management Act, no islands or pockets of land should be approved. He indicated that it was his feeling that the City should annex the entire parcel, not just the one lot. The other Board members agreed with Chairman Anderson's comments.

Mr. Christensen indicated that he would confirm the City's intent and the Board's direction with the City Planner, Margaret Fleek, to see if the City would be willing to annex the entire parcel.

B) Sager.

Mr. Christensen next reviewed the exact location of the proposed Sager annexation consisting of approximately 2.5 acres in size and intended for residential development.

After reviewing the map of the proposed annexation, Chairman Anderson commented on the need to create logical boundaries such as along Gardner Road. He discussed the need to include an additional piece of property and the road, so that it would be maintained to city standards. He noted that the proposal is in direction violation of Growth Management parameters.

Mr. Christensen stated that it has been Burlington's position not to annex properties unless the landowner requests consideration, however, in this case logic dictates including the one excluded property. He indicated that he would contact the City in this regard.

2. Miscellaneous.

Mr. Christensen discussed the partial merger of Fire Districts 12 and 2, and the previously-discussed isolated piece of Fire District 6. He indicated that he had met with John Pauls, the City of Burlington's Fire Chief, and

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David Day, attorney representing Fire District 6, and they expressed concern about the County invoking the jurisdiction of the Boundary Review Board (BRB). Mr. Christensen reported that Fire Districts 6 and 12 would be submitting a petition that would render the invoking of the BRB moot. Mr. Christensen reviewed the particulars of the proposal of Fire Districts 2, 6, and 12 to split the jurisdiction to allow for the provision of urban fire protection for Bayview Ridge.

Chairman Anderson confirmed that the signing of an Interlocal Agreement among the fire districts would make the involvement of the BRB unnecessary.

Mr. Christensen explained that there is a lot of "horse trading" going on among the three districts to protect revenue losses to each district. Discussion and negotiations have been going on for some time, and common ground has finally been established.

Commissioner Dahlstedt cautioned that safety should be the first priority, with efficiency second, and equal revenue sharing last. He noted that lack of revenue, however, would drive the County to make some decisions in this regard.

Mr. Christensen reported that Fire Districts 6 and 12 should submit their petition shortly, which would begin a 45-day timeline. At that time, it would be appropriate for the County to discuss the particulars of the plan that is proposed. However, at this point, with the intention of the fire districts known, invoking the BRB is most likely a moot point. He suggested that when Fire Districts 6 and 12 propose this larger merger, the County should encourage that they come in and discuss their intentions with Staff or the Board. The Board agreed that Mr. Christensen should convey to the BRB the need to hold off to see if the fire districts can work out this situation.

PUBLIC COMMENT PERIOD.

Carol Ehlers, West Fidalgo Island, discussed the Nookachamps Watershed Plan, and the lack of a plan for Fidalgo Island. She stressed the importance of developing such a plan. She reviewed the timelines for responses to the Western Washington Growth Management Hearings Board, and suggested that the Board ask for a 90-day extension as both the Big Lake area and Fidalgo Island need sub-area plans and the County should not be caught in the last minute crunch.

Chairman Anderson suggested that a sub-area plan could not be completed in 90 days, but that Ms. Ehlers' comments were well taken. He stated that people in the Planning Department are overwhelmed responding to appeals. He stated that the process itself would take a minimum of a year.

Jamie Lanning, 13084 Highway 9, Mount Vernon, asked about the progress being made on improvements to the rights-of-way in Clear Lake.

Commissioner Dahlstedt indicated that he had talked to the road supervisor in this regard. Chairman Anderson added that funding mechanisms are a concern for such improvements. He stated that if the improvements would benefit school children, there may be a way to use the special paths fund, or to access other available funding. Chairman Anderson indicated that the Board is working on the problem.

Mr. Lanning reviewed exactly how he felt the project should proceed.

PRESENTATION – REQUEST FOR RESTORATION OF FUNDING TO CITY LIBRARIES.

Doug Eberhardt, Director of the Anacortes Public Library reviewed that in the past, local cities received County funds to assist with the impact that County residents have on City libraries. However, such funding was cut last year due to the passage of I-695, and he and those assembled were present to ask for the restoration of this funding.

Mayor Dean Maxwell, City of Anacortes, stated that this matter had been mentioned to the Board in the past as an effort to further the partnerships between the County and the cities. He stated that this funding was something

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that the cities counted on. In the past, the City of Anacortes received approximately \$30,000 to assist with the provision of library services to the community. Mr. Eberhardt had basically built his budget around that money. He reviewed the cuts that the City also had to make due to the I-695 cutbacks. Mayor Maxwell stated that the City is hopeful that the County Commissioners can find the resources to reinstate those funds.

Chairman Anderson asked about the subsidy that County residents pay to the cities for library privileges.

Mayor Maxwell responded that in Anacortes there is an out-of-city user fee of \$56 per year. He indicated that the subsidy does not help with the costs for the building. He stated that the entire library budget is around \$700,000 per year, and that such funding is mostly raised by the residents of Anacortes who pay property taxes. He stated that the City does not want to exclude anyone from using the library, but that there is a difficult balancing act and the additional funding was a great help. He stated that it is a service the City is happy to provide to County residents, and is a benefit to everyone. He noted that in the past, the County gave approximately \$100,000 in total to the local libraries.

Chairman Anderson stated that the Board recognizes the significant service the libraries provide, but that the County had to cut \$2.2 million from the County budget. Consequently, anything that was not an absolute necessity had to be cut. He indicated that this was not an excuse, but an explanation.

Mayor Maxwell sympathized with the lack of funding, noting that each jurisdiction had to decide how to handle the loss of the I-695 money. Even though jurisdictions have received backfill money from the State, it is not certain how much money will be received and how long such funding will last. He reiterated that there is great pressure on cities to provide services, and the open access to information should be a top priority.

Skye Richendrfer, Mayor of Mount Vernon, PO Box 809, Mount Vernon, reviewed a February 22 letter sent to the Board signed by all of the local mayors requesting the restoration of the historical funding levels for library support. He reviewed the statistics pertinent to the Mount Vernon library, noting that approximately 1/3 of the usage is for non-residents. He stated that non-residents currently pay \$89 per year per card for usage of the Mount Vernon City Library. Mayor Richendrfer stated that it is important to note that other options for non-residents have also been eliminated. Sno-Isle does not make non-resident services available any longer. Choices for citizens have been reduced. He indicated that the City of Mount Vernon is committed to collaborating on county-wide library solutions. He spoke to the difficulties of making a budget amendment for this year, but asked the Board to look to the 2002 budget process for the restoration of these funds.

Debra Peterson, City of Sedro Woolley Public Library, indicated her appreciation for the years the County supported the library and helped build their collection. She indicated that Sedro Woolley's non-resident fees are currently \$56 per card per year.

Carol Ehlers, West Fidalgo Island, stated that it is advantageous to have the various libraries in the County open so that citizens can review public participation documents.

CONSIDERATION AND POSSIBLE ACTION ON DRAFT INTERIM ORDINANCES RESPONDING TO WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD COMPLIANCE ORDERS TO:

1. Repeal All Rural Marine Industrial designations and return those sites to their previous designations.
2. Repeal all changes made to the Big Lake Rural Village in the 2000 Comprehensive Plan and Unified Development Code.
3. Adopt all City Regulations relating to Concurrency, which the County has not yet adopted.

Gary Christensen, Assistant Director, reviewed that several weeks ago the Department brought before the Board a draft interim ordinance which responded to the Western Washington Growth Management Hearings Board Compliance Orders referenced above. Mr. Christensen presented the Board with a copy of that Interim Ordinance, noting that the issues are commonly referred to as "30-Day Issues." These issues specifically are:

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1. Repeal all Rural Marine Industrial designations and return those sites to their previous designations;
2. Repeal all changes made to the Big Lake Rural Village in the 2000 Comprehensive Plan and Unified Development Code.
3. Adopt all City Regulations relating to Concurrency, which the County has not yet adopted.

He first reviewed that the concurrency issues have been dealt with in a new Section 5, which would provide for those cities or towns which do not have concurrency regulations in place. The Board concurred with the addition of this language into the Interim Ordinance.

Mr. Christensen stated that the second issue is the Big Lake Rural Village boundary changes. He reviewed a map showing the proposed boundaries and the previous boundaries, and the efforts made to address the compliance issues concerning the Overlook Golf Course. In essence, the WWGMHB said in its rulings that some of these changes appear to be beneficial and obvious, but the changes happened absent a community planning process or sub-area plan, so the WWGMHB reserved their judgment where the final boundaries should go. They also expressed concern that this area might be reconsidered as a part of the City of Mount Vernon's Urban Growth Area. Mr. Christensen explained that the WWGMHB has said that until the County has a community planning process initiated and works with the community in this regard, the boundaries of the rural village should be pulled back.

Chairman Anderson asked what would happen if the County decided not to make this boundary adjustment?

Mr. Christensen responded that there is the possibility of invalidity, which would cause a de facto moratorium for property owners who would be unable to proceed with further land divisions. He explained that the Department has proposed the Interim Ordinance before the Board, referring this item back to the Planning Commission for a public hearing on this issue prior to the Board holding their own public hearing within the required 60-day time limit. He reviewed the procedure of adopting an Interim Ordinance without a public hearing required, providing that a public hearing is held within 60 days. Findings must then be adopted for the Board's actions. The Department is proposing that the Board remand this matter back to the Planning Commission to hold a public hearing and forward a recommendation prior to the end of that 60-day time period.

Chairman Anderson asked what the Planning Commission would be asked to decide.

Mr. Christensen indicated that there might be some issues that emerge out of this as part of the community planning process. There is an interest in initiating the sub-area planning process sooner rather than later. He advised that the Planning Commission can make a recommendation to the Board and the Board can then adopt such recommendation as a permanent regulation.

Mr. Christensen next reviewed the specifics of the third item involving the Rural Marine Industrial designations for the four sites in the County. The original intent was to acknowledge the existing shoreline activities and to maintain those kind of uses. The WWGMHB said those actions were non-compliant with the Growth Management Act.

Upon query from Chairman Anderson on the reasoning for the WWGMHB's order, Mr. Christensen responded that one of the problems that the WWGMHB had was that these new designations had not undergone the environmental review required of establishing a new type of zoning district.

Chairman Anderson commented on the continuing challenge to comply with a moving target. He stated that Big Lake should be a designated a rural village.

Commissioner Dahlstedt confirmed with Mr. Christensen that the change in the Big Lake boundary was made trying to adjust to a previous WWGMHB order. Mr. Christensen added that the original zoning district bisected

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properties and made it difficult to administer. Consequently, the Department proposed to do away with the bisecting and include entire parcels. The WWGMHB did not agree with the reasoning behind the County's process.

Chairman Anderson asked if a decision was made that the County could not win on an appeal of this issue.

Mr. Christensen responded that it was easier at the time to go back and address the WWGMHB's concerns, establishing a record and going through the required process. He stated that it was felt that remedies would be more expedient utilizing this method rather than going to Court.

Chairman Anderson countered that the County might get more of a distinct definition through a Court process, even though it might be an expensive proposition. He noted the difficulties in trying to appease the WWGMHB, saying that government by intimidation does not work. He spoke to the specifics of the Big Lake golf course and the established sewer district, which the owner negotiated and paid for connections. It is obvious that the entire area around the lake is intensively developed, and most of the lots not developed are certified lots.

Mr. Christensen stated that the Department felt many of the issues of the WWGMHB had been addressed, and that absent appealing to Superior Court, the recommendation would be to proceed with the Interim Ordinance and refer it to the Planning Commission for recommendations.

Commissioner Munks stated that this would mean that the County would basically end up where it is now, except for a more complete record of a public process.

Mr. Christensen added that at the end of the 60 days the Board could adopt permanent regulations, so that this matter would have not to be readdressed every six months.

Chairman Anderson asked what the weakness is of the County's defense, wondering if it was insufficient public process. He stated that it seems that the Big Lake issue has been discussed at length.

Mr. Christensen commented that the WWGMHB might also be interested in the notion that the City of Mount Vernon might be reconsidering the Big Lake area as part of their Urban Growth Area. He advised that Mount Vernon originally was looking at this area, but encountered opposition from residents around the lake, so the City pulled back their proposed urban growth areas and chose not to include Big Lake. The County was successful in arguing that the necessary types of urban levels of service were not comparable to a city. He stated that now the WWGMHB has said that before enlarging the boundaries, the County must go through the planning process.

Commissioner Munks asked if going back to the Planning Commission to address the boundary situation, including the golf course, would it put the County in better standing in a Superior Court case than we have right now.

Tom Karsh, Planning & Permit Center Director, advised that an appeal needed to be filed within the 30-day clock, applying the same timeframe to adopt an interim ordinance as to appeal to Superior Court. He stated that, previously, legal counsel felt uncomfortable pursuing appeals on the 3 matters before the Board. He indicated that the Big Lake problem was the result of needing to define this more intense rural development. Mr. Karsh stated that under State law, just having the sewer available is not enough for such rural development. He stated that if there was a Big Lake Sub-Area Plan coming down the pike, the County could fold those issues into this.

Commissioner Munks asked if the County is in better standing if we go through the process again. He indicated that it is obvious that the boundaries were put in the right place to correct the segmented parcels. He asked if the boundaries are the main concern, or is the development of the golf course the main concern, or both.

Mr. Christensen responded that it is a bit of both. He stated that the WWGMHB felt in their order that before the County can expand the boundaries of a rural village, it is necessary to go through the planning process. Having sewer available is also important, due to the potential for increased densities not only at the golf course, but for

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other properties as well. He reiterated that the WWGMHB also indicated that there should be additional thought given to whether Mount Vernon would be expanding to this area as part of their Urban Growth Area.

Mr. Karsh explained that by approving this interim ordinance, and passing it on to the Planning Commission, with the hope that they would not propose any changes, this matter would not go to Court. The next time the threat of Court would evolve, would be when any changes are proposed as a result of a Sub-Area Plan and resultant proposed changes to the Comprehensive Plan and Zoning maps if appealed.

Chairman Anderson indicated that he is disgusted with the WWGMHB and the way the Big Lake matter was so convoluted. He stated that he thought the County should file a petition of appeal on this matter, noting that it does not make good sense to divide the properties down the middle, and that sewer is existing and available in the areas in question. He stated that he would like to have a Court make a final decision, rather than go before the WWGMHB again.

Mr. Christensen reported that the downside would be that not taking any action and filing the appeal could result in the WWGMHB putting Skagit County in invalidity on the rural village issue. He advised that an appellant that was disgruntled would petition for a hearing before the WWGMHB, saying that the County did not comply, and would like to put that section of the County Code and Comprehensive Plan in invalidity.

Mr. Karsh added that invalidity would cease any development activity whatsoever in the interim, forcing landowners to wait until the courts make a decision in this matter.

Chairman Anderson indicated that the decision to send this matter back to the Planning Commission would not impact what is going to happen at Big Lake one way or the other. He indicated from his perspective, he would vote against sending this to the Planning Commission, because he felt the WWGMHB was wrong in their decision.

Commissioner Munks expressed his fear that the County would go through the process again and end up with lesser boundaries than were originally proposed.

Mr. Karsh pointed out that his recollection was that legal counsel had advised against filing an appeal, but that he would need to confirm that with the lawyers.

Chairman Anderson commented that Growth management says that there cannot be irregular boundaries, and he would like to have a judge rule in this matter. He indicated that he is very supportive of the work done by the Planning Department regarding the logical boundaries for the Big Lake Rural Village.

Commissioner Munks cautioned that he did not want to go through the process and end up with less options that are available at this point in time that would give the County a positive finding in Court.

Chairman Anderson also cautioned against losing the opportunity to appeal.

Mr. Karsh advised that the petition of appeal would need to be filed by tomorrow.

Chairman Anderson confirmed that only the Rural Marine Designations and the Big Lake issues would be appealed, not the concurrency issues.

Upon query from Commissioner Munks regarding the difficulties with the Rural Marine designation, Mr. Christensen responded that the main area of fault was with the SEPA process. He stated that the County had argued that we were simply recognizing those existing businesses in rural environments and were giving them a zoning district consistent with their uses. The WWGMHB said the County was giving a new zoning district not considered under the previous adopted Comprehensive Plan and development review, and so absent such sufficient environmental review for a new zoning district, that zoning district that could not be used.

A discussion ensued on the ramifications of appealing this portion of the 30-day issues.

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The Board directed Staff to advise legal counsel of their desire to appeal both the Big Lake and Rural Marine issues as discussed. Mr. Christensen indicated that he would amend the proposed Interim Ordinance to reflect the Concurrency issue only, and would present that back to the Board in the near future.

PUBLIC HEARING – TO CONSIDER TESTIMONY AND COMMENTS ON SKAGIT COUNTY CODE SECTION 14.24.120 (ONGOING AGRICULTURE ONLANDS DESIGNATED AG-NRL) OF THE CRITICAL AREA ORDINANCE #18069, WHICH WAS ADOPTED ON NOVEMBER 27, 2000.

(See Transcript attached)

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