

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
TUESDAY, SEPTEMBER 4, 2001**

8:45 a.m. – 9:00 a.m.	1) Appeal of BIA decision to put Swinomish lands in trust. 2) Appeal of BIA decision to put Samish lands in trust.
T* 9:00 a.m.– 10:00 a.m.	<u>Public Works Department - Chal Martin, Director</u> 1) Discussion: Comments for Department of Ecology Proposed Water Use Measurement Rule 2) Personal Services Agreement: Inter-fluve, Incorporated – Feasibility Study of Hart Slough 3) Memorandum of Agreement: Upper Skagit Indian Tribe and Bureau of Indian Affairs – Helmick Road Improvement Project, ES95510-2 4) Discussion: Promotion of Skagit Conservation District Programs 5) Discussion: Management Consultant for the Guemes Ferry Operations 6) Discussion: Scientific Advisory Panel (SAP) Vacancy
10:00 a.m. – 11:00 a.m.	<u>Planning and Permit Center – Tom Karsh, Director</u> 1) Reconsideration of Ordinance No. 18275 pertaining to Cook Road/Interstate 5 Rural Freeway Service Properties (Stiles, et al.) 2) Discussion – Major Planning Tasks (2001-2006) 3) Miscellaneous
11:00 a.m. – 11:30 a.m.	Consent Agenda and Miscellaneous Items.
11:30 a.m. – 11:45 a.m.	Public Comment Period
1:30 p.m. – 2:30 p.m.	Bid Opening – Procurement of Maintenance Materials
2:30 p.m. – 3:30 p.m.	Executive Session – Personnel, Litigation and Land Acquisition

The Skagit County Board of Commissioners met in regular session on Tuesday, September 4, 2001, with Commissioners Ted W. Anderson, Don Munks and Kenneth A. Dahlstedt present.

APPEAL OF THE BUREAU OF INDIAN AFFAIRS DECISION TO PUT SWINOMISH LANDS INTO A TRUST.

APPEAL OF THE BUREAU OF INDIAN AFFAIRS DECISION TO PUT SAMISH LANDS INTO A TRUST.

The U. S. Bureau of Indian Affairs approved to convert private property on Fidalgo Island into trust lands for local Indian tribes. The bureau approved converting 350 acres on the Swinomish Reservation for that tribe, plus about 77 acres on Fidalgo Island for the Samish tribe. Trust land is held by the federal government for the tribe, enabling the tribe to do what it wants with the land. In both cases, the tribes would not need to comply with County zoning codes.

The Swinomish tribe has planned since the 1970's to build a 1,200 slip marina and industrial park on land just south of Highway 20 on the west bank of the Swinomish Channel. In July, the Bureau of Indian Affairs approved converting that land into trust. Currently, it is zoned for agriculture under County codes and is being farmed.

Chairman Anderson said that by taking that agricultural land out of production would fly in the face of the County's efforts to preserve farmland. He also added that the Swinomish tribe has repeatedly sued the County to force it to engage in salmon recovery efforts, including the controversial farm buffer program, while planning this industrial development on the Swinomish Channel..

The Samish tribe, which has no reservation, plans to use its land to establish one. A document filed by the bureau indicates the tribe may build as many as 150 homes on the 77 acres between Highway 20 and Gibraltar Road. Tribal leaders say they have not spelled out the number of homes that will be built on the land and insist the agency made a clerical error. If the tribe were to build 150 homes, the move would contradict County zoning codes, which allow for just 16 homes on that acreage.

Both plans have drawn local opposition, especially the Samish plan. Neighbors say they didn't expect to have a dense housing development built in their rural area.

Chairman Anderson said he supports the idea of housing for the Samish tribe, but wants the number of homes spelled out. He said "it should be consistent with the density in the area and take into account the instability of the land in the area. He added "the land is known for having septic problems and environmental groups fear runoff could damage nearby Campbell Lake.

Commissioner Dahlstedt made a motion to appeal the decision to put the Swinomish lands into a trust. Commissioner Munks seconded the motion, which passed unanimously.

Commissioner Munks motioned to appeal the decision to put the Samish lands into a trust. Commissioner Dahlstedt seconded the motion, which passed unanimously.

PUBLIC WORKS DEPARTMENT, Chal Martin, Director

1. **Discussion – Comments for Department of Ecology Proposed Water Use Measurement Rule**

Chal Martin, Public Works Director, informed the Board that the Department of Ecology has proposed a new section of the Washington Administrative Code detailing how water metering would be implemented throughout the State. DOE has scheduled a public hearing on the matter on September 5, 2001 in Bellingham. Mr. Martin then gave a brief overview of the proposed rule and asked for guidance from the Board on input to the DOE.

2. **Personal Services Agreement with Inter-fluve, Inc. to Conduct a Feasibility Study of Hart Slough**

Jeff McGowan, Salmon Habitat Specialist, Public Works Department, explained that in 1999, Skagit County received a grant from the Interagency Committee for Outdoor Recreation to conduct a feasibility study of Hart Slough. The Agreement calls for Inter-fluve, Inc. to develop a design report that evaluates the potential for restoring habitat functions in a historic river channel that is now blocked off from the mainstream Skagit River in the SedroWoolley area. The project will benefit Chinook and Coho salmon and Cutthroat and Bull trout. Included in the project scope will be the development and oversight of a steering committee. The steering committee will consist of property owners and resource agencies. Based on the information gained from the study and in coordination with the steering committee, an alternative analysis will be conducted and recommended actions selected. A cost estimate, conceptual design, and proposed funding sources will be developed for the recommended actions. The term of the Agreement will be from August 22, 2001 through March 31, 2002. Compensation shall be a not-to-exceed amount of \$67,460.

Commissioner Munks made a motion to approve the Agreement with Inter-fluve, Inc. and Commissioner Dahlstedt seconded the motion, which passed unanimously. **(Contract No. 05428)**

3. **Memorandum of Agreement – Upper Skagit Indian Tribe and Bureau of Indian Affairs – Helmick Road Improvement Project, ES95510-2**

Steve Flude, Assistant Public Works Director, explained that the scope of the project is to correct a substandard County roadway structure, improve traffic flow, provide pedestrian enhancements, and improve drainage and safety facilities for Helmick Road No. 95510. Through this MOA, the three agencies agree to share the cost of the Helmick Road Improvement Project. The Agreement shall become effective upon the date of final signature and shall terminate upon final completion of the project.

Commissioner Munks motioned to approve the memorandum of Agreement between the Upper Skagit Indian Tribe and the Bureau of Indian Affairs and Skagit County. Commissioner Dahlstedt seconded the motion, which passed unanimously. **(Contract No. 05429)**

4. **Discussion – Promotion of Skagit Conservation Programs**

Ric Boge, Natural Resources Project Manager, Public Works Department, discussed the need to further consider details to be included in an Interlocal Agreement with the Skagit Conservation District (SCD) to promote SCD sponsored agricultural stream buffer options. Those options are:

- Conservation Reserve Enhancement Program (CREP), a financially attractive option for many agricultural landowners.
- Custom Farm Management Plan (CFMP), although no compensation is included, it may allow for much narrower buffer widths than CREP, plus it does not include the extensive maintenance and monitoring that is required for the County's Managed Agricultural Riparian Plan (MARP) option.

Mr. Boge said that for CREP, the current approach is that the County will fund a \$40/acre/year signing bonus on top of an existing \$10 signing bonus. The County funded bonus will only apply to the first 75' of riparian buffer landward of the stream ordinary high water mark. This 75' strip is the land that might otherwise have been enrolled in MARP, therefore represents the riparian area that the County is most interested in diverting into another program. The County will also provide SCD additional money to support extra demands placed on their staff time to administer CREP and money to support SCD acquiring a highly accurate GPS unit that will be used to better locate and document stream buffer boundaries.

5. **Management Consultant for the Guemes Ferry Operations**

Chal Martin, Public Works, spoke of the Guemes Ferry operation's history of management challenges due to the uniqueness of the operation and its remote location from the main Public Works business center. He discussed with the Board the possibility of bringing on a management consultant to review the existing management approach, compare/contrast the approach with the best management practices of the business, recommend areas where improvement could be made, and reestablish and update policies and procedures to guide the operation for the benefit of the customers, employees and residents of Skagit County.

The Commissioners were in agreement that this approach would be very beneficial and asked Mr. Martin to proceed with the task of finding a management consultant.

6. **Discussion and Possible Action – Filling a Scientific Advisory Panel (SAP) Vacancy**

Ric Boge, Public Works, stated that the purpose of the discussion is for the Board to consider the qualifications of the applicants and for the Board to select one to serve on the SAP in the capacity of Agronomy/Agricultural Scientist. He encouraged the Board to also select a backup in the event that the preferred applicant is for some reason unable to accept the appointment.

Mr. Boge said that as a result of an advertisement for an Agricultural Scientist to fill the vacancy on the SAP, five applications were received.

Commissioner Munks said he would like a farm owner to fill the vacancy. He would like someone with expertise and a vested interest in the farm and agricultural areas. He suggested the Board defer their recommendations for another week or two.

Mr. Martin said he would bring the issue back to the Board in two weeks during the Public Works Department's next stand-alone meeting.

PLANNING & PERMIT CENTER – Tom Karsh, Director

1. **Reconsideration of Ordinance No. 18275 Pertaining to Cook Road/Interstate 5 Rural Freeway Services Properties (Stiles, et al.)**

Gary Christensen, Assistant Public Works Director, stated that he is presenting to the Board a draft ordinance that would repeal the provision of Ordinance No. 18375 remanding three properties at the interchange of Cook Road and Interstate 5 to the Planning Commission for further consideration of possible RFS designation.

The Commissioners had directed the Planning & Permit Center to include the remand provision in Ordinance No. 18375 (The "90-Day Compliance Ordinance"). This was apparently on the mistaken belief that the only reason these properties had not been recommended for RFS designation by the Planning Commission was the lack of a quorum. As the findings in the proposed ordinance make clear, the three subject properties were not part of the 'challenged RFS designations' remanded to the County by the Hearings Board in Case No. 00-2-0049c for review as to their suitability for RFS designation. Thus, they were not included in the proposed "90-Day Compliance Ordinance" issued for public review and comment and State Environmental Policy Act (SEPA) review and they are not properly before the County as part of the "90-Day Compliance Issues."

Mr. Christensen explained that with the adoption of the attached draft ordinance, the three properties would not be remanded to the Planning Commission at this time. Future consideration of these properties for possible Rural Freeway Service designation could occur as part of the annual Comprehensive Plan Amendment review cycle in a future year.

Commissioner Munks moved to approve the Ordinance Repealing the Provision of Ordinance No. 18375 Remanding Three Properties at the Interchange of Cook Road and Interstate 5 to the Planning Commission for Further Consideration of Potential RFS Designation. Commissioner Dahlstedt seconded the motion, which passed unanimously. **(Resolution No. 18387)**

2. **Discussion – Major Planning Tasks 2001-2006**

Tom Karsh, Public Works Director, explained to the Board that over the last two months, the Planning Department and the Board of County Commissioners have reviewed and discussed a matrix of major planning tasks that were proposed to be addressed during the next six years. The purpose of the matrix was to begin charting out a work program or strategy for addressing the many planning tasks that require actions. It was agreed upon that it would also create better public expectations as to when tasks will be started and completed and to help identify what resources would be needed.

Mr. Karsh went on to say that during the last meeting when the major planning tasks were discussed, the Board agreed to continue working toward completing 2001 tasks, supported those Department prioritized tasks for the year 2002, and included Board of County Commissioners identified additional tasks for 2002. The resources needed to begin working on the tasks were reflected in the Department proposed budget for 2002.

Mr. Karsh said that previously, his Department discussed whether the Commissioners wanted to provide the public with an opportunity to review and comment on a six year, County prioritized planning work program. The Planning Department is unclear as to how the Commissioners wish to proceed with the public opportunity, either as part of the public review process associated with the 2002 budget or as a separate action. Mr. Karsh asked for some guidance.

Chairman Anderson said he would like to hold a public meeting to hear comments, as that is what is usually done and is always viewed as being very positive.

Mr. Karsh inquired as to whether there was actually time to hold a public meeting, as this is a very time sensitive issue.

Chairman Anderson said there was time and the tasks need to be prioritized.

Commissioner Munks suggested the meeting be held in the evening to accommodate the schedules of more people. He feels it is an issue that affects many people throughout the County and that the Planning Commission should also be in attendance.

3. **Miscellaneous**

A. Guy McNally, Associate Planner, gave the Board an update on the 2001 Comprehensive Plan Amendment (CPA 2001) Applications. He said pursuant to SCC 14.08.030(1), the Department must within 45 days of the last business day of July “review all of the petitions for Comprehensive Plan amendments submitted in the previous year, together with any proposed amendments suggested by the Department, and shall forward a recommendation to the Board as to which of the submitted amendments the Department recommends for further consideration by the County.” Mr. McNally said this year, the Department’s recommendation should be made by September 14, 2001.

Accordingly, the Department is compiling this year’s CPA’s, and is preparing maps and recommendations regarding the further consideration of each. After formal receipt of the Department’s recommendation, the BCC will then have 15 days to decide whether to initiate plan amendment review of the various proposed amendments. Mr. McNally and the result of the Board of County Commissioners’ decisions will be the CPA 2001 docket.

B. Mr. McNally then presented to the Board a memorandum from Linda Kuller, Senior Planner, regarding the Unclassified Use Permit Application Submittal from Waste Management, Inc.

On July 31, 2001, Waste Management of Washington filed an Unclassified Use permit application pursuant to SCC 14.16.600 for the development of a Skagit County Materials Processing Facility to be constructed in two phases. The proposed project is designated Bayview Ridge Heavy Industrial in the Skagit County Comprehensive Plan and Zoning Ordinance. The project site is located on Farm to Market Road adjacent to the existing Skagit County Transfer Station.

Mr. McNally said that on Wednesday, September 12, 2001, the Planning Department would issue a formal recommendation on the project. On September 18, 2001 the Department will discuss the recommendations with the Board of County Commissioners during its regular bi-weekly meeting. On Tuesday, October 2, 2001 is the date scheduled for the Board to discuss their decision on all Comp Plan docket items and this Unclassified Use Permit.

CONSENT AGENDA

Commissioner Munks moved to approve the Consent Agenda for Tuesday, September 4, 2001, items 1 through 5 and items 7 through 9. Commissioner Dahlstedt seconded the motion, which passed unanimously. Item No. 6 was pulled from the agenda.

BOARD OF COMMISSIONERS

- 1) Record of the Proceedings for Monday, August 27, 2001.
- 2) Interlocal Agreement for Modernization of track, tennis courts and field development for Mount Vernon Schools in the amount of \$150,000. **(Contract No. 05430)**

PARKS, RECREATION AND FAIR

- 3) Resolution to Award Bid for the Swinomish Channel Boat Launch Renovation. The low bid is in the amount of \$283,413.00 as submitted by Culbertson Marine Construction, Inc., Anacortes, WA. **(Resolution No. 18388)**
- 4) Resolution to Call for Bids for the Skagit Playfields Poppe Field Drainage System. **(Resolution No. 18389)**
- 5) Grant Deed of Conservation Easement for the Biringer Conservation Easement PL 01-0396 from Lisser and Associates. **(Contract No. 05431)**

PUBLIC WORKS DEPARTMENT

- 6) Notice of Intent to Obtain Telephone/Written Quotations for a used 3-axle 5th wheel truck with shortest wheelbase available. Estimated cost is \$22,000. The reason for the purchase is because the truck broke down beyond repair and per ER&R needed replacement. **(Removed)**
- 7) An ordinance to revise the speed limit on Lake Cavanaugh Road #0020o, from milepost 3.599 to end of the road (milepost 10.237), from 35 miles per hour to 45 miles per hour. The ordinance reflects the board's action. **(Resolution No. 18390)**
- 8) Resolution to Authorize the Change and/or Clarification of Various Roads in Skagit County. **(Resolution No. 18391)**
- 9) Ordinance amending the Skagit County Code 10.04.030 to revise the speed limit on Ershig Road #23210 from Allen Road (M.P. 1.52) to Colony Road (M.P. 3.39), 50 miles per hour.

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., have been recorded on a listing, which has been made available to the Board.

As of this date, September 4, 2001, the Board, by majority vote, did approve for payment those vouchers included in the above-mentioned list and further described as follows:

Warrants numbered 103883 through 104239 from Clearing Fund 696 in the total dollar amount of \$1,054,093.87 (Transmittal No. C57-01);

Warrants numbered 104240 through 104242 from Clearing Fund 696 in the total dollar amount of \$907.86 (Transmittal No. C-58-01).

2. Commissioner Munks motioned to approve a new Contract with Regence/Blue Shield for the period from March 1, 2001, through December 31, 2001. Commissioner Dahlstedt seconded the motion, which passed unanimously. **(Contract No. 05432)**
3. Commissioner Munks motioned to approve a Resolution that would commit Skagit County to provide funds to the Washington State Association of Counties for a Timber Analyst/Coordinator in the amount of \$1,752 annually, adjusted for inflation, for the remaining five years of the PL 106-393 project authority. Commissioner Dahlstedt seconded the motion, which passed unanimously. **((Resolution No. 18393)**
4. John Moffat, Prosecuting Attorney, gave the Board a brief update on the decision that was made by the Shorelines Hearing Board regarding the Local Shoreline Master Program. The decision that was made was quite divided. The Board upheld some of the provisions of the regulations but devalued others. The County has thirty days to appeal the decision to Superior Court. Mr. Moffat said we should know by late September whether there will be a court appeal or if the Department of Ecology will adopt new regulations.

PUBLIC COMMENT PERIOD

Dave Peckinpough, Marblemount, spoke on behalf of the North Cascades Chamber of Commerce. He expressed concerns about the amount of traffic that is currently flowing through the eastern part of the County. He said Skagit County is listed as 29th in the State for the number of annual visitors we receive.

BID OPENING – PROCUREMENT OF MAINTENANCE MATERIALS

Karla Strand and Dub Queen, Public Works Department opened the following bids:

- | | | | | |
|----|-----------------------|-------------------|-----------------------|------------------------|
| 1. | 3DH Aggregates | P. O. Box 142 | Stanwood, WA 98292 | Gravel Products |
| 2. | Ace Rock LLC | 3205 Pacific Ave. | Everett, WA 98203 | Rock & Gravel Products |
| 3. | B.A. VanDeGrift, Inc. | 24944 Benham Rd. | Mt. Vernon, WA 98273 | Gravel Products |
| 4. | Coral Sales Co. | P. O. Box 22385 | Milwaukie, OR 98269 | Gabions |
| 5. | Cunningham Crushing | 8327 Russell Rd. | Concrete, WA | Rock & Gravel Products |
| 6. | D.F. Marks Co. | 8510 Maltby Rd. | Woodinville, WA 98072 | Hydroseeding Products |
| 7. | Erickson & Swendsen | 15242 Wilbur Rd. | La Conner, WA 98257 | Gravel Products |

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8.	Frontier Industries	2099 Hwy 20	Sedro Woolley, WA 98284	Lumber Products
9.	GrowestSales	786C Arden Butte	Colville, WA 99114	Hydroseeding Products
10.	HD Fowler Co., Inc.	2165 Midway Ln.	Bellingham, WA 98227	Culvert Products
11.	Helena Chemical	1307 S. Anacortes	Burlington, WA 98233	Hydroseeding Products
12.	J & D Welding	1310 Walter St.	Mount Vernon, WA 98273	Aluminum Flood Gates
13.	Martin Marietta Material	20411 E. Hickox	Mount Vernon, WA 98274	Rock & Gravel Products
14.	McAsphalt Industries	19770-101 Ave.	Langley, BC V1M3G8	Liquid Asphalt/Crack Sealer
15.	MORFCO Supplies	P. O. Box 9754	Bellingham, WA 98227	Grader Blades
16.	Nelson Petroleum	1125 80 th SW	Everett, WA 98203	Lubricants
17.	Newman Signs	P. O. Box 394	Jamestown, ND 58402	Traffic Signs
18.	Northwest Linings	21000 77 th Ave. S	Kent, WA 98032	Geotextile Fabric/Gabions
19.	Pat Rimmer Tires	P. O. Box 394	Burlington, WA 98233	Tires
20.	Phelps Tire Company	628 S. Spruce	Burlington, WA 98233	Tires
21.	Randy Martin Const.	P. O. Box 64	Marblemount, WA 98267	Rock/Gravel Products
22.	Rockport Quarry	20359 Aliston Ln.	Burlington, WA 9823	Rock/Gravel Products
23.	Schaeffers Spec. Lubricants	1501 S. Nugent	Lummi Island, WA 98262	Lubricants
24.	Signs and Blanks	P. O. Box 2234	Akron, OH 44309	Traffic Signs
25.	Skagit City Turf	18609 Dike Rd.	Mount Vernon, WA 98273	Hydroseeding Products
26.	Skagit Petroleum	P. O. Box 248	Sedro Woolley, WA 98284	Lubricants
27.	Thunderbird Lubrication	P. O. Box 3389	Arlington, WA 98223	Lubricants
28.	U. S. Oil & Refining	3001 Marshall Ave.	Tacoma, WA 98421	Liquid Asphalt
29.	UAP Northwest	P. O. Box 506	Burlington, WA 98233	Hydroseeding Products
30.	Washington Culvert	P. O. Box 217	Arlington, WA 98223	Culvert/Geotextile Fabric/Flood Gates
31.	Wilder Construction	3315 15 th St.	Everett, WA 98201	Gravel/Mixed Asphalt Products
32.	Yorkston Oil Co.	P. O. Box 893	Bellingham, WA 98227	Lubricants
33.	Zumar Industries	P. O. Box 44549	Tacoma, WA 98445	Traffic Signs

Ms. Strand stated she would evaluate the bids and would be back to the Board with a recommendation within two weeks.

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:

JoAnne Giesbrecht, Clerk of the Board
Skagit County Board of Commissioners