

**SKAGIT COUNTY COMMISSIONERS
RECORD OF THE PROCEEDINGS
MONDAY, NOVEMBER 19, 2001**

9:00 a.m. – 9:30 a.m.	Work Session – County Administrator
9:30 a.m. – 10:00 a.m.	Work Session - Commissioners' Staff Meeting
10:00 a.m. – 12:00 p.m.	Department Head Meeting – Workplace Violence Presentation by the Mount Vernon Police Department (Hearing Room B)
11:15 a.m. – 11:30 a.m.	Decision – Edison Sub-Area Clean Water District 2002 Proposed Rate Changes
11:30 a.m. – 12:00 p.m.	Consent Agenda and Miscellaneous Items
1:45 p.m. – 2:00 p.m.	Executive Session – Personnel, Litigation and Land Acquisition
2:00 p.m. – 2:30 p.m.	Work Session – Samish and Skagit River Data Summary
2:30 p.m. – 3:30 p.m.	Executive Session – Personnel, Litigation and Land Acquisition
3:30 p.m. – 4:30 p.m.	Appeal by Mike Beverick of the Hearing Examiner's Decision (PLOO-0392)

The Skagit County Board of Commissioners met in regular session on Monday, November 19, 2001, with Commissioners Don Munks and Kenneth A. Dahlstedt present. Commissioner Ted W. Anderson's absence was excused.

DECISION – EDISON SUB-AREA CLEAN WATER DISTRICT 2002 PROPOSED RATE CHANGES:

Ron Palmer, Health Department, stated that on October 2, 2001, the Edison Sub-Area Town Board met to discuss the funding options and operating budget for the year 2002. After much discussion and public comments, the Board unanimously voted to support, for all customer classes, an increase of 30%.

A Public Hearing was held on the proposed rate changes for the Edison Sub-Area Clean Water District 2002 Budget on November 6, 2001. Written and oral comments were received by the Board of County Commissioners.

Commissioner Munks motioned to approve the Edison Sub-Area 2002 Budget and the Resolution outlining the budget decisions. Commissioner Dahlstedt seconded and the motion carried. **(Resolution No. 18491)**

CONSENT AGENDA:

Commissioner Munks moved to approve the Consent Agenda for Monday, November 19, 2001, items 1 through 7. Commissioner Dahlstedt seconded the motion, which passed.

COMMISSIONER' OFFICE:

1. Record of the Proceedings for Tuesday, November 13, 3001.
2. Resolution Authorizing a Call for Public Hearing to consider testimony regarding amendments to Skagit County Code regarding animal control and welfare. **(Resolution No. 18492)**
3. Resolution Appointing Julie McClary as a County designated mental health professional as of November 19, 2001. **(Resolution No. 18493)**

ASSIGNED COUNSEL:

4. Personal Services Agreement with Darren Acoba, Attorney at Law, to provide defense/legal services to clients that are considered to be conflict of interest cases for the Skagit County Public Defender's office and have been determined to be within the scope of indigent defense. The term of the Agreement shall commence on November 5, 2001 and continue until November 5, 2003. Compensation ranges from \$60 to \$550 depending on what services are rendered. **(Contract No. 05526)**

HEALTH DEPARTMENT:

5. Contract with the Office of Community Development for Skagit County's Community Development Block Grant (CDBG). CDBG Lead-Based Paint Hazard Reduction Grant funds will be used for training and certification of staff/contractors, purchasing leased-based paint equipment, conducting inspections and performing lead-based paint interim control work. This is a direct benefit project serving 100% LMI households (20 households-67 persons). The Contract start date is September 10, 2001 with an end date of January 31, 2003. The Contract amount is \$80,750. **(Contract No. 05527)**

INFORMATION SERVICES:

6. Master Services Agreement with Diversint, Inc. to provide printer toner, ink cartridges and consumable supplies for copy, fax and other related business machines that utilize toner or ink based products. They shall also provide support assistance for printers and workstations located at Skagit County. The Agreement shall commence upon signing and terminate upon giving a 30-day notice. The contractor shall charge the County using a cost plus format for supplies. Compensation shall range from \$32 to \$115 per hour for support services. **(Contract No. 05528)**

YOUTH AND FAMILY SERVICES:

7. Personal Services Agreement with Shirley Low Gerstenberger to present a workshop titled "Art Therapy for Female Teens" on November 9, 2001. Compensation shall total \$900, which includes supplies and travel. **(Contract No. 05529)**

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

As of this date, November 19, 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 108741 through 109284 from Clearing Fund 696 in the total dollar amount of \$684,970.94 (Transmittal No. C-78-01);

Warrants numbered 109285 through 109291 from Clearing Fund 696 in the total dollar amount of \$54,348.19 (Transmittal No. C-79-01).

APPEAL BY MIKE BEVERICK OF THE HEARING EXAMINER'S DECISION (PL00-0392):

Commissioner Munks chaired the meeting and explained that the appellant is appealing the denial of a special use permit.

Brandon Black provided a history of the appeal. On September 25, 2001 the Hearing Examiner issued a denial of the special use permit. An appeal was received in a timely manner from the appellant.

The appellants are requesting that the Commissioners overturn the decision of the Hearing Examiner. The Commissioners can select one of the following courses of action: 1) Remand to the Hearing Examiner; 2) deny the appeal and affirm the decision of the Hearing Examiner; or 3) the Board may adopt their own findings and conclusions based on the recommendation of the Hearing Examiner.

Commissioner Munks opened the hearing for public comment, noting that anything that is presented must be information that has already been presented.

Hilary Thomas, Prosecuting Attorney's Office clarified that they can only argue the facts that have already been presented.

Chris Knapp, attorney for the applicant, Whatcom Land Recycling, spoke. He stated that they do not have any dispute with the findings of fact in the Hearing Examiner's decision. They do have a problem with the Hearing Examiner's conclusions relative to numbers 6, 10, 11 and 12.

There are two potential zoning applications to review this application under ag as well as the all zoning that existed at that time.

Under the all zoning categorization, the project is sufficiently similar to the storage of natural materials that qualify under that code criteria. The Hearing Examiner did not make any particular findings of fact but used the information Planning staff provided.

The second zoning application is numbers 10, 11, and 12 under the current zoning, rural reserve, under Skagit County Code 14.16.320(2). As a permitted use the applicant can engage in the cultivation and harvest of forest products. He stated that it is their position that this activity, taking wood waste and converting it to smaller chips, is consistent with the cultivation and harvest of forest products. He emphasized that they do not agree with the Hearing Examiner's conclusion.

The Code says cultivation, harvest and production of forest products, but it doesn't specify that you can only do kiln drying. There can be no question, based on the record before the Commissioners, that converting large wood waste to smaller is the production of a forest product. The Hearing Examiner is in error to conclude that it is not processing a forest product. His conclusion under number 11 says that in order to qualify you have to plant trees on site, harvest on site and process trees on site and that if any one of those is missing you don't qualify. That doesn't make sense

He then reviewed the purpose of a rural reserve district, stating that it is a transitional activity between a clear resource use, timber harvesting and production in outlying areas and should properly occur in the rural reserve zone.

Washington Land Recycling employs six to ten people. It was formerly a dairy farm and had more impact than there would be now with a wood-processing site. Those six to ten jobs will go away if this activity is not allowed.

He requested that the Commissioners reverse the Hearing Examiner's conclusions in 10, 11 and 12 and adopt a new conclusion, that the processing of wood debris qualifies as production of forest products under the zoning code, and that the use satisfies the zoning requirements and the permit issued.

Commissioner Dahlstedt asked Mr. Knapp if the wood material he is referring to is primarily demolition material?

Mr. Knapp replied that it is a mixture of materials, from demolition materials to waste from stump removal, etc. It is not all demolition material.

Mike Beverick, 22814 Mud Lake Road, Mount Vernon, the applicant, said that basically the wood that comes in would be from Pacific Wood Tech, etc. Most of the material is clean wood and is probably 10% demolition debris that would come from a big development where they can't grind in the city limits. His company would grind and dispose of the material in the same manner and send it to Kimberly Clark. In the winter months farmers use it.

Commissioner Munks said he has been around other operations like this and his concern is the degree of debris. He said he has seen homes that have been demolished and other products that get ground into the debris.

Mr. Beverick said that if a demolition project is hauled to them it first goes to Northwest Air Pollution and then to them. They turn away any insulation or wallboard and send it to the landfill. They have a good track record with Northwest Air Pollution. They try to watch what comes in and if there are any contaminants, they don't accept it.

Paul Kline, 1282 Magnolia Lane, stated that he is the property owner adjacent to the property in question. He has lived in the area 8 years and was there when it was a dairy. He also farmed in that area and continues to run an agricultural business. He said he is pretty familiar with what constitutes noise from a dairy.

Dairy farms are very seasonal and create traffic only part of the year. The scope has changed in this proposal. The truck traffic is huge with much more noise, using excavators to load. The community of Clear Lake has started a program where the kids walk to school one day a week and he would not like to see truck traffic there. "As far as the production of forest products, we are talking about manufacturing waste, glue, painted materials, and manufactured waste being hauled in and ground up, which is totally different than forest land." He said he agrees that the Hearing Examiner made a correct decision. He said the reason he

lives in that area is for some peace and quiet. His son has leukemia and if this business is allowed to go forward he is going to have to move as he can't take a chance with dust and other things coming in. He then asked to submit some photos.

The photos could not be submitted into the record as they were not part of the original record. Mr. Black of the Planning and Permit Center viewed the photos and confirmed that he had not seen them.

Mr. Kline then requested that the Commissioners uphold the Hearing Examiner's decision.

Darrell Heisler, 2226 Buchanan St., Mount Vernon, stated that he is opposed to this kind of operation. He said when they built their home in that area five years ago they did so because it was zoned the way it was. Had they known this they probably would not have built their home in that area. He said that he agrees with the Hearing Examiner's decision. He said he has not seen 8 to 10 workers working there.

Larry Gadbois of 22416 Mud Lake Road, Mount Vernon, stated that he lives just down the road from the location. Most of the folks who are here haven't heard the noise from the dairy. You hear the tractors running and the milk truck coming in and out every day. Had it remained a dairy there would be a train coming out there every day instead of just a single truck. Had this been a dairy up until Mr. Beverick took it over any difference in traffic levels would probably not have been noticeable. He said he supports Mr. Beverick's business. It is a good location for it. As far as machinery noise goes, he has heard his grinder when it is running and Mr. Beverick has indicated that it won't be running every day. He said he has been there all his life and seen trucks and neighbors and watched the declining agriculture in that area. "Today we don't see the trucks and activities we saw ten years or so ago."

Katy Johnson stated that a group of neighbors are opposed to this. The dairy farm noise was not a problem, but everyone is worried about this because of the potential noise and additional traffic to the neighborhood. She urged the Commissioners to uphold the Hearing Examiner's decision.

David Hudson, 4710 Harbor Lane, stated that he owns a farm and land. The people who are protesting live up in the hills, anywhere from 70,000 to 100,000 feet away from the property. They will not be creating excessive noise or dust. The workers aren't at the site presently because they will be moving them from another site. At that location they haven't had a dust complaint even once. He said he has empathy for sick children, but he doesn't think it will affect anyone who is sick.

No one wants change, but change does happen and progress is progress. This business is part of the necessary things that go on. We have to have a place to grind wood and are apparently the only one in this area doing it. He asked the Commissioners to consider the facts and allow this operation to operate. He said they could be good neighbors.

Commissioner Munks then allowed a few minutes for rebuttals.

Mr. Knapp said their issue deals with a very narrow issue relative to the code and whether the proposed operation constitutes something that would be the same as processing a timber product. He referred to the definition of Forest Practices in the Code, which defines any activity relating to growing, harvesting and processing timber. This is processing timber. It won't be painted material; it will be clean material. This is the type of forest practice that the County Code defines as a forest practice.

Mr. Kline said he disagrees with Mr. Knapp's interpretation of forest practices and processing of timber. "We are talking about manufactured products. There is nothing in the Code that says that this is a similar use."

Since there was no further public comment, Commissioner Dahlstedt motioned to close the public hearing. Commissioner Munks seconded the motion, which was carried.

Commissioner Munks concluded the hearing stating that the Commissioners will come back at a later date with their decision.

ADJOURNMENT:

Commissioner Munks made a motion to adjourn the proceedings. Commissioner Dahlstedt 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