

**SKAGIT COUNTY BOARD OF COMMISSIONERS  
RECORD OF THE PROCEEDINGS  
TUESDAY, AUGUST 6, 2002**

8:30 a.m. – 9:00 a.m.                      Work Session – Operations Division Manager/Road District  
Maintenance Supervisors

**\*T** 9:00 a.m. – 10:00 a.m.                      Public Works Department – Chal Martin, Director

1.        Public Hearing – Consideration of Adoption of the 2003-2008  
            Six-Year Transportation Improvement Program
2.        Discussion – Agriculture Preservation Fund
3.        Discussion – Hazard Mitigation Grant Program Denial (Doty  
            Property)
4.        Update – Skagit River Flood Protection/Salmon Restoration  
            Project
5.        Signature – Resolution Authorizing a Petition to be Filed on  
            Behalf of Skagit County to Amend the Washington State  
            Department of Ecology’s WAC Chapter 173-503, Instream  
            Resource Protection Program – Lower and Upper Skagit Water  
            Resources Inventory Area (WRIA 3 and 4)
6.        Signature – Resolution Requesting Proposals to Provide Permit  
            Services, Infrastructure, Stream Design and Related Project  
            Support for the Helmick Road Improvement Project, Fruitdale  
            Road Improvement Project, Northern State Recreation Area, and  
            Hansen Creek Management Plan
7.        Miscellaneous

**\*T** 10:00 a.m. – 11:00 a.m.                      Planning & Permit Center – Tom Karsh, Director

1.        Consideration of Final Plat of Elk Haven Estates, Located East of  
            Helmick Road off Highway 20 (PL96-0298, PLO2-0053)
2.        Establishing a Date and Time to Consider Planning Commission  
            Recorded Motion on Pulley Re-Designation

**\*T** 11:00 a.m. – 12:00 p.m.                      Health Department – Peter Browning, Director

1.        Presentation - Tobacco-Free Skagit County
2.        Update - Vaccine Shortage and School Shots

**\*T** 2:00 p.m. – 3:00 p.m.                      Public Hearing – Consideration of Confirming and Approving the Roll,  
Rates, and Charges for the Skagit County Lake Management District No.  
1 for Big Lake, Pursuant to RCW 36.61.120

**\*T** 3:00 p.m. – 3:30 p.m.                      Decision – Variance Request for Howie’s Diner

**\*T** 3:30 p.m. – 4:00 p.m.                      Consideration of Planning Commission Recorded Motion on City  
Development Regulation Updates Within the Urban Growth Areas

4:00 p.m. – 4:30 p.m.                      Work Session – Hazard Mitigation Plan Requirements/Funding

The Skagit County Board of Commissioners met in regular session on Tuesday, August 6, 2002, with Commissioners Don Munks, Kenneth A. Dahlstedt and Ted W. Anderson present.

**PUBLIC WORKS DEPARTMENT – Chal Martin, Director**

**1. Public Hearing – Consideration of Adoption of the 2003-2008 Six-Year Transportation Improvement Program.**

Steve Flude, Assistant County Engineer/Assistant Director, stated that a public meeting for citizen input was held on July 9, 2002. The 2003-2008 Six-Year Transportation Improvement Program was presented to the Planning Commission for comments on July 23, 2003. The Planning Commission expressed no concerns with the plan program as presented.

There being no public testimony forthcoming, Commissioner Anderson moved to close the public hearing. Commissioner Dahlstedt seconded the motion, which passed unanimously. The public hearing was closed.

Commissioner Anderson moved to approve the 2003-2008 Transportation Improvement Program as presented by Mr. Flude. Commissioner Dahlstedt seconded the motion, which passed unanimously. **(Resolution No. R20020288)**

**2. Discussion – Agriculture Preservation Fund.**

Chal Martin, Director, presented a draft resolution that would create a new Skagit County fund called the Agriculture Preservation Fund. The purpose of this fund would be to finance County activities necessary for and related to preserving commercial agriculture in Skagit county, with an initial focus on achieving an ongoing agriculture ordinance, which does not further erode the industry.

Throughout the State, a consensus is emerging that a viable commercial agricultural industry is essential in order for rural counties to attain the priority goals of the Growth Management Act. Given the precarious economic condition of the commercial agriculture business in Skagit County, and in light of expected future pressure, it seems reasonable to search for ways to proactively help maintain a viable commercial agriculture industry where possible.

The proposed fund would provide a way to more easily show the County's focus on preserving commercial agriculture by consolidating currently fragmented money sources into one account, thereby more clearly communicating to the Public what resources are dedicated to this priority task. Initially, the fund's primary focus would be to get in place an ongoing agriculture section of the Critical Areas Ordinance. Later, this fund would be used at the discretion of the Board to help put solutions on the ground for the benefit of both farmers and fish.

Commissioner Anderson asked if this plan had been reviewed with the Washington State Auditor. Mr. Martin responded that it had not, however, plans have been made to meet internally with the Skagit County Auditor.

Mr. Martin stated that work will continue on the plan. Coordination with appropriate staff will take place and this item will probably appear on the preliminary budget.

**3. Discussion - Hazard Mitigation Grant Program Denial (Doty Property).**

Mr. Martin reviewed a letter that was received from the State of Washington Military Department, Emergency Management Division, regarding the Virginia Doty property. He stated that the County's request to include the Doty property in the second round of funding for the Hazard Mitigation Grant Program was turned down.

The application for the "Buy-out of Repetitive Loss/Erosion Loss Property" failed to meet the initial review criteria in order to be forwarded to the Mitigation Grant Review Committee for scoring, due to the following:

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- Inadequate/Incomplete Public Notice
- Incomplete Application – Inadequate Documentation of Alternatives
- Inadequate Cost/Benefit Ratio
- Community is Non-Compliant with the National Flood Insurance Program
- Incomplete Application

Mr. Martin indicated that letters were sent to the Washington State delegation, however, no responses have been received to date.

**4. Update – Skagit River Flood Protection/Salmon Restoration Project.**

Dave Brookings, Assistant Director, advised that the executive committee would be meeting on Friday, August 9, 2002 to discuss the Skagit River Flood Reduction/Salmon Restoration Feasibility Study. A draft letter was presented regarding Skagit River Flood Feasibility Study Funding. The letter would be sent to each Mayor formally inviting them to become actively involved in this project.

Chairman Munks stated that it is important to share with everyone exactly what is happening with this project. The County should obtain as much participation as they can financially as well as input as to what kind of a flood restoration project it will have.

**5. Signature – Resolution Authorizing a Petition to be Filed on Behalf of Skagit County to Amend the Washington State Department of Ecology’s WAC Chapter 173-503, Instream Resource Protection Program – Lower and Upper Skagit Water Resources Inventory Area (WRIA 3 and 4).**

Joe Mentor, Jr., Mentor Law Group, PLLC, Skagit County’s Special Deputy Prosecuting Attorney, reported that he was hired to review Skagit River instream flow issues. He stated that he would like to have authorization to file a Petition for Amendment of the Department of Ecology’s Skagit River instream flow administrative rule, WAC Chapter 173-503, which was adopted in April, 2001.

Amendment of WAC Chapter 173-503 is necessary because the existing Skagit River instream flow administrative rule effectively eliminates the availability of future domestic water supply for rural residential use outside of the Skagit Public Utility District’s current water service area. Ecology’s rule made all such water use interruptible when the instream flows established in the rule are not being met. Making this water supply interruptible renders it inadequate for domestic uses. Without an amendment to the instream flow rule, new wells to accommodate future rural residential growth in Skagit County outside of current service areas technically would not satisfy State water availability requirements.

Mr. Mentor indicated that failure to exempt rural water use from the Skagit River instream flow rule conflicts with the provisions of the 1996 Memorandum of Understanding (MOA) Regarding Utilization of Skagit River Basin Water Resource for Instream and Out of Stream Purposes. In the MOA, Skagit County specifically reserved the right to allow the use of exempt wells for domestic water supply in certain areas of the County. While the MOA and the existing rule provide uninterruptible water supplies of 85 cubic feet per seconds (cfs) for Anacortes, 42.59 cfs for PUD No. 1 of Skagit County, and 4.33 cfs for the Swinomish Tribe, no future uninterruptible water supply was reserved for future rural residents outside the current water supply service areas of existing water systems. In addition, many other instream flow rules that Ecology has adopted include exemptions for in-house domestic water use. The existing Skagit River instream flow does not contain such an exemption.

Mr. Mentor said he has communicated with the Governor’s Water Quality Advisor and the Department of Ecology at the senior level. He indicated that if a petition were to be filed, it would be expedited and a letter confirming the commitment would be sent. It is his recommendation that the Board of Commissioners defer action on this resolution until next week so that they can see what DOE decides confirm with the County. He also suggested revising the draft resolution under which they would be given approval to file a petition to reflect the process where they would attempt to seek consensus. They would be directed to delay filing the petition for a period of time determined by Doe where the petition

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consideration would be shortened. It would also reflect the intent of the County not to undermine the positions of the other parties in the 1996 MOA.

Commissioner Dahlstedt asked Mr. Mentor to clarify who the parties are in the Memorandum of Understanding. They are Public Utility District No. 1, the City of Anacortes, the Upper Skagit Indian Tribe, the Swinomish Indian Tribe, the Sauk-Suaittle Tribe, the Department of Ecology and the Washington State Department of Fish and Wildlife.

Discussion ensued about a letter received from PUD's General Manager, Kenneth Kukuk. Chairman Munks asked if their proposal would be a possible solution.

Mr. Mentor said the proposal is promising and they would like to review the specifics of the proposal to see if it is a constructive one.

Chairman Munks indicated that the Skagit County Board of Commissioners are ready to move forward.

**6. Signature – Resolution Requesting Proposals to Provide Permit Services, Infrastructure, Stream Design and Related Project Support for the Helmick Road Improvement Project, Fruitdale Road Improvement Project, Northern State Recreation Area, and Hansen Creek Management Plan.**

Mr. Martin stated that this Request for Proposals is related to the Northern State Recreation Area, Helmick and Fruitdale Road Improvement Projects, and Hansen Creek Management Plan. The purpose of this proposal is to obtain permits for the suite of projects, design the elements of the Hansen Creek Management Plan located on the Northern State property, design the infrastructure and utility corridors for the Northern State Recreation Area, acquire Right-of-Way for the Helmick and Fruitdale Road Improvement Projects, and delineate wetlands and provide Stormwater design for each project as necessary.

Mr. Brookings added that this will allow the negotiation of a contract that will be brought back to the Board for their consideration.

Commissioner Anderson moved to approve signing the resolution authorizing publication of the Request for Proposals as outlined by Mr. Martin. Commissioner Munks seconded the motion. The motion was carried unanimously (**Resolution No. R20020289**)

Commissioner Dahlstedt asked Mr. Martin to make sure there is a clearly defined funding for this.

**7. Miscellaneous.**

a) Mr. Martin said he met with the Treasurer and Chief Accountant and talked about a response to the ferry audit. The approach is that the County will try to fix every one of those items except for the item relating to "proof of payment when boarding is not provided". This requirement would make it necessary to bring on additional staff, which he said he does not believe is the intention of the Auditor.

b) Mr. Martin said "Intent to Purchase" notices have been posted at the transfer station to replace the hydraulics to the compactor doors at a cost of about \$6,000. The old chair must also be replaced at a cost of approximately \$30,000. The third issue is the replacement of the cylinder for the compacting unit. The department proposes moving ahead with it as it appears they will be in business for a while. The costs seem fairly high but it is a big volume operation.

**PLANNING & PERMIT CENTER – Tom Karsh, Director**

Gary Christensen, Assistant Director, Planning and Permit Center was present. He indicated that Mr. Karsh is on vacation.

**1. Consideration of Final Plat of Elk Haven Estates, Located East of Helmick Road off Highway 20 (PL96-0298, PL02-0053).**

Marge Swint, Associate Planner, presented for consideration the final plat of Elk Haven Estates for Ron Valiquette, located east of Helmick Road off of Highway 20. She reported that the final plat was accepted in March of this year and the appropriate departments have reviewed it. The conditions have been met and a Notice of Development Application was posted on the property and in the newspaper. A letter was received from Dean Goodell, an adjoining property owner, asking that a fence be installed between his property and the property in question. The Hearing Examiner said he would take that request under consideration but did not make it part of his written order.

Chairman Munks asked for further clarification of Mr. Goodell's request for a fence.

Ms. Swint explained that Mr. Goodell was concerned about people venturing onto his property. At the public hearing the Hearing Examiner asked for comments about this and none were made.

Commissioner Anderson motioned to approve the final plat of Elk Haven Estates, PL02-0053 (PL96-0298, as outlined. Commissioner Dahlstedt seconded the motion, which passed unanimously. **(Resolution No. R20020290)**

**2. Establishing a Date and Time to Consider Planning Commission Recorded Motion on Pulley Re-Designation.**

Kirk Johnson, Senior Planner, stated that on June 18, 2002, the Skagit County Planning Commission approved a recorded motion recommending permanent adoption of an ordinance to redesignate the "Pulley" property at the Bow Hill Road and Interstate 5 Interchange from Rural Freeway Services to Rural Reserve. This recommendation would make permanent Interim Ordinance No. R20020137, adopted April 30, 2002 by the Board of County Commissioners. The ordinance responds to the Western Washington Growth Management Hearings Board's Compliance Order in Case No. 00-2-0049c finding the Pulley RFS designation not in compliance with the Growth Management Act.

Commissioner Anderson motioned to set Tuesday, August 20, 2002 at 11:00 a.m. as the date for the Pulley reconsideration. Commissioner Dahlstedt seconded the motion, which carried unanimously.

**3. Miscellaneous.**

Mr. Christensen said they have one miscellaneous item relating to dismissing the appeals (PLO-0124 & PLO2-0169) of Dena Blatt and upholding the Hearing Examiner's decision denying variance requests PL99-0429, PL99-0430, and PLO1-0391.

Chairman Munks asked if there was language in the resolution saying that the County agrees to give Ms. Blatt the building permits once she has gone through the revisions. He also asked if when Ms. Blatt brings forward her requests for consideration, will those applications be looked at carefully before they are granted. Ms. Swint said they will be looked at to be sure they are in compliance before a permit is granted.

Mr. Christensen assured the Commissioners they would continue to review everything based on Skagit County Code as well as the Uniform Building Code.

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Commissioner Dahlstedt motioned to accept a resolution dismissing the appeals of Dena Blatt as outlined by Ms. Swint. Commissioner Anderson seconded the motion, which passed unanimously. **(Resolution No. R20020291)**

**HEALTH DEPARTMENT – Peter Browning, Director**

**1. Presentation – Tobacco-Free Skagit County.**

Peter Browning, Director, reported that there are more and more tobacco cessation programs as an outgrowth of tobacco settlement dollars are received by the state. He introduced Carol Weatherall, Tobacco Control Manager, for the Skagit County Tobacco Control Program. Ms. Weatherall then introduced Ashley, a student at Mount Vernon High School, and Lacey from Sedro Woolley High School, who serve on the Tobacco Free Skagit County Board.

Ms. Weatherall presented statistics and information about monies received to work on alcohol prevention. Skagit County has been great on meeting all of the criteria the State has required. Additional funding is forthcoming and it is hoped that a part of this funding will be given to Skagit County. The focus would then be on working with students and Sea-Mar Clinic to establish the goal of getting get rid of smoking areas.

Lacey and Ashley spoke of their involvement with the program.

Eliminating exposure to secondhand smoke is also a priority. The majority of people would like restaurants to be tobacco free. It is hopeful that the State will become 100 percent tobacco free in bars and restaurants in the future.

Ashley reminded the Commissioners that policy changes really change lives. Also, funding is crucial for the program.

Mr. Browning said they have a multi-faceted group in the schools. He told the ladies that the Commissioners are very supportive of non-smoking programs and informed them about the smoking shelter being constructed on the County campus.

**2. Update – Vaccine Shortage and School Shots.**

Amy Tidrington, Public Health Nurse, reported. She said there have been shortages of vaccines but those vaccines are now available.

She reviewed the vaccination requirements for children going to school and urged parents to get their shots before school starts in September. The Health Department vaccination clinic is open Monday through Friday from 8:00 a.m. until 4:30 p.m. The telephone number is 336-9477. They do accept insurance and medical coupons are cashed. If someone is unable to pay for the vaccine they will be charged based on a sliding scale.

Ms. Tidrington concluded her comments by encouraging parents to come in early for shots for their children. Now is a better time than it will be just prior to the opening of school.

Mr. Browning told the Commissioners that Ms. Tidrington has done an excellent job since taking over the vaccination program from Linda Speck. He also thanked Linda Thomas and acknowledged her work as an accountant to bill insurance companies. He said he believes that they will do well this year in receiving compensation from insurance companies.

**PUBLIC HEARING – CONSIDERATION OF CONFIRMING AND APPROVING THE ROLL, RATES, AND CHARGES FOR THE SKAGIT COUNTY LAKE MANAGEMENT DISTRICT NO. 1 FOR BIG LAKE, PURSUANT TO RCW 36.61.120.**

Dave Brookings, Assistant Director, Public Works Department, stated that the purpose of this public hearing is to consider written testimony regarding objections to the proposed special assessment roll for Skagit County Lake Management District No. 1 for Big Lake. Notice of this public hearing, including the requirement for any and all objections to be made in writing prior to the opening of the hearing was published in the Skagit Valley Herald on July 25 and August 1, 2002. Failure to file written objections prior to the opening of the hearing is deemed to waive objections. Copy of the notice was also sent directly to each affected property owner.

Richard Moe, Burlington, has a 50' lot and would like to know why he is being charged for a 60' lot.

Lee First, Lake Management Technician, responded that the actual charge is based on whether the property is developed or undeveloped, not on the actual footage.

Joe Benston, 12290 Pulver Road, Burlington, questioned what the yearly rate will be on an average 50' lot. Ms. First said an undeveloped lot would pay \$60 per year and a developed lot would be charged \$168 per year.

Commissioner Anderson said it was important to note that the County did not propose the formation of the Lake Management District, the people of the lake did.

Ms. First then read a letter received from Jeannette Shay into the record.

There being no further public testimony, Commissioner Dahlstedt moved to close the public hearing. Commissioner Anderson seconded the motion and the public hearing was closed.

Commissioner Anderson motioned to approve the special assessment roll for Big Lake to fund lake treatment activities for Lake Management District #1. Commissioner Dahlstedt seconded the motion, which passed unanimously. **(Resolution No. R20020292)**

**DECISION – VARIANCE REQUEST FOR HOWIE'S DINER.**

Peter Browning and Corinne Story were present for this item.

Mr. Browning stated that this meeting is a continuation of a meeting held on July 2, 2002, regarding a variance application for Howie's Diner in Marblemount. He indicated that it would be sometime before a public water system would be installed for the community of Marblemount. It was also suggested to Mr. and Mrs. Howard that items could be sold in their establishment that would not require a Health Department license.

Commissioner Anderson expressed his unhappiness about a letter that was distributed from Arthur R. Bull, owner of Eagle Country Store & Towing in Marblemount. It states "It has come to our understanding that there is a possibility that Howie's Diner will be issued an operating variance for the water system by the Skagit County Commissioners. If this becomes so we will, as we have done in the past, be requesting a variance for the installation and operation of a deli sandwich shop at our location".

He feels a public health issue is not what is being considered. All of the businesses in that particular area are functioning on the same water. The Howard's water supply has been tested many times and it has been proven that there is no contamination. The Howard's have taken every possible precaution not to endanger public health. Commissioner Anderson sees this as a process issue and it the job of the Board to bring common sense to the issue.

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Mr. Browning said the Howard's should have gone through the correct process and obtained an approved water system, prior to taking out a bank loan and building the establishment.

Commissioner Anderson said they were acting in good faith as Public Utility District No. 1 had indicated that water improvements would be complete in June, 2001 and by September, 2002 the tank, well and the meters would be completed.

Mr. Browning stated that the Health Department cannot offer a variance and set a precedence.

Commissioner Anderson then reiterated that this is not a public health issue. A concession was made for the US Post Office and he finds it hard to understand why they want to suppress a business that is located in one of the most distressed parts of Skagit County.

Chairman Munks said the whole issue here is the water. The variance request may only be granted if there was no health hazard and the variance is consistent with the intent of the food service regulations. There are two requirements that need to be addressed. They must have their restaurant approved as a food service establishment by the County, and they must have their water supply approved by the State. The fact that the water supply is the primary issue at both levels does not change the requirement for two separate approval procedures. Obviously, if the proposed restaurant were already connected to an approved public water supply, both requirements would be met.

Mr. and Mrs. Howard indicated that they never knew about the State requirement. No one has taken the time to explain any of the steps in the process, except for the legal steps to get before the Board.

Commissioner Dahlstedt asked if they knew they would have to have an approved water source in order to start the project.

Mr. Howard replied that they did and they received assurance from PUD that it would all be in place by September of 2002.

Ms. Story said the variance could not be allowed based on an extended menu being proposed by the Howard's.

Chairman Munks suggested this matter be delayed to allow for more discussion with the Skagit County Health Department to see if a compromise could be worked out.

Mr. Browning said he will request the services of Ron Feld, Mediation Services, to oversee the discussion.

Dr. Howard Liebrand, Skagit County Health Officer, indicated that the variance that is being suggested is for an extended menu. The denial would be based on that and the potential health concerns associated with it.

Chairman Munks stated that if an agreement can be reached, the Howard's could withdraw their request.

**CONSIDERATION OF PLANNING COMMISSION RECORDED MOTION ON CITY DEVELOPMENT REGULATION UPDATES WITHIN THE URBAN GROWTH AREAS.**

Gary Christensen, Assistant Planning Director, reported that the Board met on July 23, 2002 to consider a Planning Commissioner Recorded Motion recommending approval of city development regulation updates from the cities of Burlington, Mount Vernon and Sedro Woolley, as well as the Town of Concrete.

There were certain concerns raised by those regulations that were of particular interest to the Board. These included City of Sedro Woolley impact fees and requirements that new developments in Mount Vernon Urban Growth Areas connect to sewer.

Kirk Johnson, Senior Planner, advised the Board of the three options they may wish to decide upon.



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- Adopt the Planning Commission's recorded motion as presented.
- Remand the matter back to the Planning Commission for further hearings and deliberations.
- The Board would conduct their own public hearing following the 15-day public notification requirements.

Commissioner Anderson said in the interest of all people involved, he motioned to approve having a public hearing on September 10, 2002 at 11:00 a.m. Commissioner Dahlstedt seconded the motion, which carried unanimously.

**MISCELLANEOUS.**

1. Vouchers audited and certified by the auditing officer as required by R.C.W. 42.24.080, and those expense reimbursement claims certified as required by R.C.W. 42.24.090, have been recorded on a listing, which has been made available to the Board.

As of this date, August 6, 2002, the Board by majority vote, did approve for payment those vouchers included in the above-mentioned list and further described as follows:

Purchase Card Electronic Payment to JP MORGAN CHASE from Clearing Fund 696 in the total dollar amount of \$17,883.48 (Transmittal No. C-68-02).

2. On behalf of Youth and Family Services, Staff presented a Resolution Approving Interlocal Agreements with the City of Mount Vernon and Whatcom County . This would allow for the purchase of a variety of services to provide structure summer recreation for youth as an opportunity to enhance self-esteem, provide positive role models, provide clean/sober activities, as well as other positive physical and social outcomes.

Commissioner Dahlstedt moved to approve the Resolution authorizing the execution of Interlocal Agreements with the City of Mount Vernon and Whatcom County as outlined. Commissioner Anderson seconded the motion, which passed unanimously. **(Resolution No. R20020293 and Contract Nos. C20020290 & C20020291)**

**ADJOURNMENT.**

Commissioner Dahlstedt made a motion to adjourn the proceedings. Commissioner Anderson seconded the motion, which passed unanimously.

**BOARD OF COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON**

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Don Munks, Chairman

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Kenneth A. Dahlstedt, Commissioner

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Ted W. Anderson, Commissioner

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ATTEST:

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