

**RECORD OF THE PROCEEDINGS  
SKAGIT COUNTY BOARD OF COMMISSIONERS  
MONDAY, JANUARY 6, 2003**

- 8:15 a.m. – 9:15 a.m.                      Work Session – County Administrator
- \*T**    9:15 a.m. – 9:30 a.m.                      Election of the Chairman of the Board and Committee Assignments
- \*T**    9:30 a.m. – 10:00 a.m.                      Public Hearing – To Consider Testimony Regarding Skagit County’s Proposal to Renew the Provisions of Interim Ordinance No. R20020236, Establishing Controls on RMI-Designated Properties, Imposing Controls on Certain Properties Within the Big Lake Rural Village, Restricting Applications for the Open Space Reserve CaRD Designation Pursuant to SCC 14.18.310, Restoring the Lot Aggregation Provisions of Former SCC 14.04.190(5) and Restricting County Action on Certain Comprehensive Plan Amendments
- 10:00 a.m. – 10:45 a.m.                      Department Head Meeting
- 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.                      Closed Record Appeal of the Hearing Examiner’s Decision Dated September 16, 2002 and Reconsideration Dated November 4, 2002, Submitted by Hendrik (Rick) Weyands, Appeal No. PL02-0704
- 2:30 p.m. – 4:30 p.m.                      Executive Session – Personnel, Litigation and Land Acquisition
- 7:00 p.m. – 8:00 p.m.                      4-H Leaders Council Meeting (Skagit County Fairgrounds)

The Skagit County Board of Commissioners met in regular session on Monday, January 6, 2003, with Commissioners Kenneth A. Dahlstedt, Ted W. Anderson, and Don Munks present.

**ELECTION OF THE CHAIRMAN OF THE BOARD AND COMMITTEE ASSIGNMENTS.**

Commissioner Anderson moved to elect Kenneth A. Dahlstedt as Chairman of the Board for 2003. Commissioner Munks seconded the motion, which passed unanimously.

The Committee Assignment list was reviewed and appointments were made to the various committees. Commissioner Anderson moved to approve the list of committee assignments as discussed. Commissioner Munks seconded the motion, which passed unanimously.

**PUBLIC HEARING – TO CONSIDER TESTIMONY REGARDING SKAGIT COUNTY’S PROPOSAL TO RENEW THE PROVISIONS OF INTERIM ORDINANCE NO. R20020236, ESTABLISHING CONTROLS ON RMI-DESIGNATED PROPERTIES, IMPOSING CONTROLS ON CERTAIN PROPERTIES WITHIN THE BIG LAKE RURAL VILLAGE, RESTRICTING APPLICATIONS FOR THE OPEN SPACE RESERVE CaRD DESIGNATION PURSUANT TO SCC 14.18.310, RESTORING THE LOT AGGREGATION PROVISIONS OF FORMER SCC 14.04.190(5) AND RESTRICTING COUNTY ACTION ON CERTAIN COMPREHENSIVE PLAN AMENDMENTS.**

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Gary Christensen, Interim Director, indicated that the proposed Interim Ordinance No. R20020236 is part of an ongoing action that the County has been attempting to address. The ordinance has been in place for six months and is due to expire on January 9, 2003. This simply extends it for another six months. While all the issues remain the same, they are affording themselves some flexibility on comprehensive plan amendments.

John Moffat, Prosecutor, reminded the Board that originally the provisions were adopted a year ago as part of an effort to settle issues from the Growth Management Hearings Board. He said negotiations have taken place and as Mr. Christensen indicated, the provision of the new ordinance will allow the flexibility to process new comprehensive plan amendments. Mr. Moffat said other comprehensive plan amendment requests would be pursued in the next month or so.

Commissioner Munks asked Mr. Christensen how many comprehensive plan amendments the County might possibly be able to get through. Mr. Christensen said there are approximately 20, but that doesn't mean all will be acted upon.

Chairman Dahlstedt opened the public hearing.

Louie Requa, 806 Metcalf, Sedro-Woolley, expressed concerns about how long the process has taken. He spoke about several aspects of the proposed interim ordinance that are disturbing to him, including the lot aggregation. He feels the CaRD situation is even more perturbing to him than the aggregation.

Mr. Requa also said he knows the interim ordinance needs to be approved, however, he would like to see the lot aggregation reinstated the way it had been for years and hopes the public participation process comes back into the mix.

Commissioner Anderson motioned to close the public hearing. Commissioner Munks seconded the motion, which passed unanimously. The public hearing was closed.

Commissioner Anderson asked why the original language was changed on lot aggregations.

Mr. Moffat explained that in 2000 when the County adopted the Unified Building Code, the Growth Management Hearings Board said we needed to do something with lot aggregation and those provisions were appealed. He indicated that new language is being discussed.

Mr. Christensen said the Department hopes to come up with language that is more predictable and easier to administrate.

Commissioner Munks made a motion to approve the interim ordinance as outlined by Mr. Christensen. Commissioner Anderson seconded the motion, which passed unanimously.  
**(Ordinance No. O20030001)**

**DEPARTMENT HEAD MEETING.**

Chairman Dahlstedt opened the Department Head meeting by introducing all of the newly elected officials.

Gary Rowe, County Administrator, stated that Commissioner Munks is on a Legislative Steering Committee that meets every other Friday in Olympia. He would like everyone to have the opportunity to contact himself or Commissioner Munks with any legislative issues they might want to have discussed with the legislators. He also announced that Jim Potts is the lobbyist for Skagit County.

Mr. Rowe next discussed that beginning this month for 2003, Department Head meetings will be held on the first and third Mondays of each month. To improve the process of having items for

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the regular Agenda and/or the Consent Agenda before the Board, all requests and documents will need to be turned in by 5:00 p.m. each Tuesday. He also said it has been a custom to bring items forth under miscellaneous. That will be curbed as much as possible as the public feels those items are not being dealt with under the public process. Mr. Rowe said what we are looking for is a consistent format.

Brad Whaley, Finance Director, reported that there will be a lot of big issues to deal with in the 2003 budget that will affect everyone. A survey will be conducted regarding the budget process and they will be trying to obtain more background information as to what items are essential, mandatory, and discretionary in each department.

Mr. Rowe indicated that the Department Head meeting held on the third Monday of each month will become more of a work session. It would be moved to a downstairs hearing room so that discussions could be held on grants, funding, etc...

Tom Sheahan, Director of Emergency Management, said he currently sits on the Regional Task Force for Terrorism, which involves five other counties. He would like to do a brief presentation during a future Department Head meeting on homeland security.

Commissioner Munks said an emergency meeting was held regarding the stalking/groping incident on campus that recently took place. It was decided that the best solution to the problem would be to try and make the facility secure. Therefore, the public restrooms will be locked at 4:15 p.m. to avoid the possibility of someone hiding in them after the campus is shut down for the evening. Walkie-talkies would also be made available for the maintenance workers.

Ron Feld, Mediation Services, announced the departure of Jessica Lee, Office Coordinator. He asked everyone to please be patient during the transition.

Mr. Whaley also mentioned that the budget books are now posted to the internal and external web sites. This year everything will be indexed for easier viewing. Departmental data will also be added as the history will go back five years instead of two years.

**CONSENT AGENDA.**

Commissioner Anderson motioned to approve the Consent Agenda for Monday, January 6, 2003, Items #2 through #9. Commissioner Munks seconded the motion, which passed. Item #1 was removed for further review.

**COMMISSIONERS' OFFICE:**

1. Record of the Proceedings for Monday, December 30, 2002. **(Removed)**
2. Resolution appointing Chuck Ruhl to the Civil Service Commission effective January 1, 2003 and expiring on December 31, 2008. **(Resolution No. R20030002)**

**PROSECUTING ATTORNEY:**

3. Amendment No. 1 to Personal Services Agreement **No. C20020295** with Eugene Knapp. This amendment extends the termination date of the agreement from December 31, 2002 to February 28, 2003. All other terms and conditions of the original contract shall remain in effect. **(Amendment No. A20030001)**

**SENIOR SERVICES:**

4. Amendment No. 4 to Contract **No. 05562** with Northwest Regional Council to add an additional \$1,200 to the contract to purchase materials for Medication Management for

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people with diabetes. The effective date of this amendment is August 1, 2002.

**(Amendment No. A20030002)**

5. Contract with Northwest Regional Council for congregate/home delivered meals and Title V senior employment services in Skagit County. The contract shall commence on January 1, 2003 and continue through December 31, 2003. Compensation shall be paid at \$220,550. **(Contract No. C20030001)**

**SUPERIOR COURT:**

6. Personal Services Agreement with Karen Lerner to act as the Court Commissioner for Mental Health and Involuntary Commitment hearings for Skagit County Superior Court. The agreement shall commence on January 1, 2003 and continue through December 31, 2003. Compensation shall be paid at the rate of \$2,000 a month, plus mileage at the currently approved rate. **(Contract No. C20030002)**

**TREASURER'S OFFICE:**

7. Resolution authorizing the cancellation of uncollectible Personal Property taxes for 2002 in the amount of \$3,080.94. **(Resolution No. R20030003)**

**PUBLIC WORKS DEPARTMENT:**

8. Resolution to call for a public hearing regarding a speed limit revision on a portion of Best Road #44010. The public hearing will take place on Tuesday, January 28, 2003 at 9:00 a.m. **(Resolution No. R20030004)**
9. Amendment No. 1 to Vendor Services Agreement **No. 05179** with Emerald Petroleum Services, which would extend the original contract until November 30, 2003. The Contractor currently picks up, transports, disposes, and recycles or re-uses the used oil collected from the three County -operated collection sites. Additional compensation shall be paid in the amount of \$4,700. **(Amendment No. A20030003)**

**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, January 6, 2003, the Board by majority vote, did approve for payment those vouchers included in the above-mentioned list and further described as follows:

Warrants numbered 135535 through 135775 from Clearing Fund 696 in the total dollar amount of \$1,286,379.38 (Transmittal No. C-01-03)

2. Staff presented a Resolution authorizing a call for a public hearing for the purpose of amending the 2002 Budget for various funds. Commissioner Anderson motioned to approve the call for a public hearing. Commissioner Munks seconded the motion, which passed unanimously. The public hearing will be held on Tuesday, January 21, 2003 at 11:45 a.m. **(Resolution No. R20030005)**
3. Staff presented an Interlocal Cooperative Agreement between Skagit County and the Bullerville Utility District. Commissioner Anderson moved to approve the agreement as outlined. Commissioner Munks seconded the motion, which passed unanimously. **(Contract No. C20030003)**

**PUBLIC COMMENT PERIOD.**

No one was present for the public comment period.

**CLOSED RECORD APPEAL OF THE HEARING EXAMINER'S DECISION DATED  
SEPTEMBER 16, 2002 AND RECONSIDERATION DATED NOVEMBER 4, 2002,  
SUBMITTED BY HENDRIK (RICK) WEYANDS, APPEAL NO. PL02-0704.**

Chairman Dahlstedt reviewed the ground rules for the appeal hearing, indicating that we would begin with a Staff report, and a presentation by the appellants. He stated that only official parties of record would be allowed to speak thereafter.

Marge Swint, Associate Planner with the Planning & Permit Center, advised that the applicant is appealing the Hearing Examiner Decision to deny Variance Request PL00-0096 for reduced road standards and Special Use/Conditional Use Request PL00-0097 for a clustered residential development.

She explained that the subject property is zoned SF-2 (City of Sedro-Woolley) and the Comprehensive Plan designates the area as an Urban Growth Area for the City of Sedro-Woolley. Skagit County Code 14.02.040 states that for all land in unincorporated Growth Management Act (GMA) designated urban growth areas, the provisions of the applicable city code, when adopted by Skagit County ordinance shall be applied. The property is approximately 1.3 acres in size and is located on the north side of State Street. Roads bound the property on three sides – Cougar Lane to the west, State Street to the south, and Brookshire Lane to the east. Cougar and Brookshire Lanes are private roads. The property is currently serviced by individual septic system and public water. The adjoining properties are all developed with single family residences. The lots range in size from approximately 10,500 sq. feet to approximately 33,000 sq. feet. Cougar and Brookshire Lanes are both single lane roads with Cougar Lane being graveled while the majority of Brookshire Lane is paved.

Ms. Swint said the appeal under consideration has a number of issues, all stemming from applications to allow the applicant to further develop his property. Based on the size of the subject property, the applicant would have to create 5 or 6 lots to meet the City minimum/maximum lot size and density requirements. The applicant wanted to only create 4 lots. Because of the property's size, it cannot be subdivided into four single-family lots and meet the City's growth management density requirements. The applicant pursued the idea of creating clustered housing that would meet the density requirement while allowing for a short plat.

Clustered housing can be considered in this zoning designation through the conditional use permit process. In order to complete the proposed project, other items were identified that would need to be completed or variances approved. As required by Sedro-Woolley Code Section 17.08.010(B)(1), the applicant requested a special/conditional use permit for clustered housing. In addition, the applicant requested a variance to allow for on-site septic for a land division (SWMC 16.16.070) and variances from the road width, paving, and curb/gutters/sidewalk requirements (SWMC 15.40.060).

A public hearing for the proposal was held on August 14, 2002. The Hearing Examiner denied the special/conditional use permit for clustered housing, which was required in order to complete the proposed land division. However, if a land division were to be approved, then the Hearing Examiner ruled that the variance with conditions attached should be granted for the development of on-site septic for an interim period. In addition, the Examiner approved the request for the reduced road width but denied the other reduced road standards request. After receiving the Hearing Examiner's order, the applicant filed a reconsideration request, which was subsequently denied.

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Ms. Swint said one item of note needs to be made concerning Item #10 in the appeal application. The applicant's representative submitted information that was not heard at the public hearing and cannot be considered in this decision. Ms. Swint clarified that this is a closed record hearing, meaning that no new evidence can be provided, and only parties of record can testify. She indicated that the Board has been provided with a copy of the Hearing Examiner's Decision and other pertinent documents.

John Ravnik, Attorney representing Mr. Weyands, stated that in response Item #10, this "new" information was provided because the application form for the "Request for Reconsideration to the Hearing Examiner" requested any new evidence. This "new information" was the Hearing Examiner's decision for a very similar, nearby, project for Jeff Benham, PL01-0804. This information was provided by Skagit County staff to the applicant on March 22, 2002, as an example of other proceedings conducted by the Hearing Examiner. Skagit County staff should have made a record of this information being submitted to the applicant, since it was provided as information to the applicant prior to this project's meeting before the Hearing Examiner on August 14, 2002.

Mr. Ravnik went on to explain that Staff from the City of Sedro-Woolley and Skagit County have taken the position that Mr. Weyands is attempting to develop his property to "Rural" standards and that they insist he must develop his property to "Urban" standards. City Staff also contends that Mr. Weyands' property is a large parcel and that he is trying to avoid the cost of constructing standard urban infrastructure while still yielding the maximum number of units.

From 1999 to early 2001, the City Planning Director referred to the concept of "two residential units on one lot" as a duplex. In the spring of 2002, the City retained a new Planning Director and suddenly the use of "duplexes" was not acceptable to the City, but if the applicant wanted to do a "clustered residential development" the City would consider it.

The Staff report leads one to believe that the use of clustered housing was solely the applicant's choice. The applicant's initial request to the City and County was for four, single-family residences. Single-family lot sizes, when served with public sewer, must be between 8,400 sq. feet and 10,890 sq. feet. Single-family lot sizes, when served by septic, cannot be smaller than 12,500 sq. feet, according to Skagit County codes. Although there is a public 6 -inch-diameter sanitary sewer on the south side of State Street, approximately 200'-250' west of Mr. Weyands property, the City of Sedro-Woolley considers it a substandard sewer and not usable for the proposal herein. The next closest sanitary sewer is located on the north side of State Street, approximately 800' to the west.

Commencing back in the fall of 1999, both the City and County were supportive of on-site septic systems. To accommodate the required lot sizes for on-site septic, either a variance in the permissible lot size was needed, or the use of duplex residential structure should be considered. The City was supportive of having two residential units per lot, which allowed the lot sizes to be between 12,600 sq feet and 21,780 sq. feet. In 1999, the City considered annexing the subject property, including surrounding properties, in order to substantiate serving this property with public sewer. After a community meeting regarding annexation the City said they would not support annexation.

Mr. Ravnik indicated that the proposal is for an urban-level of development using the City's current codes. At no point has this proposal ever been for a rural development. He explained that this application deals with three specific topics consisting of: 1) A Conditional Use Application to allow for two residences on three of the four proposed lots. The fourth lot is to encompass the existing on-site residence; 2) A variance request for the use on on-site septic systems in lieu of serving the property with public sanitary sewer; and 3) A variance request to reduce the extent of roadway improvements to Cougar Lane adjoining the subject property.

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Mr. Ravnik said the developer has every right to utilize a short plat process. The City should recognize that a long plat does not create as many residential units as a conditional use short plat, that this proposal achieves the GMA mandate of infill, and that the City does not have the authority to force the applicant to construct the City's sewer.

Pat Hayden, Attorney for the City of Sedro-Woolley, stated that this is not a case where the City or County is denying Mr. Weyands the right to subdivide his property. Rather, Mr. Weyands is seeking to develop his property to "Rural" standards, and the City and County insist that he develop his property to "Urban" standards, as he is within the unincorporated urban growth area (UGA) of the City of Sedro-Woolley, and City development standards, adopted by Skagit County pursuant to the Growth Management Act (GMA), apply to this development.

The City of Sedro-Woolley has no objection to the subdivision proposal of Rick Weyands in general, but insists that he construct his development and improvements to meet City development standards adopted by Skagit County. The City did not oppose all variances, but did oppose those which would waive urban infrastructure. The City would support a subdivision into more than four lots, which included the construction of urban infrastructure.

Mr. Hayden feels this appeal is an example of a developer seeking to develop a large parcel under the short plat process to avoid the cost of constructing standard urban infrastructure, while still yielding a maximum number of units.

Mr. Weyands declines to connect to a gravity feed sewer line located 800 feet from the development, and declined to construct standard road improvements, which would have allowed him to develop his property through the subdivision process into more than 4 lots. Instead, he sought to use the short plat process and avoid these requirements, contending that they were too expensive. The only way a short plat (4 lots) would meet the GMA density requirements, as adopted by the City of Sedro-Woolley, would be to place multi-unit housing on this property. Mr. Weyands attempted to do so under a "clustering" provision of the City code designated to preserve wetlands and open space, available through the conditional use permit process for this SF-2 zone, by promoting his septic drain field as "open space". This provision of the City code does not apply to this "open space". The Hearing Examiner correctly denied the conditional use permit.

Mr. Hayden said that in addition, the applicant's property is located on Cougar Lane, a private gravel road serving six other residences. His development would add at least four new residences to this road. The City supported a variance from the 50-foot road width standard, but opposed a variance from remaining construction standards for an asphalt surface and other improvements to both Cougar Lane and east State Street. City ordinances require the applicants to asphalt the road, construct a curb, gutter, sidewalk, and storm drainage facilities for surface runoff. The Hearing Examiner correctly denied a variance from these standards.

Mr. Weyands has the burden of proving that the decision of the Hearing Examiner was clearly erroneous. He has failed to meet this burden of proof, and failed to show that the decision of the Hearing Examiner was clearly erroneous in denying the conditional use permit and variances. Therefore, the decision of the Hearing Examiner should be upheld in both cases.

Russ Stamey, a resident of Brookshire Lane, expressed worry about the additional sewage leaking into the ground, as well as additional traffic the proposal would create on State Street and Cougar Lane. He reiterated the fact that Cougar Lane is a one-way road.

Natasha Vantor, 9636 Cougar Lane, said there isn't any room for the proposed development. As it is, her driveway is already used as a turnaround. She questioned who would be responsible for the upkeep on Cougar Lane as Mr. Weyands doesn't bother to keep up his own yard for visual purposes. She is opposed to this type of growth and the general downgrading of the area.

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Mr. Ravnik said it would appear that some headway has been made that has not occurred in the last four years. If Mr. Weyands could revert back to what he originally proposed, he would, however he was told he couldn't.

Mr. Hayden said you cannot ignore the code of the City of Sedro-Woolley and that Mr. Weyands cannot offer the burden of proof that the Hearing Examiner was clearly erroneous in denying the conditional use permit and the variances.

After a brief discussion with Staff, Chairman Dahlstedt announced that the Board would render their decision in this matter on Tuesday, January 14, at 1:30 p.m.

**ADJOURNMENT.**

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

**BOARD OF COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON**

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Kenneth A. Dahlstedt, Chairman

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Ted W. Anderson, Commissioner

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Don Munks, Commissioner

ATTEST:

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