

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
TUESDAY, MARCH 25, 2003**

- 8:30 a.m. – 9:00 a.m. Work Session - Road Supervisors
- *T** 9:00 a.m. – 10:00 a.m. Public Works Department – Chal Martin, Director
Discussion and Possible Action - Memorandum of Agreement, Rural Skagit River Water Rights
- *T** 10:00 a.m. – 11:00 a.m. Planning & Permit Center – Gary Christensen, Interim Director
1. Consideration of Planning Commission Recorded Motions for Open Space Items:
 - A. PL98-0474, San Juan Preservation Trust, Guemes Island
 - B. PL99-0725, Diana Davis, Babcock Road
 - C. PL01-0982, William Mundt, Beaver Lake Road
 - D. PL99-0722, John Klein, Utopia & Hoehn Roads
 - E. PL01-0966, Tim Northern, Bulson Road
 - F. PL02-0217, Skagit Conservation District, between Skiyou Slough and the Skagit River
 - G. PL02-0143, Eugene Ekblad, Best Road near the North Fork Bridge
 2. Set Date and Time for Consideration of Planning Commission Recorded Motion on Interim Ordinance No. O2003002, dealing with Required Lot Sizes for Public Safety Facilities
 3. Presentation of Building Code Effectiveness Grading Schedule Results
 4. Deliberation and Possible Action – Skagit County’s Proposed Adoption of Sedro-Woolley Ordinance No. 1428-02, as Renewed by Ordinance No. 1437-02, which Imposes Certain Requirements on the Subdivision of Property within the Sedro-Woolley Urban Growth Area
 5. Miscellaneous
- 3:00 p.m. – 4:00 p.m. Ground Breaking Ceremony for the McIntyre Performing Arts Center at Skagit Valley College

The Skagit County Board of Commissioners met in regular session on Tuesday, March 25, 2003, with Commissioners Kenneth A. Dahlstedt, Ted W. Anderson, and Don Munks present.

PUBLIC WORKS DEPARTMENT – CHAL MARTIN, DIRECTOR

1. Discussion and Possible Action – Memorandum of Agreement, Rural Skagit River Water Rights.

Chal Martin provided a brief history of the water rights process. He indicated that Joe Mentor, Skagit County’s Water Rights Attorney, has been working with the City of Anacortes, Skagit Public Utilities District (PUD) No. 1, and the Washington Department of Ecology (DOE) to approve a Memorandum of Agreement (MOA). The purpose of the MOA is to provide uninterrupted water rights to future rural residential water users in the Skagit River basin, primarily upriver from the PUD pipeline crossing. The issue was left unresolved in the 1996 agreement. Then, with the subsequent adoption by the DOE of the Skagit Instream Flow Rule in April of 2001, all new exempt wells became uninterrupted.

Commissioner Anderson stated that there are some areas near low-flow streams that haven’t been able to be developed, however, with a MOA in place, it is hoped that development could begin.

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Mr. Martin indicated that DOE would like to be a signatory to the agreement so they could declare it consistent with the 2001 Instream Flow agreement. However, they now say the Instream Flow Rule would have to be modified to accommodate the new agreement. He also said that the Tribes are asking to be included in the agreement as well.

Commissioner Munks expressed his aggravation with the Tribes. He said at all times the Tribes have been asked to be involved but they chose not to. A year later and after many discussions and a looming deadline of April 9, 2003 in which to file an appeal, they now come back with debatable items that have already been discussed. He said Anacortes is fully on board and feels that PUD is also and for the Tribes to come forth with changes at the 11th hour is frustrating.

Mr. Mentor said he appreciated Commissioner Munks' leadership in working through this issue. The process is coming near the end and unfortunately, it is not clear whether or not an agreement can be reached. He stated that if the State wants to make an amendment to the Instream Flow Rule, the County would have no choice but to appeal. The Tribes have indicated that they now want to be parties to an agreement and insist that nothing be signed until that happens. Mr. Mentor said he would be meeting with them this week to ascertain what decision they plan on making. He said he prefers to have more time to exhaust all avenues prior to filing an appeal, however, he continues to hope that the few remaining issues can be resolved.

Mr. Mentor then presented a resolution regarding approval of an interlocal agreement regarding domestic water supplies in the Upper Skagit River Watershed in a manner that is protective of Instream flows and for other purposes. He said it has two effects, which are basically a commitment to sign an agreement and to issue an appeal.

Commissioner Anderson moved to approve the Resolution as outlined by Mr. Mentor and read the following:

NOW THEREFORE, BE IT RESOLVED AND HEREBY ORDERED BY THE SKAGIT COUNTY BOARD OF COMMISSIONERS THAT:

- 1) Skagit County agrees to sign the attached interlocal agreement known as the "Memorandum of Agreement Regarding Domestic Water Supplies in the Upper Skagit River Watershed," in a form substantially similar to the draft Memorandum of Agreement, attached hereto as Exhibit A and incorporated by reference, provided such agreement is signed by the City of Anacortes, Skagit Public Utility District No. 1 and Washington State Department of Ecology, on or before April 9, 2003, and
- 2) The Skagit County Prosecuting Attorney is hereby authorized and directed to file an appeal of WAC 173-503 on behalf of Skagit County in the event that all necessary parties to the Memorandum of Agreement do not sign the MOA prior to April 9, 2003.

Commissioner Munks seconded the motion, which passed with a unanimous vote. **(Resolution No. R20030103)**

2. Miscellaneous.

Mr. Martin next discussed a letter to Colonel Graves of the US Army Corps of Engineers regarding the Skagit County Flood Damage Reduction Feasibility Study interim schedule and cost change request. He said the letter supports their efforts to amend the existing Feasibility Study Project Management Plan increasing the total amount authorized by \$400,000; (\$200,000 Corps, \$200,000 County).

Commissioner Anderson motioned to approve the letter as outlined by Mr. Martin. Commissioner Munks seconded the motion, which passed with a unanimous vote. **(Approved)**

PLANNING & PERMIT CENTER – GARY CHRISTENSEN, INTERIM DIRECTOR

1. Consideration of Planning Commission Recorded Motions for Open Space Items.

- A. PL98-0474 – San Juan Preservation Trust, Guemes Island (**Resolution No. R20030110**)
- B. PL99-0725 – Diana Davis, Babcock Road (**Resolution No. R20030109**)
- C. PL01-0982 – William Mundt, Beaver Lake Road (**Resolution No. R20030107**)
- D. PL99-0722 – John Klein, Utopia & Hoehn Roads (**Resolution No. R20030108**)
- E. PL01-0966 – Tim Northern, Bulson Road (**Resolution No. R20030105**)
- F. PL02-0217 – Skagit Conservation District, between Skiyou Slough and the Skagit River (**Resolution No. R20030104**)
- G. PL02-0143 – Eugene Ekblad, Best Road near the North Fork Bridge (**Resolution No. R20030106**)

Commissioner Anderson motioned to approve the Open Space items as outlined. Commissioner Munks seconded the motion, which was passed with a unanimous vote.

2. Set Date and Time for Consideration of Planning Commission Recorded Motion on Interim Ordinance No. O20030002.

Gary Christensen, Interim Director, stated that a date and time need to be set for review and deliberations regarding the Planning Commission's recorded motion on Interim Ordinance No. O20030002, which deals with required lot sizes for public safety facilities. Public safety facilities siting may require a lot size smaller than the minimum lot size required for land division in the rural or Natural Resource Land zoning designations. This can lead to excessive conversion of natural resource and rural lands along with financing obstacles for public service providers. Mr. Christensen indicated that the Planning Commission recommends adoption of a permanent Ordinance.

Commissioner Anderson moved to review and deliberate on Interim Ordinance No. O20030002 on Tuesday, April 15, 2003 at 10:00 a.m. Commissioner Munks seconded the motion, which was carried.

3. Presentation – Building Code Effectiveness Grading Schedule Results.

Bill Dowe, Building Official, said the Washington Surveying and Rating Bureau (WSRB) recently audited the Building Division and rated them according to the Building Code Effectiveness Grading Schedule (BCEGS). This audit occurs every five years. The division achieved a score of 3, a reduction from a 2 in 1997. The rating reduction followed their reduction in staff, training budget and training hours over the last five years. Only 7% of jurisdictions scored higher than they did.

Mr. Dowe stated that six additional points are needed to obtain a score of 2. Some of those points that are necessary can be achieved without amending the budget or the number of staff, however, it is not his intention to pursue a rating of 2 at this time, but will reconsider it at budget time. He also added that several suggestions for improvement were offered by the WSRB.

4. Deliberation and Possible Action – Skagit County's Proposed Adoption of Sedro-Woolley Ordinance No. 1437-02, Which Imposes Certain Requirements on the Subdivision of Property Within the Sedro-Woolley Urban Growth Area.

Mr. Christensen reviewed Sedro-Woolley Ordinance No. 1428-02, as renewed by Ordinance No. 1437-02. This Ordinance requires developers who create new lots to install urban sewer and street infrastructure, or provide equivalent funding. Sedro-Woolley submitted the ordinance to Skagit County for proposed adoption as part of the July 15, 2002 round of City Code updates. The Planning Commission recommended approval of the ordinance, however, the County Commissioners expressed concerns about the Ordinance and other Sedro-Woolley development issues and subsequently held its own Public Hearing on March 11, 2003 to take public testimony. Testimony was heard both for and against adoption

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of the Ordinance. The Board of County Commissioners' concerns included Sedro-Woolley's Capital Facilities Plan and the date of approval, higher costs for gaining development approval within the UGA than in the City, and failure to document the need for proposed uses of traffic and impact fees. They also requested public comment on various types of shadow platting as part of Growth Management Act (GMA) compliance measures.

Commissioner Anderson wished to clarify the definition of "developer," stating that you can't categorize a person that owns one lot as a "developer." He added that it was important to recognize that developments of any stature or size should be required to put in City services; however, the pivotal issue here is the small property owner at the periphery of the City.

Mr. Christensen said this is a matter which has some ongoing GMA compliance issues before the Growth Management Hearings Board (GMHB) as the County is under an order from the GMHB to address transference of governance issues and in doing so, to keep current with City Development Regulations.

Commissioner Anderson stressed that these are County residents that live in the UGAs. The County did adopt Sedro-Woolley's standards but what the Board is being asked to adopt now is different. Shadow platting was allowed before but is currently not being allowed. He said that he has yet to see an updated Capital Facilities Plan. To require anyone that wants to develop their property to have full services in Sedro-Woolley is in effect a moratorium on growth. Mr. Anderson stated he viewed the land in question and there are only three large parcels of land involved. Most others are small parcels of ground where no growth would occur as no one would be willing to install the sewer and street infrastructure.

Commissioner Anderson moved that the County not adopt Sedro-Woolley's proposed ordinance and Commissioner Munks seconded the motion. Commissioner Munks commented that growth management stipulated that the majority of growth would be in the urbanized areas around cities. In order to accommodate, the potential boundaries of the cities had to be expanded by creating UGAs. Annexations were created to expand out from cities into those UGAs, but no funding mechanisms were created. Currently, the City of Anacortes and the City of Mount Vernon are expanding services within the UGAs primarily within the annexed areas. The major problem, which was created by the GMA, is that there is now a body of people who are County residents that have no voice in City government. To put an interim ordinance in place that takes away the ability of these residents in the very outlying part of the UGA to develop their property without putting in City standards is not representing anyone. There needs to be a standard that either allows people to develop or we go back to the old standard, but then the State will force us at some point to create new UGAs.

Commissioner Munks also stated that he does not know the solution. He added that we are under a mandate with GMA, and there needs to be some means for those residents within the UGAs that are too far away from services to develop their property. He was hopeful that the County could come to an agreement with the City to accommodate these small developers. He fully agreed with Commissioner Anderson that large developers should be required to put in City services, and he also felt that if an individual develops a lot then they should sign an agreement to meet the City standard when it is available.

Commissioner Anderson said that this at least allowed the property owner an option. He stated that if things continue as they are going, a group of citizens could challenge the legality of property rights issues. He has worked with the Planning Department and has presented several different options for compromise with no success.

Chairman Dahlstedt reminded everyone that someone must be responsible for paying the bills for these services. The County has given a significant amount of money for funding Mount Vernon's sewer expansion.

Commissioner Anderson noted that the County has also given money to Sedro-Woolley for extension of sewer lines and to upgrade the sewer plant.

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Chairman Dahlstedt stated that the Commissioners must represent all citizens of Skagit County and can not favor one city over another. There are some serious problems that need to be worked out with the cities. They shouldn't have the undue burden of citizens receiving services at the expense of the existing citizens within the cities. However, there is a tremendous commercial County tax base in Mount Vernon that has been absorbed by the City that could have been committed to covering the costs of infrastructure. Growth management was not only designed to bring in commercial revenue areas but to bring in a balance of residential areas as well. Chairman Dahlstedt said the County has been a good team player in allowing the transition of the commercial base, but here hasn't been a commitment of that funding to bring in residential areas. There has got to be a compromise. He indicated that the County must work with the cities to make sure they don't have the undue burden of people trying to work around the system to avoid paying for services.

With that, the motion to not adopt the Sedro-Woolley ordinance was passed unanimously.

Mr. said he would bring forth documents reflecting this action to the Board within the next week or so.

5. Miscellaneous.

1. Mr. Christensen reported that the Planning & Permit Center had a booth at the Skagit-Island County Builders Association in the Cascade Mall this past weekend. Various staff members took turns answering questions regarding building, construction, and remodeling issues.

2. Chairman Dahlstedt stressed the importance of accounting for impact fees, stating that he feels the County should reach out to the cities and towns to get a report of how those funds are being utilized.

Mr. Christensen said school districts are accountable as well, and there is greater public awareness about knowing how those dollars are being spent. Commissioner Anderson asked if there were criteria for usage of impact fees. Mr. Christensen said he would forward the RCW statute that deals with impact fees and the requirements to the Board for review.

Chairman Dahlstedt also stressed that the County has a responsibility to work with Sedro-Woolley and provide a solution for their ordinance concerns. They have a responsibility to the citizens both inside and outside the boundaries.

Louie Requa of Skagit Surveyors commended the Board on their stand on the Sedro-Woolley ordinance issue. He extended his willingness to participate in drafting a new ordinance.

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, March 25, 2003, the Board by majority vote, did approve for payment those vouchers included in the above-mentioned list and further described as follows:

Payroll warrants numbered 958953 through 959064 in the total dollar amount of \$104,610.69 (Transmittal No. P-11-03); and

Payroll warrants numbered 119944 through 120808 in the total dollar amount of \$917,629.37 (Transmittal No. P-12-03).

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ADJOURNMENT.

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

**BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Kenneth A. Dahlstedt, Chairman

Ted W. Anderson, Commissioner

Don Munks, Commissioner

ATTEST:

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