

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
TUESDAY, JUNE 17, 2003**

- 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. Discussion – Staffing for July 3, 2003 Big Lake Fireworks Display
 2. Discussion – Draft Interlocal Agreement with Swinomish Tribal Community Regarding South March's Point Road Intersection Project
 3. Update – Guemes Island Ferry Task Force
 4. Signature – Flood Control Assistance Account Program (FCAAP) Grant Application for the 2003-2005 Biennium
 5. Miscellaneous
- 10:00 a.m. – 10:30 a.m. Revenue and Expenditure Forecast
- 10:30 a.m. – 11:00 a.m. Discussion – Maintenance Work on Parking Area at the Concrete Senior Center
- 11:00 a.m. – 12:00 p.m. Appeal of the Hearing Examiner's Decision on the PUD Water Line as Submitted by Roger Pederson
- 1:00 p.m. – 4:30 p.m. Low Impact Development Workshop (PUD #1 Aqua Room – 1415 Freeway Drive, Mount Vernon)

The Skagit County Board of Commissioners met in regular session on Tuesday, June 17, 2003, with Commissioners Kenneth A. Dahlstedt, Ted W. Anderson, and Don Munks present.

PUBLIC WORKS DEPARTMENT – CHAL MARTIN, DIRECTOR

1. Discussion – Staffing for July 3, 2003 Big Lake Fireworks Display.

Chal Martin, Director, stated that three to four years ago the Department worked with the Washington State Patrol to put together a substantial presence at Big Lake for the crowds that gather for the annual 4th of July fireworks display. In the past, Public Works has provided the manpower as their role deals mainly with flagging and traffic control. He indicated that this year no one has come forth to volunteer for that evening and they are hesitant to use summer interns to accomplish the job due to safety concerns. Mr. Martin said he will work with the Sheriff's Department, the State Patrol and the Big Lake Fire Department to try and resolve this issue without directing Public Works staff to work that evening. He also noted that he has talked with the Big Lake Fire Department about certifying their staff for flagging.

The Commissioner asked Mr. Martin to continue working with the various entities to find a solution and to keep them posted as to what solution has been reached.

2. Discussion – Draft Interlocal Agreement with Swinomish Tribal Community Regarding South March's Point Road Intersection Project.

Steve Flude, Assistant Engineer, discussed a proposed Interlocal Agreement with the Swinomish Tribal Community. This agreement is the mechanism by which the Transportation Improvement Board funding, in the amount of over \$500,000, for the South March's Point Road Intersection Project would be transferred from Skagit County to the Tribe. The project has been completed. He reported that the Tribe objects to Item #7 "Sovereign Immunity Waiver by the Swinomish Indian Tribal Community" in the

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proposed agreement. Tribal staff has indicated that the agreement would be presented to the Tribal Senate for consideration only if this paragraph is removed.

Chairman Dahlstedt said the County is certainly interested in partnering with the Tribe, however, their request is unreasonable.

Hilary Thomas, Prosecuting Attorney's office, indicated that the language is in the agreement to protect the County and it is her recommendation to leave it in.

Commissioner Anderson feels the ball is in their court. The Tribe didn't like the language but has offered no other language. Because we have accepted the money, it puts Skagit County in an audit situation. Therefore, we must be certain to abide by all the rules.

Ms. Thomas said she will contact the Tribe and ask them to state their reasons for not accepting the language and to see if they care to propose language of their own.

3. Update – Guemes Island Ferry Task Force.

Mr. Flude next introduced Glen Veal, Chairman of the Guemes Island Ferry Task Force, who provided an update on what has taken place thus far. Mr. Veal said the Task Force has held three meetings that have focused on the history of the Guemes Island Ferry System, laying the groundwork for developing a revenue and expense model, and adequately framing the questions to be answered by the Task Force. He then proceeded to present to the Board the key problem statements that the Task Force is using as the foundation for its mission.

Commissioner Anderson said he likes the direction the Task Force is going and appreciates the time and effort that everyone has been putting into this process. Chairman Dahlstedt concurred and Commissioner Munks noted that he hasn't received a single phone call since the Task Force was appointed.

4. Signature – Flood Control Assistance Account Program (FCAAP) Grant Application for the 2003-2005 Biennium.

Dave Brookings, Public Works Administrator, presented the Board with a Flood Control Assistance Account Program (FCAAP) Grant Application to the Washington State Department of Ecology (DOE) for funds available for the 2003-2005 biennium. This grant allows funds from DOE to be used for accomplishing activities by the County and the U. S. Army Corps of Engineers in support of the completion of the Skagit River Comprehensive Floodplain Hazard Management Plan – Phase IV. Mr. Brookings also noted that Dike Districts #3 and #12 have also submitted applications for FCAAP funds to the Skagit County Public Works Director for review, prioritization and forwarding, along with Skagit County's application, to the Department of Ecology for funding consideration. Dike District #12 is requesting \$100,000 and Dike District #3 is requesting \$112,000.

Chairman Dahlstedt stated that the County's request should be the first prioritization, Dike District #12 second and Dike District 3 third.

Commissioner Munks also said the County should be the lead and he doesn't have a priority for the other two as they are a 50/50 proposition.

Commissioner Anderson motioned to approve signing the Department of Ecology FCAAP Grant Application for funding for the 2003-2005 biennium and setting the priorities as Skagit County No. 1, Dike District #12 as No. 2 and Dike District #3 as priority No. 3. Commissioner Munks seconded the motion, which passed with a unanimous vote. **(Approved)**

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5. Miscellaneous.

- a) Mr. Martin presented a Resolution to the Board awarding the bid for the "Morris Street Stormwater Vault Repair, Project No. ES9700-3-340" to Advanced Construction, Inc. for the low bid of \$55,500. Commissioner Anderson made a motion to approve the Resolution as outlined. Commissioner Munks seconded the motion, which passed unanimously. **(Resolution No. R20030209)**
- b) Mr. Flude next reviewed the design of the roundabout truck apron curve. He introduced two alternatives to the apron, one a 27 degree angled curve and the other is a 45 degree angled curve. After a brief discussion, Mr. Flude indicated that he will bring a final decision before the Board in the near future.

REVENUE AND EXPENDITURE FORECAST

Finance Director, Brad Whaley, reported on the Skagit County General Fund Revenue and Expenditure Forecast for 2004 – 2008, which was prepared with the help of Mike Edwards, Budget Analyst.

The Commissioners said they appreciated being made aware of the long-term forecast and asked to be kept in the loop when further information becomes available.

DISCUSSION – MAINTENANCE WORK ON PARKING LOT AREA AT THE CONCRETE SENIOR CENTER.

Tim Holloran, Senior Services Director, spoke to the Board about needed maintenance work to address the hazards of railroad tie curbing and surface root damage on the parking areas at the Concrete Senior Center. He indicated that Public Works staff is willing to carry out the scope of maintenance work this summer. Because this item was not budgeted for, Mr. Holloran said he is seeking a special allocation of \$12,000 from the capital building fund to be appropriated to the Public Works Department for this project.

Commissioner Anderson moved that the Board of County Commissioners approve the allocation of \$12,000 from the capital building fund to fund the maintenance work on the Concrete Senior Center parking area to be performed by the Public Works staff. Commissioner Munks seconded the motion, which passed unanimously. **(Approved)**

APPEAL OF THE HEARING EXAMINER'S DECISION ON THE PUD WATER LINE AS SUBMITTED BY ROGER PEDERSON.

Linda Kuller, Senior Planner, was sitting in for Daniel Downs who was the staff person for this project. Ms. Kuller provided a summary of the appeal. Roger Pederson is appealing the Skagit County Hearing Examiner's decision on two permit applications by Skagit County Public Utility District (PUD) #1 to install approximately 7000 feet of eight-inch water line, along Bayview Edison Road to the Padilla Bay Interpretive Center, and approximately 700 feet of four-inch water line to extend down Seabird Lane, a private road. Reconsideration requests were submitted by Mr. Pederson and Julia Hungar, and on April 28 2003, those requests were denied. This is a closed record appeal pursuant to Skagit County Code 140.06.170, and the burden is on proof of the appellant. The Board may select one of the courses of action: remand the matter for the further consideration by the Hearing Examiner; deny the appeal and affirm the decision of the Hearing Examiner; or if the Board believes the Hearing Examiner's decision is clearly erroneous, they may adopt their own findings, conclusions, and decision based on the record made before the Hearing Examiner. Daniel Downs recommended upholding the Hearing Examiner's decision with one amendment to correct the location of the project.

Roger Pederson, 12354 Bayview Cemetery Road, Mount Vernon stated that the issues before the Board fall into six different categories. 1) What is the status and the validity of the LUD? 2) Have the statutes to form LUD's been properly constituted by the PUD? 3) Conflicts with the proposed waterline and the

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Growth Management Act (GMA); 4) Comprehensive Plan issues; 5) fire hydrants/fire protection; and 6) technical aspects of the permit process itself. Mr. Pederson cited that the petition process that was used to form LUD #29 was declared unconstitutional by the Washington State Supreme Court so that applications should not have been allowed to be submitted. He also said that a majority of the property owners' signatures in the proposed area were not obtained, so another parcel on Bayview Cemetery Road was added. Mr. Pederson said that the Comprehensive Plan – Coordinated Water System Plan states that water lines may be extended outside urban growth areas for public health and safety purposes only. He also stated that there are waterflow issues with the proposed fire hydrants. Mr. Pederson also stated the original description of the property was flawed. Mr. Pederson provided written rebuttals to each of the Hearing Examiner's findings to the Board in his notice of appeal. He urged the Commissioners to remand this matter to the PUD for proper authority and start over again with the original LUD process.

Warren Gilbert, Attorney for the PUD, discussed the legal formation of LUD's and the implications of the GMA and the Comprehensive Plan. He said that the petition process cited by Mr. Pederson was for the annexation of property and does not apply to the LUD process. This process is in RCW 54, and in general there are two methods for forming LUDs. One is a resolution method and one is a petition method. The PUD typically uses the petition method. Under the resolution method when 10% of property owners in the area request to form a LUD, public notice is given to property owners within the boundary, and a LUD can then be formed so long as not more than 51% of property owners file protests. A petition method would not go forward unless there are 50% of property owners on the petition. In this particular case, only two written protests were received. He stated that the process was followed correctly. In regards to the GMA, the distinction for water in a rural area is how it is being used. During the formation of LUDs, boundaries are frequently adjusted. It is not uncommon for requests to add additional property.

Chairman Dahlstedt asked if there were any instances of saltwater, and John Moffat stated that if this was not in the original record this was not permissible.

Mr. Pederson reaffirmed that he felt the petition process was improper and invalid. He said added that PUD is seeking seven easements and they should be seeking eleven or possibly twelve easements.

Chairman Dahlstedt said that typically the Board takes some time and comes back at a later date to render a decision. Commissioner Anderson moved that the Board would meet on Monday June 23 at 10:00 to render their decision on the closed record appeal by Roger Pederson. Commissioner Munks seconded the motion, which carried unanimously.

MISCELLANEOUS.

1. Staff presented a grant re-application for the Skagit County Delinquency Prevention Program. It will ensure continuation of funding in the amount of \$150,000 for the ARIS program by the Governor's Juvenile Justice Advisory Board (GJJAC). All match funds are included in the current departmental budget.

Commissioner Anderson motioned to approve the re-application as outlined. Commissioner Munks seconded the motion, which passed unanimously. **(Approved)**

2. Commissioner Anderson also motioned to approve a Quit Claim Deed and Real Estate Excise Affidavit between Skagit County and Donna C. Bailey for the purposes of a boundary line adjustment on property located in the "Plat of Town of Montborne." Commissioner Munks seconded the motion, which passed with a unanimous vote. **(Approved)**

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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