

**RECORD OF THE PROCEEDINGS  
SKAGIT COUNTY BOARD OF COMMISSIONERS  
MONDAY, AUGUST 25, 2003**

- 8:00 a.m. – 8:45 a.m.                    Work Session – Commissioners
- 8:45 a.m. – 9:30 a.m.                    Work Session – County Administrator
- \*T 10:00 a.m. – 11:00 a.m.                Public Hearing – To Consider Public Testimony on a Proposal to Adopt Interim Development Regulations for Implementation Within the Unincorporated Urban Growth Areas of the Cities of Anacortes, Burlington, Mount Vernon and Sedro-Woolley
- 11:00 a.m. – 11:30 a.m.                    Consent Agenda and Miscellaneous Items
- 11:30 a.m. – 11:45 a.m.                    Public Comment Period
- \*T 11:45 a.m. – 12:00 p.m.                Presentation – Skagit HEAT (Helping Educate About Tobacco)
- 1:00 p.m. – 2:00 p.m.                    Appeal (PL03-0453) Submitted by Skagitonians to Preserve Farmland of the Hearing Examiner’s Decision to Uphold the Planning & Permit Center’s Decision to Approve Administrative Special Use Request PL02-0377 Submitted by Bob and Linda Alfano
- 2:00 p.m. – 4:00 p.m.    Executive Session – Personnel, Litigation and Land Acquisition

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

**PUBLIC HEARING – TO CONSIDER PUBLIC TESTIMONY ON A PROPOSAL TO ADOPT INTERIM DEVELOPMENT REGULATIONS FOR IMPLEMENTATION WITHIN THE UNINCORPORATED URBAN GROWTH AREAS OF THE CITIES OF ANACORTES, BURLINGTON, MOUNT VERNON AND SEDRO-WOOLLEY.**

Kirk Johnson, Senior Planner provided an overview of the process. The proposed Ordinance comes from negotiations between the County and the cities over the past several months. If adopted the Ordinance would remain in place for six months or until the cities and the County reach a permanent resolution. He highlighted some of the major points in the ordinance. Those included: a common set of developmental regulations; a minimum lot size for the subdivision of residential and commercial property; two new zoning districts – “Urban Reserve Residential” and “Urban Reserve Commercial-Industrial;” allow existing lots of record smaller than 5 acres to be built upon subject to new regulations; and exempt certain “Special District” from the new regulations. The Planning Department is requesting that the Board take action tomorrow during the Planning Department agenda.

Pat Hayden, Attorney for City of Sedro-Woolley, 720 Murdock Street, stated that the issues are fairly complex. He said there are some adversarial issues and some common ground. The present system has not worked well. The City is here because growth without infrastructure is very costly. The City is willing to let the Board make a decision and is willing to work toward a negotiation. The current system is not uniform, and this is an opportunity to deal with the system as well as the issues. Mr. Hayden encouraged the Commissioners to adopt the Interim Ordinance. He added that the main point is that there will be an opportunity to address this matter one last time before it goes to the Hearings Board.

Geraldine Hallberg, Planner for City of Sedro-Woolley, 720 Murdock Street, said that the proposal was remarkable in the support it has from all the cities despite their individual differences. She stated that one of the major strengths of the Ordinance is that there are incentives for developers to annex into the City, and that the Ordinance would be easy to administer. She provided an illustration of the impacts of the current system on an area of Sedro-Woolley.

**RECORD OF THE PROCEEDINGS  
MONDAY, AUGUST 25, 2003  
PAGE NO. 2**

Commissioner Anderson expressed his concerns about the costs of developing and questioned the City's exempted "Special Districts." Ms. Hallberg said that the Northern State property, and the Open Space and Public zone property on Third Street, which is the old sewer plant, are the only designated "Special District" and they could possibly be eliminated.

Scott Thomas, Attorney for the City of Mount Vernon, addressed why certain areas were exempted. He said that infrastructure needs were different for commercial areas. Mr. Thomas said that the City has spoken with property owners in Cedardale and they expressed a desire to be exempted. He echoed the fact that the previous process has been difficult to administer. Mr. Thomas said that this will preserve, not deny property owner rights. He said that the County is not able to provide the level of services required for the urban areas.

Commissioner Anderson noted the fact that Mount Vernon's proposal would take in commercial properties, but not residential. That takes away the from the County's tax base.

Vicky Yarcho, 16252 Mountain Springs Lane, Mount Vernon, said that her family owns approximately 80 acres on the eastern boundary of the UGA. Ms. Yarcho said they that have been unable to do any short platting or selling of the property to family. She said that her family is supportive of the Ordinance.

Wayne Crider, Executive Officer for the Skagit & Island Builder's Association, 15571 Pederson Road, Burlington, commented on Portland's Growth Management Act that had all areas in the UGA five acres. He said that then when the City of Portland wanted to expand the cost was immense. He added that this is only a six-month Ordinance and it will allow more time to look at the issues in depth.

Louie Requa, Skagit Surveyors and Engineers, Sedro-Woolley commented on the short plat issue in the City of Sedro-Woolley. He said that he doesn't agree with the City's statistics. Mr. Requa said that very little development has occurred since the requirement of full infrastructure since it is so costly. He questioned the non-compliance issue, the emergency status, and how the issue of development of lots in the unincorporated area of Sedro-Woolley got into the proceedings. He also spoke about the impact fees relating to the City of Sedro-Woolley. Mr. Requa was not supportive of the Ordinance.

Madlyn Yarcho of 16253 Andal Road, Mount Vernon, was left a large parcel of property by her husband that is located in Mount Vernon's UGA. She has been unable to do anything with her 80 acres of land, and under current regulations will be unable to do anything until there is an urban sewer system. Ms. Yarcho stated that is unlikely to happen in her lifetime. She is supportive of the Ordinance.

John Moffat of the Skagit County Prosecutor's Office responded to Mr. Requa's comment about how the issue of developments of lots in the unincorporated areas got into the proceedings. He said that the issue has always been involved in that the Hearing's Board has always discouraged development in the UGA's without urban services. That is part of what the County is required to do as far as transforming urban governance from the County to the City. The City of Sedro-Woolley attempted to extend that GMA requirement into the unincorporated areas by asking the County to adopt their ordinance and that is how the issue got on the table.

Mr. Requa asked if the ordinance would prevent development of five units or more with infrastructure while the interim ordinance is in place. Mr. Hayden said that the development could occur, but the property would need to be annexed.

Commissioner Anderson moved and Commissioner Munks seconded the motion to close the public hearing. The motion carried unanimously.

The Planning staff will prepare two Ordinances and the Commissioners will render a decision tomorrow as part of the Planning Department agenda.

**RECORD OF THE PROCEEDINGS  
MONDAY, AUGUST 25, 2003  
PAGE NO. 3**

**CONSENT AGENDA.**

Commissioner Anderson motioned to approve items 1 through 15 on the Consent Agenda for Monday, August 25, 2003. Commissioner Munks seconded the motion, which passed unanimously.

**COMMISSIONERS' OFFICE:**

1. Record of the Proceedings for Monday, August 18, 2003.

**ADMINISTRATIVE SERVICES:**

2. Ordinance amending Chapter 3.16 of the Skagit County Code to Create a Lodging and Tax Advisory Committee to serve in an advisory capacity on the Skagit County Special Excise Tax. **(Ordinance No. O20030025)**

**HUMAN RESOURCES:**

3. Resolution authorizing the approval of sick leave transfer for Heidi Mitchell-Sanchez. **(Resolution No. R20030286)**

**HUMAN SERVICES:**

4. Resolution reappointing Viola Jones to the Substance Abuse Board for the term beginning September 2, 2003 through September 1, 2006. **(Resolution No. R20030287)**

**PARKS & RECREATION:**

5. Personal Services Agreement with Fidalgo Pool and Fitness Center to provide facility use and swimming lessons for Best SELF students beginning July 1, 2003 through August 31, 2003 at a cost of \$5,000. **(Contract No. C20030366)**

**PLANNING & PERMIT CENTER:**

6. Personal Services Agreement with Mark Personius to provide consultation services needed to develop Master Planned Resort (MPR) implementing regulations. The agreement shall commence on August 1, 2003 and continue until May 31, 2004. The total project cost is expected to be \$26,086. **(Contract No. C20030367)**
7. Resolution authorizing an Interlocal Cooperation Agreement among the Cities of Burlington, Mount Vernon, and Sedro-Woolley; Skagit County; Skagit Transportation Authority; the Port of Skagit; and the Washington State Department of Transportation, establishing the Metropolitan Planning Organization. **(Resolution No. R20030288)**

**TREASURER:**

8. Resolution canceling warrants that are over one year old as listed in Exhibit A. **(Resolution No. R20030289)**

**YOUTH & FAMILY SERVICES:**

9. Interlocal Cooperative Agreement between the State of Washington Administrative Office of the Courts and Skagit County on behalf of the Skagit County Juvenile Court to process Becca bill programs and services within its jurisdiction. The agreement shall commence on July 1, 2003 and continue until June 30, 2005. Reimbursement for costs incurred during the contract period shall total a maximum of \$296,112. **(Contract No. C20030368)**

**RECORD OF THE PROCEEDINGS  
MONDAY, AUGUST 25, 2003  
PAGE NO. 4**

**PUBLIC WORKS:**

10. Resolution calling for an update of vendor lists for maintenance material and rental equipment. **(Resolution No. R20030290)**
11. Resolution awarding the bid for the Edison Slough Flood Control Project to Island Construction Site & Utilities, Inc., the lowest bidder to meet the specifications for a total amount of \$179,496. **(Resolution No. R20030291)**
12. Schedule 74 Underground Conversion, Project Construction Agreement between Skagit County and Puget Sound Energy for the La Conner-Whitney and Chilberg Road Intersection Project. This agreement will provide for construction services for the underground conversion of three power poles located within the project area and will be completed in conjunction with the La Conner Morris Street Improvement Project. The Project Design Agreement was signed by the Board on April 7, 2003. This agreement shall become effective upon the date of execution and continue until December 31, 2003. The total cost estimate is \$88,100. **(Contract No. C20030369)**
13. Temporary Right-of-Entry Construction Agreement between Skagit County and Concrete Schools #11, owner of Parcel No. P70502. This will give the County and its assigns the right to enter upon land described in Exhibit A and shown in Exhibit B, which is hereby incorporated by reference, for the purpose of performing road construction improvements for Main Street in Concrete. No compensation is being paid. **(Contract No. C20030370)**
14. Amendment No. 2 to Personal Services Agreement **No. C20030016** with Berk & Associates, which will remove all references to the Ferry Advisory Committee and replace those references with the Guemes Island Ferry Fares and Schedule Task Force. This change is required to clarify the scope of the contract. All other terms and conditions of the original agreement shall remain in effect. **(Amendment No. A20030122)**
15. Amendment No. 3 to Personal Services Agreement **No. C20020107** with David Evans and Associates, which will extend the termination date to December 31, 2003 due to an unanticipated delay in the right-of-way acquisition process for the Snee-oosh Drainage Improvement Project. This amendment shall become effective July 28, 2003. All other terms and conditions of the original agreement shall remain in effect. **(Amendment No. A20030123)**

**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 25, 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 150753 and 150754 from Clearing Fund 696 in the total dollar amount of \$34,257.08 (Transmittal No. C-98-03); and

Warrants numbered 150755 and 151211 from Clearing Fund 696 in the total dollar amount of \$1,833,638.28 (Transmittal No. C-99-03); and

ACH Transfer Request Form and Certification to Premera Blue Cross from Clearing Fund 696 in the total dollar amount of \$36,842.92 (Transmittal No. C-100-03); and

Warrants numbered 129736 through 130852 from Clearing Fund 695 in the total amount of \$1,110,619.71 (Transmittal No. C-31-03); and

**RECORD OF THE PROCEEDINGS**  
**MONDAY, AUGUST 25, 2003**  
**PAGE NO. 5**

Warrants numbered 960278 through 960421 from Clearing Fund 695 in the total amount of \$161,418.16 (Transmittal No. C-32-03).

2. Staff presented a Personal Services Agreement with Clothier & Head, P.S., Certified Public Accountants to provide accounting services in a criminal investigation involving State V. Dean and State V. Mullen. The agreement shall be effective June 23, 2003 through April 15, 2004. Compensation shall be \$1,500, plus additional authorized services at the discretion of the prosecuting attorney to paid at an hourly rate. Commissioner Anderson moved and Commissioner Munks seconded the motion to approve the agreement as outlined. The motion carried unanimously. (**Contract No. C20030371**)
3. Allison Mohns of Planning and Permits presented materials requesting the appointment of Scott Mangold to replace Malcolm Bishop, who is resigning from the Edison Subarea Clean Water District Advisory Board. Commissioner Anderson moved approval of the appointment. Commissioner Munks seconded the motion, which carried unanimously. (**Resolution No. R20030292**)
4. Commissioner Munks requested Board reconsideration of Planning Item #15 (**Ordinance No.20030024**) from the August 18, 2003 Consent Agenda. Commissioner Munks voted against the proposed ordinance at the July8, 2003 Commissioner's meeting prior to the item being presented for approval as part of the August 18, 2003 Consent Agenda. Commissioner Anderson moved and Commissioner Munks seconded the motion to reconsider the ordinance, which carried unanimously.

Commissioner Anderson moved and Commissioner Dahlstedt seconded approval of **Ordinance No.20030024** Northern State Recreation Area Comprehensive Park and Recreation Plan Amendment for the Northern State Recreation Area Facility. The motion carried 2-1 with Commissioner Munks casting the opposing vote. The Ordinance will be amended to indicate the correction on the Commissioner's signature page.

**PUBLIC COMMENT PERIOD.**

Jim Vogelsang, 1404 Second Street, Mount Vernon addressed the Board regarding his concerns that the proposed shooting range project would be eliminated during the reevaluation of the Parks Department Comprehensive Plan.

**PRESENTATION – SKAGIT HEAT (HELPING EDUCATE ABOUT TOBACCO).**

Ruby Sanborn of the American Cancer Society presented the Washington State SpeakOUT Youth Advocate of the Year Award to Nathan Schaner, senior at Sedro-Woolley High School and youth advocate for tobacco prevention and control.

Marjorie Bell introduced four members of the Skagit HEAT (Helping Educate About Tobacco) who made a presentation to gain the support of the Commissioners for a proposal for a Clean Indoor Air Resolution for Skagit County. A packet of signatures of individuals supporting the Resolution to eliminate smoking in the workplace and public places was presented to the Board. After review, the Commissioners stated that they were supportive, but were not willing to sign the document without legal review. The Commissioners told the group that in the future they needed to have documents reviewed by legal staff prior to presenting them for consideration. The Board commended the group for their efforts, and said that this is an important issue. After legal review, the Resolution will be reconsidered. The Commissioners will notify Skagit HEAT.

**APPEAL (PL03-0453) SUBMITTED BY SKAGITONIANS TO PRESERVE FARMLAND OF THE HEARING EXAMINER'S DECISION TO UPHOLD THE PLANNING & PERMIT CENTER'S DECISION TO APPROVE ADMINISTRATIVE SPECIAL USE REQUEST PL02-0377 SUBMITTED BY BOB AND LINDA ALFANO.**

Marge Swint of the Planning Department gave a description of the project. The application is for an Administrative Special Use Permit (PL02-377) to allow for a seasonal roadside stand in a 1,728 square foot building on 37.28 acres. The property is located at the intersection of LaConner Whitney Road and Downey Road in Mount Vernon. The property is zoned Agriculture-NRL, which requires that seasonal roadside stands greater than 300 feet be reviewed by a Level I administrative process. Ms. Swint added that for projects like this, the staff decision is made after much discussion with senior staff. The Skagitonians to Preserve Farmland are appealing Hearing Examiner's decision to uphold the Planning Department's decision to grant the permit. The application was deemed complete in October 2002. It was for a seasonal roadside stand. The proposed business would focus primarily on the retail sales of produce grown on site in addition to fruit, produce, and flowers grown by local farmers. The stand would operate daily from 10:00 a.m. to 7:00 p.m. from April – September. Planning staff reviewed and determined that the proposed roadside stand met the criteria for the special use permit. The application was approved in January 2003. Ms. Swint responded to some of the issues brought forward in the appeal. She said that regarding Use of Property, the code does not require the operator to be a farmer. She said that the Code requires that products sold in the stand must be produced in Skagit County and a portion must be grown on site. Ms. Swint said that leasing is common practice in Skagit County, and there is no requirement that the products grown on site must be by the property owner. She listed the Goals, Objectives and Policies that support the proposed process. She said the appellants want this request for be considered as a “farm-based business” and that this request was not for a “farm-based business.” Ms. Swint read the definition for “farm-based businesses.” This application was for a “seasonal roadside stand.”

The Commissioners may select one of the following courses of action a)remand the matter back for further consideration by the Hearing Examiner, b)deny the request and affirm the Hearing Examiner's decision or c) if they find the Hearing Examiner's decision was clearly erroneous, they may adopt their own their own findings and conclusions.

Tom Moser, Attorney for the Appellant Skagitonians to Preserve Farmland gave a presentation of the materials presented to the Hearing Examiner. He said that the Planning staff made a fundamental error in their definition of agricultural zoning. He added that the staff made no inquiry as to the form of activities that would be occurring on the site. Mr. Moser read the transcript from the hearing. He said that staff admitted that this is prime agricultural land. He said that the store owner would be allowed to sell almost anything and everything including hot dogs, milk, eggs, espresso, and soft drinks. Mr. Moser provided the definitions for farmland and a farm-based business. He said that the intension was to supplement farm income. The definition of farm-operation talks about a roadside stand, but County staff disconnects agriculture. Mr. Mosier stated that it needs to be compatible with existing farm use and comply with the Comprehensive Plan. He said that the Hearing Examiner found that the Alfanos have designed a roadside stand similar to others in Skagit County. He showed slides of other stands and read the testimony of Steve Sakuma, which indicated that their stand was an accessory to their primary business of farming. He said that the Alfanos also compared their stand with the Lenning Berry Barn. He said that they failed to point out that only a small portion of the barn was used to sell produce. Seven months out of the year it is used as an Ag storage building. Mr. Moser read the testimony of Mrs. Schuh from the Schuh Farm. She said that they never built anything on the farmland. They use existing buildings and the barn has been there for 100 years. Mr. Moser went over the proposal for 1,728 ft pole building of concrete slab with indoor bathrooms with toilets and sinks. It is 37 acre site that is now a field for agricultural production. He then read Mrs. Alfano's testimony about their intentions for the proposed, which included washing sinks for produce. He said that when asked about selling various items such as frankfurters, etc., Mrs. Alfonso said she did not presently plan to sell those items, but intended to follow the County Code. He read the testimony of Rich Doenges, previous Director of the Farmland Legacy Program. He stated that the worry of the Conservation Futures Committee was that there was a twisting of the intent to allow this roadside stand, and the permit was establishing a precedent for the future. Mr.

**RECORD OF THE PROCEEDINGS  
MONDAY, AUGUST 25, 2003  
PAGE NO. 7**

Moser said that there was a failure by staff to properly analyze this project. This is a large commercial operation. The applicants bought land that they considered inexpensive and leased it back to the farmer to fit the code definitions. He asked the Board to reverse the Hearing Examiner's decision. For the record, he stated that if there is anything new on Mr. Carmichael's presentation he would object to that and let the Prosecutor's Office decide.

Robert Carmichael Attorney for the Applicants stated that there is nothing in his presentation that is not on the record. He stressed that it is the appellant's burden of proof to show cause that the Hearing Examiner's decision is clearly erroneous. The Skagit County Code (SCC) has a "farm-based business" component. This application is not for a "farm-based business." This is for a Special Use Permit for a seasonal roadside stand exceeding 300 square feet. There is an entirely separate definition for a seasonal roadside stand. A portion of the products must be grown onsite and all non-food items must be located in the stand. The products sold must be Skagit County products. If anything is done differently, the applicants will be in violation of the permit. The Alfanos have a lease agreement with the Thulens and a portion of the items farmed by the Thulens will be sold in the stand. Hearing Examiners Conclusion of Law #7 limits that the items be grown in Skagit County. There is no basis for assuming that the condition will not be served – Mr. Carmichael stated that SCC does not require that only a certain class of person, for example a real farmer, can operate a seasonal roadside stand – He responded to the comparison of the Alfano's with other stands. It is similar in size to the Sakuma stand if you eliminated area for produce washing, restrooms and ice cream sales. The Sakumas sell ice cream in another building. He said that the proposed building is about 1 percent of the parcel in question, and he commented on the specifics of the site. He read Marge Swint's testimony on the SEPA document. Mr. Carmichael said that the appellants allege that the applicants are going to sell ice cream cones, large frankfurters, soft drinks, espresso, and snacks including deli sandwiches. These items were put in the permit application because the Planning and Permit Center asked the applicants to list all the items they might wish to sell in the future. He said there is nothing in this proposal that takes away from the purpose of the Comprehensive Plan. This proposal promotes a healthy competitive agricultural industry. It promotes and markets products grown in Skagit County. The Hearing Examiner's conclusion said that in terms of encouraging agricultural production this would seem to be a plus. The SCC allows that people other than farmer can operate a seasonal roadside stand.

Mr. Moser said that all the comparisons to the Alfano's proposal have one critical difference. All the roadside stands that were shown were owned by farmers, and the primary use was agriculture. The roadside stands are secondary. He said that the Comprehensive Plan states that the farm based business must be secondary.

Commissioner Anderson said that this comes down to the definition of "farm based business" and "roadside stand." He said he would like additional time.

Commissioner Munks addressed the dilemma of what the Code allows pertaining to marketing of Skagit County products. He also said he would like more time before making a decision

Commissioner Anderson moved and Commissioner Munks seconded the motion to render their decision regarding this closed record appeal on Monday, September 8, at 1:30 p.m. The motion carried unanimously.

**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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Shirley Knapp acting Clerk of the Board for JoAnne Giesbrecht  
Skagit County Board of Commissioners