

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
MONDAY, JANUARY 5, 2004**

MONDAY, JANUARY 5, 2004:

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| 8:00 a.m. – 8:30 a.m. | Work Session – Commissioners |
| 8:30 a.m. – 9:00 a.m. | Work Session – County Administrator |
| *T9:15 a.m. – 9:30 a.m. | Election of Chairman of the Board and Committee Assignments |
| *T 9:30 a.m. –9:45 a.m. | Public Hearing – 2003 Supplemental Budget Amendments |
| *T9:45 a.m. – 10:00 a.m. | Approval of Skagit County Code 12.64 Edison Subarea Sewer Use Ordinance |
| 10:00 a.m. – 10:45 a.m. | Department Head Meeting |
| *T 10:45 a.m. – 11:00 a.m. | Public Hearing – Amending Skagit County Code 3.12 Real Estate Excise Tax (REET) |
| 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. | Approval of Washington State Economic Revitalization Team (WA-CERT) by Economic Development Association of Skagit County (EDASC) |
| 1:30 p.m. – 2:30 p.m. | Closed Record Appeal by Roy Frazier of the Hearing Examiner’s Decision Issued on Appeal Case No. PL03-0896 |
| 2:30 p.m. – 3:30 p.m. | Executive Session – Personnel, Litigation, and Land Acquisition |
| 3:30 p.m. – 4:30 p.m. | Inauguration Ceremony for City of Mount Vernon (Mount Vernon City Hall, 910 Cleveland Avenue) |

The Skagit County Board of Commissioners met in regular session on Monday, January 5, 2004, with Commissioners Ted W. Anderson, Don Munks and Kenneth A. Dahlstedt present.

ELECTION OF CHAIRMAN OF THE BOARD AND COMMITTEE ASSIGNMENTS.

The Commissioners voted unanimously to appoint Commissioner Ted W. Anderson as Board Chairman for 2004. He received the gavel from last year’s chair, Commissioner Dahlstedt.

“I’d like to thank you both. We’ve worked well together as a team in 2003 and I am proud to have served as your Chairman,” said Commissioner Dahlstedt in passing the gavel to Chairman Anderson.

It is a tradition for the incoming board chair to write their signature in the desk drawer. Chairman Anderson took a few moments to read through the names inscribed in the drawer since the Administration was opened in 1977.

The Commissioners also approved committee assignments for 2004.

PUBLIC HEARING – 2003 SUPPLEMENTAL BUDGET AMENDMENT.

Finance Director, Brad Whaley, reviewed the proposed supplemental budget amendment. He explained that District Court has incurred jury trial expenses due to an increase in court activity during the year. The Office of Assigned Counsel has incurred attorney fees and trial costs, also due to an increase in court activity during the year. Transfers from the Communications Systems Fund were changed from quarterly disbursements to monthly disbursements. In addition, the Boating Safety Fund requires additional funds for activities related to boating safety.

Chairman Anderson opened the public hearing. There being no public testimony forthcoming, Commissioner Munks motioned to close the public hearing. Commissioner Dahlstedt seconded the motion and the public hearing was closed.

Commissioner Munks moved to approve the budget amendment for 2003 as follows:

Current Expense Fund #001	District Court	\$ 15,000
	Assigned Counsel	\$ 15,000
Communications Systems Fund #125		\$120,000
Boating Safety Fund #161		\$ 31,000

Commissioner Dahlstedt seconded the motion, which passed unanimously. **(Resolution No. 20040001)**

APPROVAL OF SKAGIT COUNTY CODE 12.64 – EDISON SUBAREA SEWER USE ORDINANCE.

Alison Mohns of the Planning and Permit Center reviewed an ordinance, which would repeal Skagit County Code (SCC) 12.64, Clean Water District – Edison Subarea (Edison Sewer Use Ordinance) and replace such with a revised SCC 12.64.

Commissioner Munks made a motion to approve the ordinance as outlined by Ms. Mohns. Commissioner Dahlstedt seconded and the motion passed unanimously. **(Ordinance No. O20040001)**

The Board thanked Ms. Mohns and Health Department employees Ron Palmer and Corinne Story for their intense efforts in addressing the sewer problems in Skagit County.

DEPARTMENT HEAD MEETING.

Ned Zaugg, Skagit County Extension Director, provided an update on Bovine Spongiform Encephalopathy, often referred to as Mad Cow Disease. He indicated that the disease will have an affect on Skagit County as well as the entire United States.

Commissioner Dahlstedt stated that he is currently on the National Association of Counties Ag and Rural Affairs Steering Committee. That committee recently formed a sub-committee that will focus strictly on food safety issues and Commissioner Dahlstedt has been appointed chairman. He said only 1% of food coming into the United States is being inspected. It needs to be inspected on the farm prior to being processed.

Commissioner Munks added that Mexico requires all products from the United States to be inspected before it is shipped to them. The farmers here are under stringent guidelines as to what they can and can't do. Most of the inspectors at the borders have been laid off due to budget cuts. Commissioner Munks said the United States is the only nation in the world that allows food into the country without it being inspected.

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Gary Rowe, County Administrator, suggested to the Board that they might want to consider supporting a plan at the federal level such as a buyout program. Mr. Zaugg said a buyout program was started last September and is ongoing.

Parks Director, Bob Vaux, confirmed that sandbags which still exist around the courthouse complex will stay put for now.

PUBLIC HEARING – AMENDING SKAGIT COUNTY CODE 3.12, REAL ESTATE EXCISE TAX (REET).

Mr. Rowe outlined the issues regarding an ordinance to amend Chapter 3.12 of the Skagit County Code to add an additional ¼% Real Estate Excise Tax. He said the additional money would go into the Capital Improvement Fund to pay for capital improvements to the County, which were outlined to the Board during the budget process. The extra ¼% would generate approximately \$660,000 per year. Without the increase, Mr. Rowe said the county would be unable to pursue those projects.

Chairman Anderson opened the public hearing.

Tom Solberg, 19019 Minnie Road in Alger and John Sandell of 8357 Ershig Road in Bow stated that they were opposed to the rate increase. Mr. Solberg said the County needs to be streamlining instead of asking for more money.

Louie Requa, 806 Metcalf, Sedro-Woolley, serves as the Chairman of the Northern State Task Force. He favors the increase as it is based on the sale of real estate. Those extra funds would help projects like the Northern State Recreation Area.

Mr. Vaux said the Parks and Recreation Department has gotten a lot of mileage out of the REET money and say he also supports the ordinance.

Randy Good, 25512 Minkler Road, Sedro-Woolley, asked the Board to vote no on the proposal.

There being no further public testimony, Commissioner Munks motioned to close the public hearing. Commissioner Dahlstedt seconded the motion. The motion passed and the public hearing was closed.

Commissioner Munks moved to establish Monday, January 12, 2004 at 10:45 as the date and time the Board will render their decision on this matter. Commissioner Dahlstedt seconded the motion, which passed unanimously.

Mr. Solberg asked the Board to extend the written comment period until Friday, January 9, 2004. The Board agreed to the request and indicated that a notice would be sent to the newspaper.

CONSENT AGENDA.

Commissioner Munks moved to approve the Consent Agenda for Monday, January 5, 2004, items 1, 2, 4, 6 through 39 and items 41 and 42. Commissioner Dahlstedt seconded the motion, which passed unanimously. Items 3 and 40 were removed from the agenda for further clarification. Item 5 will not be addressed until next year due to lack of funds.

COMMISSIONERS' OFFICE:

1. Record of the Proceedings for Monday, December 22, 2003.

BUDGET AND FINANCE:

2. Contract with Washington State Department of Community Trade and Economic Development (CTED) to in CDBG Public Service Grants funds available to the Skagit County Community Action

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Agency to provide public services to low and moderate income persons within Skagit County. The total contract amount is \$122,135. The contract is effective January 1, 2004 and will continue through February 28, 2005. **(Contract No. C20040002)**

FACILITIES MANAGEMENT:

3. Amendment No. 1 to Personal Services Agreement **No. C20020260** with John D. Griffin Engineers for demolition and site restoration of the Masonic building located at 220 Myrtle Street, Mount Vernon. The amendment will extend the terms of the agreement until December 31, 2004, allow for additional services, and increase compensation by \$18,000 for a new total of \$93,000. **(Removed for further clarification)**
4. Quit Claim Deed for the State's purchase of County property for required right-of-way for the 2nd Street Bridge replacement project. The State will pay the County \$6,000 for this transaction. **(Approved)**
5. Amendment No. 2 to **Contract No. C20030075** with Interwest Construction Inc. for two parking lot access control systems in County parking lots. The terms of the agreement will be extended until January 31, 2004, and compensation will be increased by \$49,780 for a new total of \$175,591. **(Removed)**

HUMAN RESOURCES:

6. Resolution for approval of sick leave transfer for a Public Works employee. **(Resolution No. R20040002)**

HUMAN SERVICES:

7. Personal Services Agreement with Skagit Recovery Center for continuation of substance abuse detox services for six months. The agreement will begin on January 1, 2004 and continue through June 30, 2004. Compensation shall not exceed \$91,753. **(Contract No. C20040003)**
8. Amendment No. 1 to **Contract No. C20030442** with Skagit Recovery Center to support substance abuse prevention programming. The amendment will allow for reimbursement for Christine Valdez's accommodations for the annual Division of Alcohol & Substance Abuse Prevention Summit. **(Amendment No. A20040001)**
9. Amendment No. 1 to **Contract No. C20030356** with Sea Mar Community Health Centers to allow for continuance of substance abuse treatment services for adults and adding funds for youth services effective January 1, 2004. The amendment is effective retroactive July 1, 2003 and will continue through June 30, 2005. Compensation will be increased by \$70,265 for a new total of \$95,265. **(Amendment No. A20040002)**
10. Personal Services Agreement with Compass Health to provide mental health services for the Children's Crisis Services Program and Developmentally Disabled Peer Counseling. The agreement is effective January 1, 2004, and will continue through December 31, 2004. Compensation shall be \$9,500. **(Contract No. C20040004)**

PARKS AND RECREATION:

11. Personal Services Agreement with the Skagit Valley YMCA for the use of the pool facilities. The agreement is effective July 1, 2003 through August 31, 2003. Compensation is \$97.50 per day plus staff fees and \$2 per student. **(Contract No. C20040005)**

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12. Personal Services Agreement with Audrey Smith to act as Fair Manager for the Skagit County Fair. The agreement shall be effective January 1, 2004 and continue through December 31, 2004. Compensation shall be \$50,000. **(Contract No. C20040006)**

PLANNING & PERMIT CENTER:

13. Amendment No. 1 to **Contract No. C20030220** with David Hough for land use planning services. The amendment will extend the contract until December 31, 2004 with no change in compensation or terms and conditions of the original agreement. **(Amendment No. A20040003)**

SENIOR SERVICES:

14. Amendment No. 3 to **Contract No. C20030418** with the Corp for National and Community Service to accept funds of \$63,433 awarded for the period of January 1, 2004 through December 31, 2004. This is a federal grant award to assist the Skagit County Retired Senior Volunteer Program in carrying out a national service program. **(Amendment No. A20040004)**
15. Resolution to authorize an Interlocal Agreement with the City of Burlington. **(Resolution No. R20040003)**
16. Interlocal Agreement with the City of Burlington to allow delivery of community-based services to the senior citizens of the City of Burlington. The agreement is effective January 1, 2004 and will continue through December 31, 2004. Compensation shall not exceed \$16,180. **(Contract No. C20040007)**
17. Contract with Northwest Regional Council for congregate/home delivered meals and Title V senior employment in Skagit County. The effective date is January 1, 2004 through December 31, 2004. Funding shall be \$223,694. **(Contract No. C20040008)**

SHERIFF:

18. Interlocal Agreement with Whatcom County Sheriff's Office, per Resolution No. 17921, for Northwest Minichain Services to provide transportation services for prisoners. The agreement is effective January 1, 2004 and will continue through December 31, 2004. Compensation will be \$24,281. **(Contract No. C20040009)**
19. Vendor Services Agreement with Fowler Cleaners & Laundry to provide laundering/dry cleaning of employee uniforms. The agreement shall commence December 1, 2003 and continue until December 31, 2004. Compensation will be on a per item basis. **(Contract No. C20040010)**
20. Amendment No. 3 to **Contract No. 05245** with the Town of La Conner for law enforcement services for the 2006 and 2007 calendar years. The effective date is extended until December 31, 2007. Compensation shall be \$400,000 for 2006 and 2007. The amendment also changes the services area of the La Conner Deputies. **(Amendment No. A20040005)**

SUPERIOR COURT:

21. Personal Services Agreement with Karen Lerner to act as the Court Commissioner for Mental Health and Involuntary Commitment hearings. The agreement is effective January 1, 2004 through December 31, 2004. Compensation shall be \$24,000. **(Contract No. C20040011)**

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22. Resolution for cancellation of uncollectible 2003 personal property taxes. **(Resolution No. R20040004)**

YOUTH AND FAMILY SERVICES:

23. Personal Services Agreement with Follman Agency to provide specialized child, adolescent, adult and family assessment, evaluation and treatment, consultation, education classes, monitoring with written reports as required, and training. The agreement shall commence on January 1, 2004, and continue until December 31, 2005. Compensation shall not exceed \$10,000. **(Contract No. C20040012)**
24. Personal Services Agreement with Paul Douhan to provide specialized child, adolescent, adult and family assessment, evaluation and treatment, consultation, education classes, monitoring with written reports as required, and training. The agreement shall commence on January 1, 2004, and continue until December 31, 2005. Compensation shall not exceed \$25,000. **(Contract No. C20040013)**
25. Personal Services Agreement with Sea Mar to provide specialized child, adolescent, adult and family assessment, evaluation and treatment, consultation, education classes, monitoring with written reports as required, and training. The agreement shall commence on March 1, 2003, and continue until February 28, 2004. Compensation shall not exceed \$10,000. **(Contract No. C20040014)**

PUBLIC WORKS:

26. Signature on letter to Colonel Debra Lewis, of U.S. Army Corps of Engineers regarding the Skagit County Flood Damage Reduction Study. **(Approved)**
27. Order to Vacate County right-of-way known as Coos Cove Lane in Big Lake per public hearing on December 9, and decision rendered on December 15, 2003. **(Resolution No. R20040005)**
28. Resolution to Call for Public Hearing to consider vacation of a portion of County right-of-way known as Erie Street #10890. The public hearing is scheduled for January 27, 2004 at 9:00 a.m. **(Resolution No. R20040006)**
29. Amendment No. 1 to **Contract No. C20030184** with People for Puget Sound for professional services to complete three Skagit Marine Resources Committee projects. The amendment will extend the termination date to April 30, 2004 and amend the scope of work. All other terms of the original contract shall remain the same. **(Amendment No. A20040006)**
30. Vendor Services Agreement with Bayview Land Maintenance to provide grounds maintenance at the Transfer & Recycling Facility, the road maintenance shop in Burlington, and the Public Works office in Mount Vernon. The agreement shall be effective January 1, 2004 through December 31, 2005. Compensation shall not exceed \$20,480. **(Contract No. C20040015)**
31. Resolution to award the contract for the Guemes Ferry/Anacortes Parking Lot Demolition Project to Advanced Construction, Inc. **(Resolution No. R20040007)**
32. Contract with Advanced Construction, Inc. for the Guemes Ferry/Anacortes Parking Lot Demolition Project, ESMC 991-1. The compensation shall not exceed \$28,040. The contract is effective upon execution. The start date of the project will be mutually agreed upon, and will be completed within 15 days. **(Contract No. C20040016)**
33. Temporary Right-of-Entry Construction Agreement with Duane Blumenshein (owner) P70787 to give the County the right to enter for the purpose of performing road construction improvements for Main Street in Concrete. **(Contract No. C20040017)**

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34. Vendor Services Agreement with Pipeline Video & Cleaning to provide TV video inspection services on the storm drainage systems installed in conjunction with the Morris Street Improvement Project (Town of La Conner). **(Contract No. C20040018)**
35. Amendment No. 1 to Vendor Services Agreement **C20030362** with Custom Design Inc. to include second trip for reinstallation of the existing pole sign due to utility contract. Compensation shall be increased by \$1,250 for a new total of \$5,235. All other terms and conditions of the original agreement shall remain in effect. **(Amendment No. A20040007)**
36. Amendment No. 1 to **Contract No. C20020407** with Semrau Engineering & Surveying for the Bayview Watershed Study. The amendment will change the expiration of the contract to December 31, 2004. All other terms and conditions of the original contract shall remain in effect. **(Amendment No. A20040008)**
37. Standard Consultant Agreement with Northwest Archaeological Associates, Inc. to provide historical documentation for the Apex Warehouse at the Guemes Island Ferry terminal in Anacortes. The agreement shall be effective December 1, 2003 and continue through December 31, 2004. Compensation shall not exceed \$30,000. **(Contract No. C20040019)**
38. Amendment No. 1 to **Contract No. C20020175** with Certified Land Services Corporation for right-of-way services. The amendment will extend the contract to June 30, 2004. All other aspects of the contract will remain the same. **(Amendment No. A20040009)**
39. Amendment No. 3 to **Contract No. C20030016** with Berk & Associates for technical assistance in chartering the Guemes Island Ferry Fare and Schedule Task Force. The amendment will extend the contract to June 30, 2004. All other terms and conditions of the original contract will remain the same. **(Amendment No. A20040010)**
40. Amendment No. 1 to **Contract No. C20030046** with Chinook Enterprises to provide litter control/patrol along various County roads and at the Recycling & Transfer Station. The amendment will extend the contract through December 31, 2005. Compensation will be increased by \$90,000 for a new total of \$135,000. **(Removed for further clarification)**
41. Amendment No. 1 to Vendor Services Agreement **C20030450** with Skagit Island Electric, Inc. to provide electrical services associates with the undergrounding of utilities for the Morris Street Improvement Project (Town of La Conner) per Resolution R20030341. Compensation shall be increased by \$25,000 for a new total of \$49,999. **(Amendment No. A20040011)**
42. Amendment No. 2 to **Contract No. 5331** with AquaTechnex for lake treatment services for Lake Erie and Lake Campbell. The amendment is effective December 30, 2004, and extends the contract completion date to December 31, 2004. **(Amendment No. A20040012)**

MISCELLANEOUS.

1. Civil Attorney, Paul Reilly, received approval from the Board to default on a potential lawsuit filed as Iverson vs. Hilde and Skagit County. It involves a 20' strip of land of which the County holds ownership of 20%.
2. Commissioner Munks motioned to approve a Service Level Agreement between Skagit County and Skagit 911 for the purpose of supporting the oversight, management and maintenance of the Spillman Public Safety System Geobase model and the Master Street Address Guide database. Commissioner Dahlstedt seconded the motion, which passed with a unanimous vote. **(Contract No. C20040020)**

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3. 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 5, 2004, the Board by majority vote, did approve for payment those vouchers included in the above-mentioned list and further described as follows:

Warrants numbered 159611 through 159961 from Clearing Fund 696 in the total dollar amount of \$691,208.57 (Transmittal No. C-150-03); and

ACH Transfer Request Form and Certification to Premera Blue Cross from Clearing Fund 696 in the total dollar amount of \$77,730.64 (Transmittal No. C-151-03); and

Warrants numbered 159962 through 160367 from Clearing Fund 696 in the total dollar amount of \$1,173,802.17 (Transmittal No. C-152-03); and

ACH Transfer Request Form and Certification to Premera Blue Cross from Clearing Fund 696 in the total dollar amount of \$60,010.65 (Transmittal No. C-153-03); and

Warrants numbered 160368 through 160618 from Clearing Fund 696 in the total dollar amount of \$845,649.86 (Transmittal No. C-01-04); and

Payroll warrants numbered 137264 through 138116 in the total dollar amount of \$973,624.07 (Transmittal No. P-47-03); and

Payroll warrants numbered 961426 through 961588 in the total dollar amount of \$173,507.18 (Transmittal No. P-48-03).

PUBLIC COMMENT PERIOD.

Tom Solberg, 19019 Minnie Road, Alger, thanked the Board for the action they took at the last Samish Watershed meeting. He also questioned why the County has money to hire a new fair manager but can't seem to fund the process for the Alger Subarea Plan.

Don Bockelman, 30623 South Skagit Highway, Sedro-Woolley, inquired as to when a new Planning and Permit Center Director would be hired. Mr. Bockelman is trying to reconfigure his property and the application process is being held up. Chairman Anderson said an Interim Director by the name of Louis Haff, was introduced this morning. He is a management consultant who will be analyzing the department and when that is complete, a new director will be hired.

John Sandell, 8357 Ershig Road, Bow, asked how the lot certification ordinance is progressing. He also expressed concerns regarding the Samish River.

**APPROVAL OF WASHINGTON STATE ECONOMIC REVITALIZATION TEAM (WA-CERT)
BY ECONOMIC DEVELOPMENT ASSOCIATION OF SKAGIT COUNTY (EDASC).**

Don Wick, Director of EDASC, outlined three proposals, which would be added to the team WA-CERT project list for consideration of a portion of funding. The first project is the redevelopment of a sawmill site in Sedro-Woolley, which Mr. Wick feels would be a great economic development project. They have raised a total of \$35,000 and are requesting a little less than \$250,000, with the total project cost expected to be over \$600,000. The next project is for the Town of La Conner, which is proposing to install a "cross dike" to fend off flood waters. The project totals \$1.75 million and the Town is requesting \$350,000. The third proposal is from Skagit County Parks and Recreation for the development of an Ecotourism-based Interpretive Center that would focus on the Skagit River system in the eastern part of the county. They are requesting \$20,000, which would fund a feasibility study.

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Mr. Wick recommended that all three projects be added to the WA-CERT list. He also indicated that the current list needs to be updated, which will happen in the near future.

Commissioner Munks made a motion to approve the proposals as outlined by Mr. Wick. Commissioner Dahlstedt seconded the motion, which passed with a unanimous vote.

**CLOSED RECORD APPEAL BY ROY FRAZIER OF THE HEARING EXAMINER'S DECISION
ISSUED ON APPEAL CASE NO. PL03-0896.**

Chairman Anderson called the meeting to order and stated the perimeters surrounding a closed record appeal.

Commissioner Munks said he has worked to resolve this issue with Mr. Frazier and the Planning and Permit Center. Because he's been actively involved in the case and has actually been to the property and declared his opinion, he recused himself from the appeal procedure.

Commissioner Dahlstedt also acknowledged a potential conflict and recused himself as well.

Chairman Anderson said that when two out of the three Commissioners recuse themselves and because one Commissioner is not able to make a decision, he reinstated both Commissioners Munks and Dahlstedt so they could be part of the decision making process.

Marge Swint, Associate Planner, stated that this is a closed record appeal (PL03-0896) submitted by Skagit Surveyors on behalf of Roy Frazier of the Hearing Examiner's decision, dated September 22, 2003 to uphold the Planning and Permit Center's decision to deny the Administrative Special Use Modification (PL03-0164) request for the location of a temporary manufactured home for a farm worker. The proposed home would be located 305-feet from the front property line instead of the required 200-feet, pursuant to SCC 14.16.400(5)(a)(i)(A). The project is located at 7875 Ershig Road, Bow, WA.

Ms. Swint said that according to SCC 14.06.170(3), Burden of Proof, the appellant in a closed record appeal hearing of a Level I or Level II decision shall have the burden of demonstrating that the decision or recommendation of the Administrative Office, or the Hearing Examiner, as applicable, is clearly erroneous.

Ms. Swint stated that the applicant applied for an Administrative Special Use (ASPU) for a farm worker house in October, 2001. As noted in the Hearing Examiner's decision, the manufactured home was placed on the farm prior to obtaining the necessary land use, building permit, and septic approvals. During the course of the review for the initial administrative special use, there were many discussions concerning the placement of this home. In the Hearing Examiner's decision, he reiterated the Department's view "*that the 200-foot maximum setback may be waived only when the structure cannot be placed within the setback area without impinging on critical areas, flood plains or prime agricultural land. Here there are no critical areas or flood plains to contend with. The dwelling can be placed within the setback without reducing the amount of land in agricultural production.*"

The Hearing Examiner went further in his decision stating "*The 200-foot maximum is intended to promote the objective of conserving agricultural land. It is a duly enacted limit and compliance with it is the appropriate placement as a matter of law. A permitted location outside that limit must be more appropriate in terms of the underlying purpose of the law. This means that the 200-foot limit should be enforced, except where doing so would damage some value the law seeks to protect – such as interference with a wetland, obstruction of the flood plain or consumption of prime agricultural land. Otherwise, the appropriate thing is to comply with the limit. Here, the limit can be complied with without damage to any protected value. In such circumstances, putting the home beyond the limit is not more appropriate.*"

In his conclusions, the Hearing Examiner stated "*In viewing the entire record, the Examiner is not persuaded that the present location of the mobile home is a necessity in order for the farm worker to*

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carry out his occasional duty to supervise cattle or his constant responsibility to watch over the entire property.” “Accordingly, under the facts, the Examiner concludes that the Administrator’s denial of the modification of the Special Use Permit should be upheld.”

Ms. Swint indicated that the applicant filed a timely reconsideration request on October 1, 2003, believing that there were some inaccurate findings in the initial order and wanted to provide some additional material for clarification. The Hearing Examiner reviewed the request and concluded that no material legal error had occurred nor had any material factual issued been overlooked that would change the previous decision. Therefore, pursuant to SCC 14.06.180, the request for reconsideration was denied. Subsequently, a timely appeal was filed by Mr. Frazier on November 20, 2003, for a closed record appeal.

Based on the record including the most recent decisions of the Hearing Examiner, the Department recommends that the Board of County Commissioners uphold the Hearing Examiner’s decision that the Administrator’s denial of the modification of the Special Use Permit should be upheld.

Pursuant to SCC 14.06.170(10), the Board of Commissioners may select one of the following courses of action:

- (a) Remand the matter for further consideration by the Hearing Examiner, or
- (b) Deny the appeal and affirm the decision of the Hearing Examiner, or
- (c) If the Board finds the Hearing Examiner’s decision is clearly erroneous, the Board may adopt its own findings, conclusions and decisions based upon the record made before the Hearing Examiner.

Ms. Swint said the Department suggested an alternative location they thought would possibly work. It was by no means a place to which they had to move the mobile home. The Department was fine with the location of the initial request. There was a neighbor to the north who was quite concerned about a visibility issue.

Chairman Anderson asked if visibility issues are addressed in the Skagit County Code (SCC). Ms. Swint said she would have to look at the code to see where it might be referenced.

Marianne Manville-Ailles of Skagit Surveyors and Engineers, 806 Metcalf Street, Sedro-Woolley, represented Roy Frazier. She said the issue before the Board is whether the farm worker home meets waiver requirements that would allow it to be placed more than 200-feet from Ershig Road. To make this determination, you must look at the SCC and the provisions within that code. It is her belief that the Planning Department and Hearing Examiner have misinterpreted the code provisions and that with proper interpretation, their decisions can be reversed.

The property is designated as Agriculture Natural Resource land. It is clear that there is an emphasis in this district in conserving farmland and in reaffirming the ability to conduct agricultural activities. In other words, protect the farmer as well as the farmland.

To help achieve its purpose, the ag district has dimensional requirements for setbacks that are unique to it alone. In addition to a minimum front setback of 305-feet, it also includes a maximum setback of 200-feet from a public road. The purpose of the maximum setback is to conserve ag land and reaffirm ag use and activities. In establishing the maximum setback, the code also establishes a waiver mechanism to allow the overall intent of the district to be achieved.

Ms. Manville-Ailles stated that while the Hearing Examiner is correct in asserting that one of the purposes of the 200-foot limit is to conserve ag land, it has a second purpose as well, which is to reaffirm agricultural uses and activities. In her opinion, the Planning Department interprets the code too narrowly when it finds that the waiver can only be granted if the home would consume land in agricultural production. This interpretation would result in the waiver only applying to crop farmers. While crop farming is important, it is not the only ag use or activity that occurs in Skagit County. Thus, the Planning Department’s interpretation is not consistent with the stated purpose. Ms. Manville-Ailles then provided a map and arial views of the property in question.

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The Planning Department recommends an area south of the barns as the appropriate location for the farmhand's mobile home. They concede that it does not meet the setback requirements but they have indicated a willingness to support the variance. This location was selected by the Department with no input from Mr. Frazier or any other farmer. Ms. Manville-Ailles said it would not be unfair to state that the County Planners that selected the location are not experts on farming and with no input from a farmer, she feels it would be difficult for them to judge the location's impact on agricultural uses and activities. The Department did in fact acknowledge that Mr. Frazier currently stores farm equipment in that location. It would appear that replacing the location for farm equipment storage with the farm worker home would not be an example of reaffirming the ag use or activities.

In addition, even if the setback variance was granted for the area south of the barns, locating the home there would include construction of a driveway and parking area, as well as the installation of a drainfield. By the time all of this occurred, land that is currently in agricultural production would be consumed thus making the location inconsistent with both the Planning Department's narrow definition of the setback waiver and the Hearing Examiner's interpretation of conserving ag land.

The area selected by Mr. Frazier is located on non-prime farmland, has an existing driveway and parking area, has an approved drainfield area that is away from the area he crop farms, and the home is located far enough away from the barns and corrals to allow for their continued use. The location is consistent with the purpose of the ag zone and does not consume prime agricultural land.

As a final point, Ms. Manville-Ailles said the Planning Department places a great deal of emphasis on the fact that the Special Use Permit was approved based on a site plan that showed the mobile located at the 200-foot line. The site plan submitted by Ms. Manville-Ailles was incorrect and that has been acknowledged. It is also acknowledged that the mobile home was brought to the property before the permits were finalized; however, those are not the issues before the Commissioners today. When County staff was approached to attempt to reach a resolve to those issues, it was recommended that a Special Use Permit modification be pursued.

At this time, Ms. Manville-Ailles respectfully requests that the Commissioners overturn the decision of the Hearing Examiner and allow for the mobile home to be placed more than 200-feet from the road.

David Fitzgerald, 12433 Rainier Drive, Burlington, owns property near the proposed location of the mobile home. He is unable to understand why the Planning Department decided to put the mobile home behind his property since with that particular location, a new septic tank would be required. He has no objection to where the trailer sits now, but would object if it is moved behind his property.

After a brief discussion, Commissioner Munks motioned to render a decision on this matter on Monday, January 12, 2004 at 10:00 a.m. Commissioner Dahlstedt seconded the motion, which carried unanimously.

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ADJOURNMENT.

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

**BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Ted W. Anderson, Chairman

Don Munks, Commissioner

Kenneth A. Dahlstedt, Commissioner

ATTEST:

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