

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
MONDAY, MARCH 22, 2004**

- 8:00 a.m. – 8:45 a.m. Work Session – Commissioners
- 8:45 a.m. – 9:30 a.m. Work Session – County Administrator
- *T9:30 a.m. – 10:15 a.m. Public Works Department, Chal Martin, Director
1. Public Hearing – Consideration of Road Name Change for a County Road Known as West Montborne Road #05010 to Craig Road #05030
 2. Briefing – Status of Draft Skagit County Salmon Habitat Monitoring Plan
 3. Update – Baker River Project Relicensing
 4. Miscellaneous
- *T10:15 a.m. – 11:00 a.m. Planning and Permit Department, Lou Haff, Interim Director
1. Request for Board's Direction Regarding Vacancies in the Master Planned Resort Citizens Advisory Committee
 2. Set Date and Time to Consider Planning Commission Recorded Motion Approving the Skagit County Parks & Recreation Comprehensive Plan
 3. Discussion – City/County Urban Growth Area Relationships
 4. Bayview Ridge Subarea Planning Process Update
 5. Discussion – Fidalgo Island Subarea Planning Process Update
 6. Discussion and Possible Action – New Regulations and Amendments to Existing Regulations Related to Lot Certification, Development on Lots of Record, Administration and Interpretation, Innocent Purchaser, and Boundary Line Adjustments
 7. Miscellaneous
- 11:00 a.m. – 11:30 a.m. Consent Agenda and Miscellaneous Items
- 11:30 a.m. – 11:45 a.m. Public Comment Period
- 1:00 p.m. – 2:00 p.m. Public Hearing – Proposed Non-Motorized Transportation Plan (Chapter X of the Transportation Systems Plan)
- 2:00p.m. – 4:00 p.m. Executive Session – Personnel, Litigation, and Land Acquisition

The Skagit County Board of Commissioners met in regular session on Monday, March 22, 2004 with Commissioners Ted W. Anderson and Don Munks present. Commissioner Kenneth A. Dahlstedt's absence for a portion of the agenda was excused.

PUBLIC WORKS DEPARTMENT – CHAL MARTIN, DIRECTOR

1. Public Hearing – Consideration of Road Name Change for a County Road Known as West Montborne Road #05010 to Craig Road #05030.

Public Works Director, Chal Martin, explained that a name change for a portion of County road, West Montborne Road #05010 to Craig Road #05030 is for the easterly leg of this Y-intersection and is necessary to aid in emergency response time. The westerly leg will remain as West Montborne Road.

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

Mr. Martin asked the Commissioners to delay making a decision for the consideration of a name change for West Montborne Road to Craig Road until further information can be submitted before them.

Commissioner Munks made a motion to delay action on this item until Monday, April 5, 2004 at 1:15 p.m. Chairman Anderson seconded the motion, which carried.

2. Briefing – Status of Draft Skagit County Salmon Habitat Monitoring Plan.

Ric Boge, Natural Resources Project Manager, briefed the Board on the status of the County's requirement to conduct a baseline survey of representative habitat conditions on salmon-bearing streams under County jurisdiction. This requirement is per Resolution No. R20030210 and pertains to the December 2003 Compliance Order from the Western Washington Growth Management Hearings Board (WWGMHB) on the County's Ag-CAO (Critical Areas Ordinance), Skagit County Code (SCC) 14.24.120 – Ongoing Agriculture.

Mr. Boge said the new ordinance has two purposes, which include protecting the existing functions and values of fish and wildlife habitat conservation areas of water courses on agricultural lands and not compromising the long-term viability of commercial agriculture located adjacent to these water courses. He said the companion resolution specifies four actions that the County needs to take:

- Ongoing water quality monitoring program
- Baseline salmon habitat inventory
- Adaptive management program to modify SCC 14.24.120, if necessary to achieve its purpose
- Participate in and support salmon recovery efforts

Mr. Boge said that last December the WWGMHB issued a compliance order, which found Skagit County's new Ag-CAO in compliance with the Growth Management Act, with a few conditions attached. The County was told to add specificity to the resolution for the adaptive management and monitoring program. The salmon habitat inventory is meant to help provide that specificity for the WWGMHB. This plan will also be used in an adaptive management program that is currently under development and will be brought to the Board before June 24, 2004.

Derek Koellman, Salmon Recovery Coordinator, gave an overview of the monitoring program that will be used for the salmon habitat survey. Habitat monitoring will be conducted using Environmental Monitoring and Assessment Program (EMAP) protocols. The program was originated by the Environmental Protection Agency (EPA) in 1998 as a means to track habitat and water quality trends across the nation in a systematic randomized way to remove bias from any individual sampling effort. In 1994 the Washington State Department of Ecology (DOE) began using this program to get a better idea of what waters across the state look like and what trends are being seen in habitat conditions and water quality.

Mr. Koellman indicated that in the first year, 60 randomly selected sites will be sampled, 30 sites in Ag Rural Resource Natural Lands and 30 sites in other areas under Skagit County jurisdiction. In years 2-5 of the sampling regime, 10-12 randomly selected sites will be sampled to allow for annual variations to the trend analysis, such as flood events. This entire process will begin again in year six and will be repeated with another 60 randomly selected site sampling regimes. Mr. Kollman added that as with all County activities of this nature, site access will not occur until right-of-entry's are secured from affected landowners.

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Commissioner Munks asked when the sampling would be taking place and if it would occur at the same time each year. Mr. Koellman said the sampling will be conducted between May and October of each year as this is typically the low flow periods of the year, which makes the streams more accessible. Mr. Koellman stated that he and Jeff McGowan will be the project managers for this program and will be leading teams out in the field.

3. Update – Baker River Project Relicensing.

Mr. Martin provided an update on the Baker River relicensing issue. He said policy team members met last week and discussed how flood control can dovetail neatly with the flow regimes out of the project. He said it has been difficult to get the solution team to come on board, but he is hopeful that a resolution can be established.

4. Miscellaneous.

There were no miscellaneous items to discuss.

PLANNING & PERMIT CENTER – LOU HAFF, INTERIM DIRECTOR

At the request of Interim Director, Lou Haff, the order of the discussion items were changed.

1. Discussion and Possible Action – New Regulations and Amendments to Existing Regulations Related to Lot Certification, Development on Lots of Record, Administration and Interpretation, Innocent Purchaser, and Boundary Line Adjustments.

Legal counsel, Jay Derr, stated that after a public hearing was held on the lot certification ordinance, staff made several recommended changes to the interim ordinance. The current ordinance expires on March 22, 2004. There is a court-ordered stipulation whereby the County has agreed to leave an ordinance in place until the WWGMHB reviews the County's new approach to lot certification. The County is scheduled to submit a statement of actions taken to the Hearings Board on March 26, 2004, with a hearing date set for May 4, 2004.

Mr. Derr said it is staff's recommendation for the Board to adopt the interim ordinance that is before them today. It identifies a few items that still need to be researched before a permanent ordinance is agreed upon.

Mr. Derr said the previous ordinance seemed to address only residential uses, including some unusual consequences for non-residential uses. Those have now been addressed and identified as a specific subset of the non-residential uses that would be permitted on substandard size lots because they are not deemed to be impactive. However, some of the non-residential uses would not be permitted on substandard size lots. Also, changes have been made to recognize those lot certifications that were issued before it was specifically stated on the face of the document "for building purposes." They will be honored as those people have expended funds and may have perhaps acquired a lot with the understanding that it was only for building purposes.

Commissioner Dahlstedt asked Mr. Derr if he thinks people would have honestly applied for a lot certification just so someone could tell them that the lot they purchased existed and had a clear title. He thinks this is a huge concern and added that anyone with a parcel smaller than 40 acres in the rural areas had better pay attention to this situation. They may indeed own property they think they can do something with, but assumption could be erased very shortly.

Mr. Derr said there was a lot of testimony regarding maintaining the 40-acre parcel size in the Ag zone. The original ordinance that was previously approved by the Board had proposed a much smaller size that could be used for residential development. That has been removed for agriculture; therefore, the agriculture parcel is 40-acres unless you fit in one of the other exceptions.

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Chairman Anderson said he thinks it is necessary to have a lot certification but doesn't think the language "for building purposes" is realistic. While he doesn't favor recognizing every substandard lot, he does favor recognizing those that have a lot cert on them.

Commissioner Munks indicated that some of his previous concerns have now been addressed and cleared up on the new proposed interim ordinance.

Mr. Derr said the changes that have been made to this ordinance recognize a subset of the lot certifications that did include "for building purposes" on the face of the document. Research has begun to find out how many lot certs there are and how many of them don't yet have a building on them. Staff has not made the change to recognize every lot cert because over 3,000 of them have been issued through the course of time. Staff wants to take the time between this interim ordinance and the permanent ordinance to further research the approximately 1,500 lot certs that don't have building permits on them. They would then identify which zone they are in and bring forth a recommendation as to whether all those lot certs should be honored as an additional amendment or whether they should adhere to the lot certs that say "for building purposes" on them.

Chairman Anderson asked when the "for building purposes" language surfaced. Associate Planner, Carly Ruacho said it happened when lot certs were first issued in 1993. The language was removed in 2000 when lot aggregation was removed from the ordinance and the lot certification review didn't look at aggregation, but only addressed whether it was legally created. Mr. Derr added that when the code technique changed, performance standards for development on substandard size lots were used rather than any form of aggregation. That's why "for building purposes" disappeared and is also when the Hearings Board said it couldn't be done.

Mr. Derr explained that under the current draft ordinance regarding secondary forest and rural resource natural zones, it states that you can have a development right or use of the lot for building purposes if it is 10-acres or larger. The underlying zoning is 20-acres in secondary forest and is 40-acres in the rural resource zone. He said there was strong testimony on leaving agriculture at 40-acres and mixed testimony on whether there should be a somewhat smaller size lot permitted in secondary forest and rural resource zones.

Chairman Anderson noted that most of the problems incurred with secondary forest are because these areas have been mis-mapped. Mr. Derr responded that secondary forest mapping is on the 2005 update work program and at that time the Department will revisit that category and the resulting maps.

Mr. Haff indicated that this issue is listed in the Comprehensive Plan update project, which Skagit Surveyors has been hired to perform.

Mr. Derr said there are some requirements that state you can have a residential use on industrial forest land, provided you are in a fire district and within a certain distance from the road. In the Interim Ordinance there is a provision that would allow a residential unit on smaller than an 80-acre parcel; however, it must meet the criteria of the zoning ordinance. This will not apply very often, but it is included to provide relief if those circumstances exist.

The items that Mr. Derr said needed additional work include the transfer of development rights program, research on lot certifications, and researching circumstances in the ag-natural resource land zones where smaller than a 40-acre parcel might make sense.

Commissioner Munks motioned to approve an Interim Ordinance relating to lot certification and development on substandard size lots, adopting new Skagit County Code Section 14.06.045, amending various provisions of Skagit County Code Section 14.06.040, 14.06.090, 14.16.850, 14.18.000 and 14.18.700, and repealing Interim Ordinance No. O20030032 regarding lot aggregation upon the effective date of this Ordinance, with an amendment to refer to the Planning Commission for a more detailed inventory and recommendation on secondary forest rural resource natural resource zones and ag natural

resource zones and industrial forest natural resource zones. Commissioner Dahlstedt seconded the motion, which passed unanimously. **(Ordinance No. O20040006)**

2. Request for Board's Direction Regarding Vacancies in the Master Planned Resort Citizens Advisory Committee.

Guy McNally of the Planning and Permit Center stated that on January 13, 2004 the Board created a Master Planned Resort Citizen's Advisory Committee (CAC) and appointed to it three members. These three members were the only citizens to volunteer in response to two separate public service announcements seeking interested citizens to service on the CAC. Although the Board found that a three-member CAC would be sufficient, they requested that staff invite the Skagit County Chamber Executive Directors Association (SCCEDA) to recommend two additional representatives – one to represent the Chambers in the eastern portion of the County, and one to represent the western portion.

Mr. McNally indicated that after repeated requests from SCCEDA's president, Michael Broom, he found that, although interested, the organization's members were already overcommitted with civic activities. The Planning and Permit Center received two requests from individuals who claimed to be either a Chamber of Commerce member or a representative of such a member. The first was Dave Pickenpaugh, a member of the North Cascades Chamber and the second was from Rollin Harper of Sehome Planning, who was asked by the Upper Skagit Tribe to represent them. The Upper Skagit Tribe is a member of the Burlington Chamber, according to Mr. Harper.

Commissioner Munks moved to proceed with the three-member CAC as now appointed and appoint Rollin Harper to the CAC and Dave Pickenpaugh as a member-at-large. Commissioner Dahlstedt seconded the motion, which passed unanimously.

3. Set Date and Time to Consider Planning Commission Recorded Motion Approving the Skagit County Parks & Recreation Comprehensive Plan.

Senior Planner, Kirk Johnson, asked to schedule a date and time to consider the Planning Commission's recorded motion to approve the 2004 update to the Comprehensive Parks and Recreation Plan.

Commissioner Munks made a motion to schedule time on the Board's calendar on Monday, April 19, 2004 from 1:30 to 2:00 p.m. to consider the Planning Commission's recommendation, as outlined by Mr. Johnson. The motion was seconded by Commissioner Dahlstedt and passed with a unanimous vote.

4. Discussion – City/County Urban Growth Area Relationships.

Mr. Haff stated that discussions between City representatives, Public Works Director, Chal Martin, and himself, were held on March 16, 2004. The discussion was on the subject of exploring common strategies within the urban growth areas. Mr. Haff indicated that all those individuals who were present were cautiously optimistic. An additional meeting will be scheduled within the immediate future.

5. Bayview Ridge Subarea Planning Process Update.

Assistant Director, Gary Christensen, stated that the final Environmental Impact Statement, draft Subarea Plan and Development Regulations for Bayview Ridge is to be released for public review and comment on March 26, 2004. He said the Planning Commission will hold a public hearing on April 27, 2004 and the public comment period expires on May 10, 2004.

6. Discussion – Fidalgo Island Subarea Planning Process Update.

Mr. Christensen said on February 26, 2004, the Planning and Permit Center issued a Request for Proposals and Scope of Work for the Fidalgo Island Subarea Plan. This happened after the Citizen's Advisory Committee (CAC) and the Technical Advisory Committee (TAC) had reviewed and offered constructive comments on both draft documents.

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Mr. Christensen indicated that proposals are due to the Department on or before March 29, 2004. Both the CAC and TAC will review the Request for Proposals at their next joint meeting on April 8, 2004.

7. Miscellaneous.

There were no miscellaneous items to be discussed.

CONSENT AGENDA.

Commissioner Munks motioned to approve items 1 through 30 on the Consent Agenda for Monday, March 22, 2004. Commissioner Dahlstedt seconded the motion, which passed unanimously.

COMMISSIONERS' OFFICE:

1. Record of the Proceedings for March 15, 2004.
2. Record of the Proceedings for March 17, 2004.
3. Resolution appointing George Allen to the Upper Skagit Library District. His term will begin April 1, 2004, and continue until December 31, 2006. **(Resolution No. R20040091)**

ADMINISTRATIVE SERVICES:

4. Amendment No. 1 to Contract **No. C20030199** with Aero-Skagit Emergency Services, Inc. to provide Advanced Life Support Ambulance Services. The amendment will extend the contract through December 31, 2004. Compensation for 2004 shall be \$231,795. **(Amendment No. A20040064)**
5. Resolution AND Interlocal Agreement with the City of Mount Vernon to provide the County will various audio visual production services. The agreement is effective upon execution and shall continue through December 31, 2004. Compensation shall not exceed \$18,000. **(Resolution No. R20040092 and Contract No. C20040144)**
6. Resolution to approve the allocation of 2060 funds for low-income housing projects for 2004 as per the plan presented by Skagit County Community Action Agency and as outlined in Interlocal Agreement C20040083. **(Resolution No. R20040093)**

BUDGET & FINANCE:

7. Memorandum of Agreement with the Sedro-Woolley Loggerodeo to provide funding for tourism promotion services for 2004. The agreement is effective January 1, 2004 through December 1, 2004. Compensation shall be \$5,000 funded by hotel/motel taxes. **(Contract No. C20040145)**

FACILITY MANAGEMENT:

8. Amendment No. 3 to Contract **No. C20030040** with Evergreen Security Systems for annual fire alarm system tests and the monitoring of fire panels. The amendment will extend the contract until December 31, 2005. Compensation shall be increased by \$3,696.50. **(Amendment No. A20040065)**

FARMLAND LEGACY:

9. Facilitation Services Agreement with Skagit Land Trust to assist the County in fulfilling the terms of a Salmon Recovery Funding Board grant to permanently protect 474 acres of strategic habitat and farmland on Hart Island in the Sedro-Woolley area. The agreement shall be effective from

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March 10, 2004 through October 10, 2004. Compensation shall not exceed \$15,000. (**Contract No. C20040146**)

FIRE MARSHAL'S OFFICE:

10. Resolution AND Interagency Agreement with Washington State Department of Natural Resources (DNR) to support the Washington State Wildland Fire Prevention Program and DNR/Skagit County wildland fire prevention projects. The agreement shall be effective upon execution and shall continue through November 2008. DNR will reimburse the County for direct expenses for staff. (**Contract No. C20040147**)

PARKS AND RECREATION:

11. Contract with West Sound Outdoor Adventure Program for launching commercial float trips on the Skagit River from Howard Miller Steelhead Park. The agreement shall be effective from November 1, 2003 through December 31, 2004. Compensation to the County shall be a permit fee of \$60 plus 2% of the gross earnings for the year. (**Contract No. C20040148**)

PLANNING & PERMIT CENTER:

12. Resolution granting the appeal of Roy Frazier, reversing the Hearing Examiner's decision and granting the modification to Administrative Special Use (PL03-01164). (**Resolution No. R20040095**)

PROSECUTING ATTORNEY:

13. Amendment No. 1 to Personal Services Agreement **No. C20030507** with Buck & Gordon. The amendment reflects changes in personnel in attorneys and paralegals for 2004. There is no change in rates. All other terms and conditions of the original contract shall remain in effect. (**Amendment No. A20040066**)
14. Resolution regarding the transfer of a 1987 Chevrolet Astro Van from the Equipment Rental and Revolving Replacement Program to the Skagit County Historical Society. (**Resolution No. R20040096**)

PUBLIC DEFENDER:

15. Personal Services Agreement with Jennifer Bouwens, Attorney at Law, to handle 20 felony cases per month as assigned. The agreement is effective March 1, 2004 through December 31, 2004. Compensation shall be on a per case basis. (**Contract No. C20040149**)

SHERIFF:

16. Vendor Services Agreement with Aramak Services to provide food and commissary services to the Skagit County Jail. The agreement is effective March 13, 2004 and shall continue through March 12, 2005. Compensation shall be \$.94 per meal. Commissary services are priced on a per item basis. (**Contract No. C20040150**)

TREASURER:

17. Resolution approving the updated Skagit County Investment Policy. (**Resolution No. R20040097**)
18. Resolution approving the updated Skagit County Debt Policy. (**Resolution No. R20040098**)

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YOUTH AND FAMILY SERVICES:

19. Personal Services Agreement with Kathie Ketcham, M.A. to provide specialized, child, adolescent, adult and family assessment, evaluation and treatment for group, individual, family consultation. The agreement shall be effective January 1, 2004 through December 31, 2004. Compensation shall not exceed \$15,000. **(Contract No. C20040151)**

PUBLIC WORKS:

20. Resolution to call for bids for the purchase of two electronic reader boards signs to be mounted on the ferry terminal building in Anacortes. The bid opening is scheduled for Monday, April 12, at 11:30 a.m. **(Resolution No. R20040099)**
21. Resolution to call for bids to purchase two portable buildings for the Guemes Island Ferry. The bid opening is scheduled for Monday April 12, 2004 at 11:15 a.m. **(Resolution No. R20040100)**
22. Resolution to call for a public hearing to consider vacation of unopened County right-of-way known as Spruce Avenue and alley in the plat of Clear Lake. The hearing is scheduled for Tuesday, April 13, 2004 at 9:00 a.m. **(Resolution No. R20040101)**
23. Final Order of Vacation for unopened County right-of-way along Kelleher Road, #63400. **(Resolution No. R20040102)**
24. Annual Certification for calendar year 2003. This will result in the issuance of the Certificate of Good Practice by the County Road Administration Board. **(Resolution No. R20040103)**
25. Resolution designating an Applicant Agent for the State of Washington Hazard Mitigation Grant Program. **(Resolution No. R20040104)**
26. Certification of Road Fund Expenditures for Fish Passage Barrier Removal required by the County Road Administration Board. **(Resolution No. R20040105)**
27. Resolution establishing County Road Project (CRP) No. 40086-1 for the Mill Creek Bridge Repair Project. **(Resolution No. R20040106)**
28. Vendor Services Agreement with One Way Construction to purchase maintenance materials for the period of April 1, 2004 to March 31, 2005. Purchases are expected to exceed \$25,000. **(Contract No. C20040152)**
29. Personal Services Agreement with Mentor Law Group to provide Skagit County with legal counsel, representation, and services for solid waste environmental issues, as requested. The agreement is effective January 26, 2004. Compensation shall be on an hourly basis depending upon the service provided. **(Contract No. C20040153)**
30. Local Agency Standard Consultant Agreement with Materials Testing & Consulting, Inc. for material testing for the Guemes Ferry Parking Lot Project. The agreement is effective from February 15, 2004 through December 31, 2004. Compensation shall not exceed \$12,000. **(Contract No. C20040154)**

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.

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As of this date, March 22, 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 166114 through 166490 from Clearing Fund 696 in the total dollar amount of \$626,036.31 (Transmittal No. C-37-04); and

ACH Transfer Request Form and Certification to Premera Blue Cross from Clearing Fund 696 in the total dollar amount of \$51,184.00 (Transmittal No. C-38-04).

2. Staff presented Change Order No. 2 with One Way Construction, Inc. to provide for a design change for the Town of Concrete waterline. Commissioner Munks motioned to approve the Change Order as outlined by Public Works Engineer, Steve Flude. The motion was seconded by Commissioner Dahlstedt and passed unanimously. **(Contract No. C20040155)**
3. Commissioner Munks moved to approve a Resolution and an Interlocal Agreement between Skagit County and Skagit Transit Authority for the provision of SKAT buses during a declared emergency when evacuations are necessary. Commissioner Dahlstedt seconded the motion, which passed unanimously. **(Resolution No. R20040107 and Contract No. C20040156)**

PUBLIC COMMENT PERIOD.

There was no one present for the public comment period.

PUBLIC HEARING – PROPOSED NON-MOTORIZED TRANSPORTATION PLAN (CHAPTER X OF THE TRANSPORTATION SYSTEMS PLAN).

Kirk Johnson, Senior Planner, stated that the Non-Motorized Transportation Plan (NMTP) began in 2000 with the help of a consultant. The plan was turned over to the Planning Commission (PC) for consideration in the fall of 2001. Their most significant recommendation at that point was to remove specific non-motorized projects from the plan to make it more of a policy document. It was then incorporated into the 2003 Transportation Systems Plan, which the County Commissioners adopted but removed the NMTP from.

Mr. Johnson said the plan was then remanded back to the PC with some specific recommendations. One recommendation was to retain the Cascade Trail in the plan and the second was to state very clearly that inclusion of a project in the plan doesn't constitute a commitment by the County to fund or build that project. The Board also asked the PC to recommend a process whereby projects mentioned in the plan could be added to the County's six-year Transportation Improvement Plan (TIP). The plan then went back to the PC and they held their deliberations on a night when only five members were present. There were good discussions about adding particular projects onto the six-year TIP; however, when it came down to the final vote, three members supported the NMTP and two members were in opposition to it. Therefore, the Planning and Permit Center was unable to forward to the Commissioners a formal recorded motion.

Chairman Anderson opened the public hearing.

Randy Good, 25512 Minkler Road, Sedro-Woolley, spoke on behalf of the Skagit County Cattlemen's Association. He said the issues today are about property rights, public process and whether or not the government going to abide by zone rules and regulations. It is not about who is for or against trails. The Association has grave concerns about listing any project in the NMTP, which already has a PC recorded motion of non-compliance, and which deleted the Cascade Trail from the 2000-2005 TIP of which, action was approved by the County Commissioners. Mr. Good said the Association has no confidence with the public participation process. Last year's TIP process completely bypassed the PC's review. He asked why consider putting a project onto a six-year TIP when compliance issues will not be addressed by the PC.

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Mr. Good said the trail is identified in the Parks and Recreation Plan and has been since 1997 for maintenance. The PC has addressed these takings many times and adopted Comprehensive Plan Policy 9.3 to protect property rights of landowners on the corridor. They also addressed the intent of policy 9.3, stating that landowners' property rights are to be cleared up. This is yet another legal issue that is left unresolved. Interim trail use must comply with state and local land use plans. The Skagit County Ag Advisory Board has addressed the Cascade Trail issue and has determined that the Cascade Trail Rail to Trails takings is causing harm to Skagit County agriculture. Mr. Good feels the Planning Department has failed to accurately provide city and town updates into this plan. The Towns of Lyman, Concrete and Hamilton have resolutions opposing the Cascade Trail that have not been listed. In addition, Concrete and Sedro-Woolley have completely eliminated all references to the trail on their comprehensive plan update. Lyman has language to reverse the rails to trails and bring back the railroad

Andrea Xavier, 19814 SR9, Mount Vernon, said she is not a member of the Citizens Against Rails to Trails (CART) group but has lived here all her life and as such, feels she has fallen victim several times to County processes. She has questions about the subject at hand, especially as it relates to the Cascade Trail. The trail does not impact her directly but who knows what may happen in the future. There are still other unresolved issues affecting property owner's rights. She asked what might be proposed next by somebody, for example, public recreation trails in the creek buffers to the exclusion of farmers?

Regarding the Transportation Plan, Ms. Xaver said there seems to be much conflicting information and mis-information within the County. Even on a Federal level there is and was uncertainty. The CART attorneys that represent farmers, the building industry and others in successful buffer and fish litigation have determined that over 85% of the Sedro-Woolley to Concrete railroad corridor landowners have easements. Legal issues are not resolved and the County comp plan policy 9.3 requires landowner property rights to be cleared up. There is also misinformation about takings. The County's actions created takings for what is a voluntary Federal program. Statements exist that imply that not having the Cascade Trail included in the plan would prevent the County from getting grants for other projects. How could this be? Grant opportunities come and go steadily and it is only a matter of finding the right one for the right cause. She doesn't recall the County being denied any grants because of this particular issue.

The County hired a person to patrol the trail but Ms. Xaver expressed confusion as to what is required of that person? The trail can't be safely monitored as the bridge that washed out at Hamilton in October has not been properly marked to prevent accidents. As for use, all anyone has to do is stop along the corridor between Hamilton and Concrete to see motor bike and 4 wheeler ruts. As CART Attorney John Schulz has summarized, the Cascade Trail is not a valid trail, it is a recreation trail and not a transportation project. It has not been adopted by the County and is subject to unresolved legal issues, is in non-compliance to the County's Comprehensive Plan Policy 9.3, and there has been no public process to establish the Cascade Trail or to study environmental issues such as wetlands.

Pat Bell, 5916 Campbell Lake Road, Anacortes, stated that over the years discussions have been held regarding the widening of Campbell Lake Road. North Campbell Lake Road is one of the most difficult roads to access from a driveway. She and her husband were successful in getting the speed limit reduced to 35 mph, but people travel 45-50 mph, which makes for a dangerous situation. She urged the Board to keep the road as it is, which will keep the speed down and make it safer for people living along it.

Bob Bell agreed with his wife and stated that as a member of the Fidalgo Island Subarea Planning Commission, he is concerned about the recommended non-motorized improvements. He thinks it should say non-motorized recreational improvements. Mr. Bell said he doesn't see a need for bicycle transportation as he sees very little of it taking place. He feels that putting bicycle trails on the highways or roads is not a wise idea as that only leads to wider road and faster traffic.

Larry Lowe, 10423 Fruitdale Road, Sedro Woolley, echoed Mr. Bell's statement. He said when he first glanced at the NMTP he asked himself if there was a demonstrated need for it. Mr. Lowe questions whether it is a people mover or mainly a means of recreation. He stated that the Farm Bureau has concerns about individual property rights being considered in the planning process. It is their belief that by protecting property rights, we preserve economic stability, the health and welfare of our citizens and

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the public good of the State. The Bureau opposes the conversion of abandoned railroad right-of-ways and public rights of way for the creation of recreational trails. This only results in the loss of private property and farmland. When such property is abandoned, the right-of-ways should be returned to the current owner. Mr. Lowe said the Bureau also believes that adjacent property owners should have the first right to lease the land pertaining to the abandonment of a railroad and right-of-ways at fair market value.

Peggy Bissell, 11582 Scott Road, Bow, said she is a new resident to Skagit County. In the process of looking for property where she would want to live, Ms. Bissell found many different kinds of areas where there were groups of houses but very few neighborhoods. When she looked at the NMTP it was her understanding that it would contain a recommendation to place walkways and bike ways in new developments, which adds property value to any new proposed development.

Ron Wesen, 7210 Worline Road, Bow, asked if it is really necessary to have these trails all over the area. He lives in Blanchard and said there are a lot of people that use the dikes in the area, which only causes garbage that must be cleaned up. It is his understanding that the rails in Sedro-Woolley still have property value; therefore, property rights issues need to be cleared up before public access is allowed on them.

Carol Ehlers, 3998 Wind Crest Lane, Anacortes, stated that the PC has been attacked for delaying the NMTP. She provided background information documenting the history of the plan. After much wrangling, it was recognized that the six-year TIP process is the only process by which any transportation project needs to come before the County and the government. Ms. Ehlers said the PC suggested five criteria that should be used on the six-year TIP, which are safety, funding sources, road capacity, consistency of subarea plans, and consistency with the comprehensive plan. She asked how these can possibly be ignored. Ms. Ehlers said Mr. Semrau suggested that problems be identified, prioritized and funding sources be selected as that that be the process by which you do things. That should be the six-year TIP process and she assumed it to be so.

Tom Skinner, 14118 McTaggart Avenue, Edison, said he supports non-motorized transportation because it is used throughout the world and is seen as a viable and essential means of transport. He reminded the Board that they had guaranteed there would be an adequate shoulder for bicyclists when the West Bow Hill Road improvements were done but that is not the case. Mr. Skinner charged the Board with consistently ignoring the requests of a large cross-section of Edison residents to address the issue of sidewalks in town

Ralph Heft, 19117 SR9, Mount Vernon, supports the plan as a first step for those that like to bike and walk. He sees the need to make sure there are ways to make exercise is easy and fun for folks.

Ivan Bacus, Jr., 8465 Harrison Road, Sedro-Woolley, said he doesn't think the Cascade Trail should be used as a primary source of non-motorized transportation. The State has already put in a lot of time and effort in establishing a bicycle trail along Highway 20. Mr. Bacus said there are maintenance issues on the trail that need to be addressed; however, the Parks Department feels they have no obligation to perform any necessary upkeep.

Thomas Oliver, 32638 Lyman-Hamilton Highway, said he is opposed to the Cascade Trail as it stands and feels the wisest thing to do would be to close it at this time. He cited numerous problems he has incurred as a property owner residing along the trail. Mr. Oliver said there is no appropriate maintenance and feels the County has taken over a rail bed that is a liability.

Stoney Bird, 608 South First Street, Apt. 212, Mount Vernon, indicated that a lot has been heard about what transportation and walking is for. It is partly for recreation but it could be a way for people to get around in the daily work of life. If communities are made safe, convenient and attractive for people on bicycles and on foot then they'll be safe, convenient and attractive period. And if they're not, then cars are in charge and suddenly it's not so safe, convenient or attractive anymore. The central core of the community is an urban area and part of getting around in that urban area is being able to do it on foot and on a bicycle. Mr. Bird said several people have mentioned health aspects. The road building and land use

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policies that have been followed in the past have dictated that people must to use cars to get around. The need to use cars is one thing that has led to the epidemic of obesity. He hopes the Board approves the NMTP. At that time then perhaps we can proceed with the development of specific projects and make the county as safe, convenient and attractive as possible.

Ed Lipsey, 33533 Cockerham Island Road, Sedro-Woolley, said Burlington Northern Railroad were good neighbors but Skagit County is not. He strongly urged the Commissioners to look at the property deeds and honor them before they make a decision that this is a transportation trail.

Marcia Hunt, 1515 14th Street, Anacortes, strongly encourages Skagit County to adopt the draft NMTP being considered, act decisively to implement it and start building on some of those ideas. The plan has stated that ultimately it needs to be recognized that pedestrians and bicyclists are legitimate transportation modes and that all actions taken to design, develop and maintain our transportation system must account for the needs of these users as we account for the needs of motorists. Bicycles and walking are transportation. Ms. Hunt said she regularly bikes for transportation and also shops for groceries at the same time, which is commerce.

Aaleen Good, 25512 Minkler Road, Sedro-Woolley, quoted former Congressman Tom Coleburn. "By government not taking the responsibility of their actions is the whole sick mentality behind rails to trails." Federal statutes state that abandoned railroads may convert to trails for future rail use. It was Skagit County's action that caused the taking of the single use 100-year old easements for public use without paying for it. It is now time for Skagit County to take the responsibility of their actions regarding this court-proven taking. The damage rails to trails has caused between Skagit County Government and the landowners is very simple - the government has taken single use recorded easements and changed them to public use without landowners knowledge or without paying for them. Ms. Good asked if farmland legacy easements are in jeopardy for government takings along with buffers, dikes and other utility easements. She added that the Cascade Trail has no master plan; it is noncompliant with the County's Comprehensive Plan and is recreational, not transportation. Ms. Good said she sincerely hopes the Commissioners will consider the landowners constitutional rights and delete the Cascade Trail from the NMTP.

Don Kaaland, 8354 South Healy Road, Sedro-Woolley, also thinks the Cascade Trail should also be deleted from the NMT and private property rights have not been addressed. He has received considerable invasion of his property rights by the Cascade Trail and said the Sheriff's Department is either unable or unwilling to police the trail in any means whatsoever. Mr. Kaaland stressed that he has nothing against bicyclists or trail users in any way, but owns does own the land that the trail has an easement on. He is surprised that people think that they need to access his land without asking for his permission.

Lanney Wixson, 12155 Bayhill Drive, Burlington, spoke about the fattening of America. Due to health reasons, Mr. Wixson took up bicycling several years ago. He said a poll was conducted, wherein 10% of respondents felt that if they could travel safely by bicycle, then they would prefer to do so most of the year. Far more than 10% of the group present today has said they would do so as well. Mr. Wixson also mentioned posting signs that say "If you see litter, pick it up." The Federal and State governments are both releasing money for off-street transportation with the hope of removing vehicles off the roadways. In his opinion, we will all save a fortune if we can get one car off the road and onto a bicycle because it is more expensive to build a street than something the size of a sidewalk. OPEC countries will soon be making a lot of money off of America in the next few years. When this occurs, we'll soon understand how important this meeting was.

Judy Lipsee, 35710 Lyman-Hamilton Highway, also asked that the Cascade Trail be omitted from this plan. Part of the reason is due to the high incident of bridges being washed out along the trail, making it non-contiguous to Concrete. She asked how many of the 22 bridges are going to wash out in the future and how expensive will it be to put them back. Ms. Lipsee said if the Cascade Trail was more efficient then she would probably welcome it. But with so many wash outs and slides from the Skagit River and the mountain areas, she thinks the trail should be omitted for expenses alone.

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Janet McCrae , 20082 Prairie Road, Sedro-Woolley, said she doesn't think there is anyone in the room that is opposed to trails if they are done right. However, she is opposed to people taking property that they don't own or pay for to turn it into trails. If someone wants to use a trail they don't want it graveled or paved, they want to go out and enjoy nature the way nature was intended to be enjoyed. As for bicycle trails, she realizes they need to be a hard surface; however, they do have a right-of-way on County roads. Ms. McCrae feels that if you want to build a special trail for a bicycle, then the bicyclists ought to pay for it. She has a problem with the government paying money to develop a trail for a few of the population. She wonders why Skagit County is trying to acquire funding for the Cascade Trail as there is really no plan for this attractive nuisance. Ms. McCrae encouraged the Commissioners to uphold the Planning Commission's recorded motion of non-compliance deleting Cascade Trail from the plan.

Randy Good submitted a letter from CART Attorney, John Schultz, which states "...the Skagit County Planning Commission has gone on record with the position that the Skagit County Comprehensive Plan Policy 9.3 would assure that affected property owners and their property rights are adequately and legally addressed before trails are proposed and approved. The intent of Policy 9.3 would require the property rights of the Sedro-Woolley/Concrete corridor landowners be addressed and resolved, in reference to any trail project. The Cascade Trail is not a viable trail, is not in compliance with the County's Comprehensive Plan 9.3, is not a transportation component, has not gone through the public process, is subject to unresolved legal issues and must be deleted from the non-motorized plan."

Chairman Anderson said the Planning Department will welcome written comments; however, they must be submitted to them by Friday, March 26, 2004 by 4:30. He added that input from the people is what makes the public process work and appreciates them taking the time to come here today.

Commissioner Munks motioned to close the public hearing and the motion was seconded by Commissioner Dahlstedt, which passed. The public hearing was closed.

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