

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY COMMISSIONERS
MONDAY, JUNE 7, 2004**

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| 9:00 a.m. – 9:30 a.m. | Executive Session – Personnel, Litigation and Land Acquisition |
| 9:45 a.m. – 10:00 a.m. | Bid Opening – New Front End Loader |
| 10:00 a.m. – 10:45 a.m. | Department Head Meeting |
| 10:45 a.m. – 11:00 a.m. | Bid Opening – Courthouse Administration Building HVAC System Improvements |
| 11:00 a.m. – 11:30 a.m. | Consent Agenda and Miscellaneous Items |
| 11:30 a.m. – 11:45 a.m. | Public Comment Period |
| 11:45 a.m. – 12:00 p.m. | Recognition – ARIS Intervention Specialist, Lisa Gray |
| 1:00 p.m. – 1:30 p.m. | Decision – Closed Record Appeal of the Hearing Examiner’s Decision No. PL04-0255 Regarding the Placement of a 180-Foot Monopole Cell Tower at Rexville Grange |
| *T 1:30 p.m. – 2:30 p.m. | <u>Planning and Permit Center – Lou Haff, Interim Director</u> <ol style="list-style-type: none">1. Public Hearing – Consideration of the Adoption of Changes to Skagit County Code 15.04, International Codes2. Miscellaneous |
| *T 2:30 p.m. – 3:30 p.m. | <u>Public Works – Chal Martin, Director</u> <ol style="list-style-type: none">1. Discussion – Update on the La Conner Morris Street/Roundabout Project2. Discussion – Update on the FERC Relicensing for the Baker Hydroelectric Project3. Discussion/Concurrence – Participation on the Fisher Slough Acquisition and Restoration Feasibility Study4. Miscellaneous |
| 3:30 p.m. – 4:00 p.m. | Work Session – Operations Division Manager/Road District Maintenance Supervisors |
| 4:00 p.m. – 5:00 p.m. | Executive Session – Personnel, Litigation and Land Acquisition |

The Skagit County Board of Commissioners met in regular session on Monday, June 7, 2004 with Commissioners Ted W. Anderson and Kenneth A. Dahlstedt present. Commissioner Don Munks was absent for all but the last segment of the agenda, which was excused.

BID OPENING – NEW FRONT END LOADER.

Dub Queen of the Public Works Road Shop opened the following five bids:

Pape Machinery
420 E. Hickox Road
Mount Vernon, WA 98273
Bid Bond Enclosed
Total Bid Without Trade-In: \$182,551.50
Total Bid With Trade-In: \$164,457.90

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Modern Machinery
22431 83rd Avenue South
Kent, WA 98032
Bid Bond Enclosed
Total Bid Without Trade-In: \$165,378.74
Total Bid With Trade-In: \$156,674.74

Western Power and Equipment
2702 W. Valley Hwy N.
Auburn, WA 98001
Bid Bond Enclosed
Total Bid Without Trade-In: \$170,296.24
Total Bid With Trade-In: \$155,608.24

NC Machinery
2020 Freeway Drive
Mount Vernon, WA 98273
Bid Bond Enclosed
Total Bid Without Trade-In: \$181,758.63
Total Bid With Trade-In: \$167,245.00

Clyde West
9615 W. Marginal Way S.
Seattle, WA 98108
Bid Bond Enclosed
Total Bid Without Trade-In: \$167,585.72
Total Bid With Trade-In: \$156,705.72

Mr. Queen indicated that he would review the documents and bring forth a recommendation in the next few weeks.

DEPARTMENT HEAD MEETING.

Sharon Dubois of Risk Management stated that a Resolution was recently adopted by the Board of Commissioners that enhances the County's driving program. There are two primary changes, the first of which will require all employees to participate in a County-sponsored defensive driving course. The second change is the formation of an Accident Review Board to investigate accidents that may occur in County-owned vehicles. Ms. Dubois said defensive driver's training will begin next week and everyone must complete the course by January 31, 2005. She also indicated that periodic driver's license checks will be conducted at random.

Traffic Safety Coordinator, Don McKeehen stressed that the class would have a heavy emphasis on driving in a safe manner, whether it be in a County vehicle or a personal vehicle. Hopefully, it will raise everyone's level of awareness in every driving environment.

Interim Director, Keith Tyne, introduced Amy Carpenter as the new Staff Assistant in the Public Defender's office.

Public Works Director, Chal Martin, provided a PowerPoint presentation regarding water rights issues.

Chairman Anderson announced that the Board of County Commissioners would begin holding sessions on Mondays only beginning in June. Executive sessions will now be held on Tuesday mornings. This change is brought about by the necessity to have the televised taping done in one day instead of two days.

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BID OPENING – COURTHOUSE ADMINISTRATION BUILDING HVAC SYSTEM.

Facilities Management Director, Roger Howard opened the following bids for an HVAC system:

Ebenol General
P. O. Box 31548
Bellingham, WA 98228
Bid Bond Enclosed
Total Bid: \$149,675
Alternate No. 1: \$31,475.00

Blythe Plumbing & Heating
2201 Humbolt Street
Bellingham, WA 98225
Bid Bond Enclosed
Total Bid: \$158,526.00
Alternate No. 1: \$30,824.00

Mr. Howard indicated that a recommendation would be forthcoming.

CONSENT AGENDA.

Commissioner Dahlstedt motioned to approve the Consent Agenda for Monday, June 7, 2004, items 1 through 18. Chairman Anderson seconded the motion, which carried.

COMMISSIONERS' OFFICE:

1. Record of the Proceedings for Monday, May 24, 2004.

BUDGET & FINANCE:

2. Funding Agreement between Skagit County and Skagit Habitat for Humanity, per Resolution No. R20040093 to distribute low-income housing funds pursuant to Substitute House Bill 2060. The agreement shall commence upon the date of execution and continue for one year. Compensation shall total a maximum of \$40,000. **(Contract No. C20040240)**
3. Resolution AND Interlocal Cooperative Agreement between Skagit County and the Town of Hamilton for \$5,000 to be used on grant writing for flood mitigation assistance. The agreement shall commence on January 1, 2004 and continue through December 31, 2004. **(Resolution No. R20040181 AND Contract No. C20040241)**
4. Resolution calling for a Public Hearing for the River Improvement Fund in the amount of \$1,530,079. The hearing will be held on Monday, June 21, 2004 at 10:45 a.m. **(Resolution No. R20040182)**

HEALTH DEPARTMENT:

5. Washington State Department of Social and Health Services (DSHS) contract, which establishes terms and conditions for all DSHS contracts beginning July 1, 2004 through June 30, 2009. **(Contract No. C20040242)**
6. Amendment No. 4 to the Washington State Department of Health Contract **No. C20020124,** which increases the compensation by \$2,500 for a new total not to exceed \$13,500. This amendment is effective upon execution and the termination date remains June 30, 2005. **(Amendment No. A20040103)**

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HUMAN RESOURCES:

7. Resolution approving a sick leave transfer for an employee of the Skagit County Superior Court. **(Resolution No. R20040183)**

HUMAN SERVICES:

8. Resolution appointing David Wilder to the Skagit County Developmental Disabilities Advisory Board effective May 21, 2004 and expiring on May 20, 2007. **(Resolution No. R20040184)**
9. Amendment No. 1 to the North Sound Mental Health Administration Contract **No. C20040043**, which extends the Mental Health Consumer Oriented Projects Funding to December 31, 2004 and increases compensation by \$12,936. All other terms and conditions of the original agreement shall remain in effect. **(Amendment No. A20040104)**

PROSECUTOR'S OFFICE:

10. Partial Satisfaction and Release of Judgment as it relates to Steven Strawn, which will pay \$1,380.13 for said Release. **(Approved)**

RISK MANAGEMENT:

11. Personal Services Agreement with John A. Follis of Anderson and Hunter Law Firm to provide Worker's Compensation representation as requested by the Skagit County Risk Management Department. The agreement shall commence on May 14, 2004 and continue until December 31, 2004. Compensation shall not exceed a total of \$5,000. **(Contract No. C20040243)**

PUBLIC WORKS DEPARTMENT:

12. Resolution calling for a Public Hearing to authorize the change of the name of a County road known as Panoramic Lane #19279 to South Beach Lane #19279. The hearing will be held on Monday, June 28, 2004 at 10:45 a.m. **(Resolution No. R20040185)**
13. Resolution awarding the contract for the Guemes Ferry/Anacortes Parking Lot Project ESMC 991-1 to Advanced Construction, Inc. in the amount of \$591,184.50. **(Resolution No. R20040186)**
14. Resolution awarding the bid for the purchase of one new latest model Herbicide Chemical Injection Spray Unit to Norstar Industries, Inc. for the low bid of \$52,631.87. **(Resolution No. R20040187)**
15. Resolution awarding the bid for the procurement of maintenance materials to multiple vendors for the period beginning April 30, 2004 and ending May 31, 2005. **(Resolution No. R20040188)**
16. Personal Services Agreement with HR Answers, Inc. to conduct an organizational climate assessment survey of the Public Works Department, including an action plan to address findings of the assessment. The agreement shall commence on June 1, 2004 and continue until December 31, 2005. Compensation is not to exceed a total of \$35,000. **(Contract No. C20040244)**
17. Easement between Skagit County and the City of Anacortes for storm drainage utility infrastructure. **(Contract No. C20040245)**

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18. Personal Services Agreement with Bayview Surveying, Inc., to provide surveying services on an as needed basis for the Skagit River Feasibility Study, Natural Resources and drainage projects. The agreement shall commence on May 3, 2004 and continue through May 3, 2005. Compensation shall not exceed a total of \$20,000. **(Contract No. C20040246)**

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, June 7, 2004, the Board by majority vote, did approve for payment those vouchers included in the above-mentioned list and further described as follows:

ACH Transfer Request Form and Certification to Premera Blue Cross from Clearing Fund 696 in the total dollar amount of \$59,159.76 (Transmittal No. C-71-04); and

Warrants numbered 171233 through 171813 from Clearing Fund 696 in the total dollar amount of \$2,248,792.35 (Transmittal No. C-72-04); and

ACH Transfer Request Form and Certification to Premera Blue Cross from Clearing Fund 696 in the total dollar amount of \$44,515.00 (Transmittal No. C-73-04); and

Warrants numbered 171814 through 172318 from Clearing Fund 696 in the total dollar amount of \$4,159,418.31 (Transmittal No. C-74-04).

2. Staff presented a Resolution calling for a Public Hearing to amend the boundary lines for voting precincts in Skagit County to reflect annexations by the City of Sedro-Woolley. The hearing will be held on Monday, June 21 2004 at 1:15 p.m.

Commissioner Dahlstedt motioned to approve the call for a Public Hearing and Chairman Anderson seconded the motion, which carried. **(Resolution No. R20040189)**

3. Commissioner Dahlstedt made a motion to approve a Quit Claim Deed between Skagit County and Jack and Anne Middleton for the purpose of clearing title for an area of unopened County road that adjoins their property. Chairman Anderson seconded the motion, which carried. **(Approved)**

PUBLIC COMMENT PERIOD.

Mike Janicki, 130 North Township, Sedro-Woolley, expressed his concerns regarding the 4827 acres of trust land called Blanchard Mountain. Currently there is an existing Habitat Conservation Plan (HCP) on the hillside through the Department of Natural Resources (DNR). He said the timber on the mountain has been logged multiple times and he feels there is no need to change the HCP at this point.

Mr. Janicki said his company built a road from Barrell Springs to the north side of Blanchard Hill in the early 70's. In 1984 another road was built to Blanchard Point that overlooks Chuckanut Bay. During that time, numerous trails were crossed up but the trails were replaced once logging operations were completed. Crushed rock was provided for the entire road system, which was more than what would have been expected on a standard logging road. Mr. Janicki said because this is trust land, all the revenue received should go to the Burlington School District. He feels it is wrong to tie up this land for anything other than multiple uses, including logging.

Paul Kriegel, Resource Manager for Goodyear Nelson, said he has some concerns about the Blanchard Mountain plan as well. An existing HCP has been in place for quite a few years and it seems to have been working just fine. Skagit County and the Burlington School District are the main beneficiaries of that

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block of timber and for some reason recent documentation indicates that DNR is giving beneficiary status to the Northwest Ecosystem Alliance and the Sierra Club. Mr. Kriegel said DNR has finished negotiating the Lake Whatcom Watershed Plan, have finished their sustained yield process and are now looking at a new plan for Blanchard Mountain. One has to wonder when this is going to stop. He thinks DNR is setting some rather dangerous precedents.

Mr. Kriegel said there are a lot of areas in Skagit County where some might believe a new management plan should be negotiated, including watersheds and mountains. However, he doesn't think that is how these lands were intended to be managed. He feels it will not be in the best interest of the trusts in Skagit County to have another plan on every piece of property that DNR owns.

Chuck Kallman, 310 North Waugh Road, Mount Vernon, is the Resource Manager for a lumber company based out of Marysville. He stated that DNR's Blanchard Forest Management Strategies Project is to "seek a balance of recreational use, resource protection and trust income generation." DNR already has an HCP in place which far exceeds current forest practice rules. They are mandated by law to manage the trust lands in the best interest of the Trusts by creating revenue for schools, minor taxing districts, and various timber counties throughout the State of Washington. Recreation already exists in conjunction with timber harvest on Blanchard Hill and seems to be working well. It is a known fact that timber harvest pays for the maintenance of access roads for recreational trails.

Mr. Kallman asked what balance DNR is looking for. It appears to him that once again small interest groups are rising to the top rather than advocating proper management of trust lands. He is not convinced that recreational interests are the one raising this issue. It is a known fact that DNR and the Northwest Ecosystem Alliance did a joint economic study to calculate the value of timber harvests and recreation to the surrounding community. So who is really wanting a new Forest Management Plan for Blanchard Hill?

The new forest and fish laws have become quite an issue for the farmlands of Skagit County. Mr. Kallman said he knows the Commissioners are quite involved with this issue and should be. He realizes the Board is also aware of the sacrifices the timber industry has made over the past 10-15 years. The timber industry worked with the agencies to develop the current Forest Practice Rules, knowing there would be great sacrifices, but at least we would there were some hardfast rules to work with. Mr. Kallman said more and more restrictions have been put into place and interpretation of the rules never seems to favor the timber industry. The bottom line is the more restrictions that are placed on land available for harvest, the less revenue there will be for Skagit County. Because Skagit County is a beneficiary from DNR trust lands, the Commissioners' voice should be heard loud and clear.

Mr. Kallman urged the Board to take a hard look at the revenue being lost in Skagit County by the mismanagement of trust lands and consider the financial impacts when reviewing this Blanchard Forest Management Strategies Project.

Tom Westergreen, Log Manager for Great Western Lumber in Everson said his company employs approximately 60 people. The company relies on private timber and they also purchase timber from State timber sales in Whatcom and Skagit Counties. Great Western Lumber owns 80 acres of timber land on the north end of Blanchard next to Larrabee State Park. When something changes on state land it affects private lands as well. Mr. Westergreen encouraged the Commissioners to look at this plan and talk to DNR to see what they have in mind. He is hopeful that the process can be stopped before it gets too far along.

Dave Chamberlin, C&G Timber, said that he is here in part because he lives in the Burlington School District and the income from the sale of the timber in question is related to taxes he pays to support the school system that his children are involved with. He asked if a new planning process is necessary as there is nothing that legally mandates it. Mr. Chamberlin said that when he reads the letters that have been sent out to the Commissioners by Bill Wallace, DNR Northwest Region Manager, that state "in addition to this public meeting and at least one more, DNR will be working closely with various interest groups as we develop our management strategy. In order to accomplish this we have had a couple

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meetings already with representatives from some of the trust beneficiaries, including our meeting with you, your staff, the Burlington-Edison School District, environmental groups such as the Northwest Ecosystem Alliance and the Sierra Club". Mr. Chamberlin asked how the Northwest Ecosystem Alliance and Sierra Club fit in as beneficiaries. Very little is said about the Burlington-Edison School District but it seems to him that they would be one of the primary beneficiaries. He thinks that is wrong and that it is setting the intent of who is involved with decision making that makes him suspicious of the whole process.

Dick Whitmore, Resource Manager for Washington Alder, stated that his company employs 110 people in living wage jobs here in Skagit County. One thing in the letter from Bill Wallace that he finds disturbing as well is that quote that DNR has been talking to individual groups instead having all the groups together to listen to what everyone has to say. He finds it to be a divide and conquer mentality that DNR has going. It is unclear what actually takes place behind closed doors with these special interest groups.

Mr. Whitmore said DNR has spent over \$800,000 in studying the Lake Whatcom proposal. It has never gotten off the ground because the land commissioner said the study doesn't make sense. When Mr. Whitmore worked for the US Forest Service, they had a viable timber program, a viable recreation program, fire program, and wildlife program. As we see timber go out of practice around here, we are going to see everything else diminish also. The rock crushed on logging roads is put on there by timber sales, not by recreational users but they can access them. Those users wear the roads out but don't have the funds to put the money back into them. Mr. Whitmore said it's a little fishy to him that Northwest Ecosystem Alliance and Sierra Club are using recreation as their moniker to plan this area because Ecosystem's leader is an earth-first terrorist by the name of Mitch Freidman. They claim they are using the property as an ecosystem and not as recreation. Mr. Whitmore urged the Board to take a closer look at it.

Chairman Anderson said he would be weighing in on this subject matter with Public Land Commissioner, Doug Sutherland, and would forward any correspondence to Mike Janicki.

RECOGNITION – ARIS INTERVENTION SPECIALIST, LISA GRAY.

Youth and Family Services Director, Nancy Brown, introduced ARIS Intervention Specialist Lisa Gray. Nina Boudinot of Jefferson School explained that Ms. Gray was chosen for the Regional Soroptimist Award "Women Helping Women". She specializes in working with elementary age children and their parents when the difficulties they face interfere with their ability to be successful in school.

Ms. Boudinot said Ms. Gray was nominated for what she does above and beyond her job duties. Outside of being a case manager, she continues to inspire, encourage and help women throughout the community.

DECISION – CLOSED RECORD APPEAL OF THE HEARING EXAMINER'S DECISION NO. PL04-0255 REGARDING THE PLACEMENT OF A 180-FOOT MONOPOLE CELL TOWER AT REXVILLE GRANGE.

Commissioner Anderson stated a closed record appeal hearing was held on May 24, 2004 regarding the Hearing Examiner's decision relating to placement of a 180-foot monopole cell tower at Rexville Grange. The Commissioners will be rendering their decision on that matter today. Commissioner Munks is at water rights negotiations representing the County, and is therefore unable to attend.

Commissioner Anderson said that the Ordinance for cell towers was created because cell towers were being constructed in the County without being regulated. While federal regulations prohibit blocking cell tower construction, the County does have the right to regulate where they are placed. A tower that was being proposed near homes on Bacus Hill brought this issue to the forefront. Commissioner Anderson stated that everyone wants to see progress and to have good cell phone coverage, but surrounding neighborhoods also need to be considered. He said that this issue is a result of a mapping error, which is the only reason the area is zoned agricultural. That was acknowledged when a building permit was issued to a five-acre parcel adjacent to the proposed site. He added that part of what makes our valley a great place to live is its scenic atmosphere. Commissioner Anderson said that he was surprised that the

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variance was granted because the setbacks are supposed to be equal to the height of the cell tower. He felt that the Hearing Examiner should have given more weight to the use of land and the surrounding property owners. The intention of the Ordinance was to keep cell towers away from residential areas and not to place long-term impacts on neighborhoods.

Commissioner Dahlstedt stated that supporting 911 communication efforts and safety-related issues are a concern, but the setbacks are required for safety reasons as well. There are codes and rules that need to be followed in a fair and consistent manner. He said that his biggest concern about this particular variance was the height of the tower due to the homes in the area. There are also concerns related to earthquakes in the future.

Commissioner Anderson added that the widest spot on the Grange property is 339 feet and there is no spot on the property where the 180-foot height requirement can be met. He read Skagit County Code 14.16.720 and also referred to the section under interpretation which states that where provisions are inconsistent with provisions of the Skagit County Code the most restrictive shall apply. He said that it is not proper for the chair to make a motion unless there is not one forthcoming. 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 findings and conclusions.

Commissioner Dahlstedt deferred to Commissioner Anderson for a motion.

Commissioner Anderson moved to overturn the Hearing Examiner's decision and to adopt their own findings because not enough weight was given to protection of the residents and the variance should not have been granted under the circumstances and the fact that this was a mapping error should have been addressed. Commissioner Dahlstedt seconded the motion, which carried unanimously.

The attorney for T-Mobile, George Kresovich, asked for a ruling regarding the SEPA Determination of Non-significance. He said that both items need to be ruled upon and that a different ruling could be given for the SEPA determination since the motion seemed to focus on the variance, and the variance was based upon the interpretation of the County Code.

Commissioner Anderson said that he could give two separate rulings; however, the setback issue should have been reviewed as part of the SEPA process.

Interim Planning Director, Lou Haff, said that there were actually three appeals, which should be addressed in the motion. The options are to overturn one or all three rulings. Marge Swint, Associate Planner, stated that the three rulings were the Mitigated Determination of Non-significance, the Reduction of Setback and the Special Use Permit itself.

Commissioner Anderson said that all the issues impact each other and are tied together. All the issues should have been addressed in the SEPA mitigation determination of non-significance process.

Commissioner Anderson moved to withdraw his previous motion, which was seconded by Commissioner Dahlstedt. The motion carried.

Commissioner Anderson moved to overturn the Hearing Examiner's decisions on the Mitigation Determination of Non-significance, the Administrative Decision for Reduction of Setbacks, and the Administrative Special Use Permit. Commissioner Dahlstedt seconded the motion. The Findings of Facts are that with the potential impacts to the surrounding neighborhood there should never have been a Mitigation of Non-significance determined. Had that not been determined there would have been open discussion about the reduction of setbacks, which should have been part of that process for protecting the neighborhood and did not occur. Finally, a Special Use Permit cannot be approved because the three are all tied together and the other two items directly reflect upon it. The motion carried unanimously.

PLANNING AND PERMIT CENTER – LOU HAFF, INTERIM DIRECTOR

Interim Director, Lou Haff, introduced Jeroldine Hallberg as the newest member of the planning team.

1. Public Hearing – Consideration of the Adoption of Changes to Skagit County Code 15.04, International Codes.

Mr. Haff said the following codes have been adopted by the State of Washington and take effect as the State Building Codes on July 1, 2004:

- International Building Code, 2003 edition
- International Residential Code, 2003 edition
- International Fire Code, 2003 edition
- International Mechanical Code, 2003 edition
- International Fuel Gas Code, 2003 edition
- Uniform Plumbing Code, 2003 edition
- 2003 Washington State Energy Code
- 2003 Washington Indoor Air Quality Code
- International Existing Building Code, 2003 edition, as an approved alternate method

The Planning & Permit Center recommends adoption of these codes to align with the State, and to take effect on permit applications received on or after July 1, 2004. The Uniform Codes, published by the International Conference of Building Officials, no longer exist. The new codes, the International Code series, published by the International Code Council, are designed to provide one set of codes throughout the country. In addition to the main body of the code, various appendices are being adopted, and some local amendments to the administration section of the Building and residential Codes are being proposed. The title of the codes now will be “International”. Mr. Haff said this is not necessarily true because to the best of our knowledge they will only apply to the United States of America. Mr. Haff said perhaps there will be a quest in the future to spread them internationally.

Mr. Haff indicated that this is the integration of three sets of codes that are applied across the United States, including our Western International Conference Building Official Codes. This is the code that the Board has updated and adopted periodically in the past. It required a great deal of work nationally to merge these codes and the detail of the changes is quite significant. He said the Planning & Permit Center staff has worked with all the code officials in the State of Washington. According to Mr. Haff, everything has been done to soften them to our building industry so that the County’s building staff does not get caught short and appear ignorant of these changes.

Chairman Anderson asked Tim DeVries of the Planning and Permit Center if these codes would have any new impacts on the home building industry.

Mr. DeVries said it would be easier for home builders in terms of having one book that tells them everything they need to know rather than having two, three or four books that a person would need to cross-reference.

Mr. DeVries explained the various code revisions in detail.

Chairman Anderson opened the public hearing.

Carol Ehlers, Fidalgo Island, said she feels there has been total agreement on the proposal. As a Planning Commission member, she has been studying the building code for many years. She said that if there is one set of documents that applies to those who are in the residential domain, it would be a godsend for those that are clients. The client is the one that is legally responsible for making sure whatever is built is legal. Ms. Ehlers said the more clarity there is for the client to find out what is legal and to understand what is being presented and the alternatives, the easier it is to do what is required and not wind up with

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change orders or inspector's objections. It also protects a person against builders who are either less scrupulous or more innocent. Ms. Ehlers noted that any of those things that can happen in a public domain are an asset to us all.

There being no further public testimony, Commissioner Dahlstedt motioned to close the public hearing. Ted seconded the motion, which carried.

Commissioner Dahlstedt motioned to approve Skagit County Code, Chapter 15.04, International Codes, including additional changes in the draft. Chairman Anderson seconded the motion and the motion carried.

2. Miscellaneous.

Associate Planner, Marge Swint, asked for a closed record hearing for preliminary plat approval of Lekcinton Acres, submitted by Glen and Karen Nickel. The proposal is to divide approximately 111 acres into 11 lots through the CaRD process. The project will be served by an internal private plat road, onsite sewage systems and individual wells. The property is located on the south side of the South Skagit Highway lying southeast of the intersection of Cape Horn Drive.

Commissioner Dahlstedt motioned to approve holding a closed record hearing on the above matter on Monday, June 14, 2004 at 1:15 to review a preliminary plat for Glen and Karen Nickel. Chairman Anderson seconded the motion, which passed.

PUBLIC WORKS – CHAL MARTIN, DIRECTOR

1. Discussion – Update on the La Conner Morris Street/Roundabout Project.

Mr. Martin presented before and after pictures of the La Conner Morris Street and Roundabout Project. The ribbon cutting ceremony for the completion of these projects is scheduled for Thursday, June 10, 2004 at 10:30 a.m. in La Conner.

Commissioner Dahlstedt indicated that La Conner Mayor, Wayne Everton, was once a steadfast opponent of the entire project. Since its completion, he has changed his mind and is now a staunch supporter of the roundabout.

2. Discussion – Update on the FERC Relicensing for the Baker Hydroelectric Project.

Mr. Martin said a meeting will be held this Friday with Puget Sound Energy (PSE). There have been a few new developments including the circulation of a draft "handshake" agreement regarding enhancements to existing flood control. PSE has offered to provide an additional 29,000 acre-feet of flood storage in Lake Shannon, which the County appreciates as it is extremely valuable. However, the offer comes with a lot of qualifiers. For example, the agreement states that 29,000 acre-feet will only be provided if the County becomes a signatory to the Agreement in Principle (AIP) and the Comprehensive Settlement Agreement to be submitted to the FERC. This additional storage is also contingent upon a finding by the U S Army Corps of Engineers (COE) that the additional storage is justified. Moreover, the Parties agreement states that PSE would not bear the cost of any capital expenditures or any required environmental mitigation to provide this storage, and would be compensated for costs associated with lost generation and dependable capacity.

Mr. Martin said attorneys for PSE are in the process of drafting a letter to FERC and are requesting expedited review of this agreement in principle. One of the features of this letter would be to obtain joint signatures by a number of agencies including the COE, the City of Anacortes, Skagit Public Utilities District, the Tribes, environmental agencies and other special interest groups.

Mr. Martin said as the issue continues to be researched and the average pool level of Upper Baker is known, it makes him somewhat optimistic that after the County convinces PSE what is really taking place

that it will become a win-win situation with regard to flood storage. A large amount of money has been spent working with consultants on the environmental effects of flood storage and there have been no negative effects to speak of. The effects that have been seen are subjective and difficult to quantify. Mr. Martin said the main thrust of this relicensing effort is to put more water in the river continuously from the Baker project.

3. Discussion/Concurrence – Participation on the Fisher Slough Acquisition and Restoration Feasibility Study.

Public Works Administrator, Dave Brookings, discussed the possibility of partnering with The Nature Conservancy, Dike District #3 and the Skagit River Delta Initiative on a property acquisition and feasibility study on Fisher Slough. The proposed project would ask for grant money to purchase acreage on the south side of Fisher Slough near Pioneer Highway and for funding to conduct a feasibility study to look at setting back existing levees in order to provide more habitat and increase flood capacity.

Bob Kerry of The Nature Conservancy provided additional background on this particular project. This is a project of the greater Skagit Delta Initiative, which is a consortium of The Nature Conservancy, Skagitonians to Preserve Farmland, Skagit Watershed Council and Trust for Public Land. Their principal objective is to advance both the interests of the farming community as well as restoration interests in the Delta. This project was brought forward by Richard Smith, the principal landowner. The major goal is to restore some tidal estuarine habitat in the Skagit Delta as well as improve the drainage of the Fisher/Carpenter system.

Mr. Kerry said the first component of the project would be to acquire the land owned by Mr. Smith, Dike District #3 and Skagit County. Once that property is obtained, the Conservancy would like to begin a restoration assessment aimed at developing a project design as well as looking at the ecosystem services that feed into the whole Fisher Slough complex.

Mr. Brookings said in the 1990's a Drainage Utility was in the process of being developed. A Capital Improvement Plan was adopted, which in turn was used to justify the formation of the Utility.

Chairman Anderson said that when the Countywide Drainage Utility was being formed, the dike districts expressed their desire to be excluded from the Utility. Therefore, they haven't levied any money. The people residing outside of the dike districts have levied the money. The dike districts are not paying into the Drainage Utility so it precludes them from using any of those funds within the districts. The whole concept of those drainage funds is to do projects, not to do feasibility studies. He doesn't want this fund to be exploited and used for salmon recovery among other things. He thinks it is a good project but is questioning the use of Drainage Utility funds.

Mr. Brookings said basic basin studies are needed in order to figure out what kind of flow there is coming down the system so that projects can be developed. Approximately 66% of the total watershed is from the drainage utility service area.

Chairman Anderson said the Resolution states that the funds cannot be expended within a drainage district. They asked to be excluded from it so the County excluded them. This project lies totally within a drainage district. He thinks this project is more about salmon recovery and fish enhancement and this is not what the drainage funds are designed for.

Mr. Brookings said the total project cost is expected to be around \$400,000 with a large portion of that being used for property acquisition. There is an approximate \$150,000 effort, which is the watershed analysis piece, which would allow the detailed work including calculating the flow and sediment studies of this basin.

Commissioner Dahlstedt said there must be some benefit back to the drainage areas where the taxations are collected to justify the expenditure of the dollar.

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Chairman Anderson said he is not adverse with helping out with some of the drainage problems but these funds are not to be used for fish restoration. He has never supported the use of drainage utility monies for fish enhancement as that is not what the funds were designed for.

Mr. Berry noted that the project goals are to restore tidal wetland habitat for Chinook salmon and other species as well as to improve drainage in the Fisher/Carpenter system. He clarified that it is the goal of the Nature Conservancy to obtain salmon recovery Board funding for this project. Out of a \$400,000 project, he is hoping to bring approximately \$330,000 of fish money to this project as well as trying to get a local match. The dike districts perspective on this has been very positive as they see it as a way to bring fish money to a drainage problem. Mr. Berry said the Conservancy expects fish money to cover the brunt of the cost of this project and the precise goal is to have benefits for the drainage system.

Mr. Martin said if this grant application is selected for funding, then Interlocal Agreements would have to be put in place. The language in those agreements would detail the County's responsibilities. What the Board is being asked to do is give approval to submit this as a project and see what happens.

Commissioner Dahlstedt said if the project was approved then we would definitely need to have the documentation to support any funds being utilized to make sure they are being used correctly.

Chairman Anderson said there is no way the Salmon Recovery Board is going to fund \$330,000 for a drainage project; however, they would fund a fish enhancement project and that's exactly what this is.

Mr. Brookings stated that the project is broken down into two different components. One is the acquisition piece, which will be handled by other people's money, so to speak. The basin analysis will be done with Drainage Utility money.

Commissioner Dahlstedt motioned to authorize the Public Works Director to sign a Project Partner Contribution Form of the Nature Conservancy application to participate in the Fisher Slough Acquisition & Restoration Feasibility Study using Drainage Utility funds for the Drainage Utility area study. Commissioner Anderson seconded the motion, which passed.

4. Miscellaneous.

There were no miscellaneous Public Works items to discuss.

MISCELLANEOUS.

The Board, including Commissioner Don Munks, met briefly to consider the following legislative action:

Commissioner Munks said the issue before the Board is in regard to water rights negotiations for instream flows, which have been ongoing. He motioned to allow a 30-day continuance with a court date to be re-established at the end of the 30-days. This is on the motion of the appeal that the County has with the Department of Ecology and does not affect discovery, which will be ongoing.

Commissioner Dahlstedt noted that these negotiations have been held in closed sessions in which the public has not been involved. He then seconded the motion.

Chairman Anderson said it has been moved and seconded to allow for a 30-day continuance to formalize the document being discussed in the water rights settlement. The continuance would not govern discovery, which would continue. Chairman Anderson voted no on the proposal. The motion was carried.

Commissioner Dahlstedt said he is very reluctant to support making this change; however, he feels that if a reasonable conclusion cannot be reached in a short period of time, then he would be interested in holding public meetings to make sure all the citizens are clearly aware of what risks are being taken

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Chairman Anderson said he will not support the motion because he does not trust the parties involved. He has been through the process numerous times and feels there isn't anyone who negotiates in good faith. He appreciates the efforts of Commissioner Munks in representing the Commissioners to try to resolve this issue; however, he cannot in good conscience vote for it because of the trust issue.

ADJOURNMENT.

Commissioner Dahlstedt made a motion to adjourn the proceedings. Chairman Anderson 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