

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
MONDAY, OCTOBER 3, 2005**

- 8:00 a.m. – 9:00 a.m. Work Session – County Commissioners/County Administrator
- *T 9:00 a.m. – 10:00 a.m. Public Hearing - To Consider Public Testimony Regarding the Establishment of Yokeko Point, Dewey Beach and Quiet Cove Areas as an “Area of Special Concern”
- *T 10:00 a.m. – 11:00 a.m. Public Works Department – Chal Martin, Director
1. Proclamation – Flood Awareness Week, October 16-22, 2005, and Activity Schedule
 2. Resolution – Appointment of Flood Fight Coordinators for the 2005-2006 Flood Season
 3. Resolution – Adoption of 2004 Final Draft Skagit County Comprehensive Solid Waste Management Plan
 4. Skagit River Impact Partnership Resolution and Interlocal Agreement
 5. 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
- *T 1:00 p.m. – 1:30 p.m. Discussion/Possible Action – Amendment to the Capital Facilities Plan
- 1:30 p.m. – 2:30 p.m. Closed Record Appeal No. PL05-0559, Submitted by Michael Fohn, Regarding the Hearing Examiner’s Decision Approving Special Use Permit No. PL05-0002 For Katie and Amy Carson
- *T 2:30 p.m. – 3:00 p.m. Discussion – Dependency and Termination Equal Justice Committee Report by the Washington State Office of Public Defense
- *T 3:00 p.m. – 3:30 p.m. Proclamation – 4-H Week in Skagit County, October 2-8, 2005
- 3:30 p.m. – 4:30 p.m. Executive Session – Personnel, Litigation and Land Acquisition

The Skagit County Board of Commissioners met in regular session on Monday, October 3, 2005, with Commissioners Don Munks, Kenneth A. Dahlstedt and Ted W. Anderson present.

PUBLIC HEARING – TO CONSIDER PUBLIC TESTIMONY REGARDING THE ESTABLISHMENT OF YOKEKO POINT, DEWEY BEACH AND QUIET COVE AREAS AS AN “AREA OF SPECIAL CONCERN.”

Corrine Story, Environmental Health Supervisor, introduced the hearing and briefly explained the “Area of Special Concern” which is something allowed by Skagit County Code and also by the State Sewage Code for designating specific areas, where individual on-site septic systems for residential homes need to be inspected on a frequent basis. She explained that the definition of “Area of Special Concern” can include areas of high density homes, poor soils, which are frequently on fresh or marine waters. Ms. Story said that it is the opinion of the Health Department that regular inspection and maintenance is needed to protect the resident’s health. Over the course of the last 5 years a maintenance plan has been created to determine how well the septic systems are working. She stated that often times there are small, inexpensive fixes that can save money and time down the line.

Ms. Story said that regular inspections have been recognized by the state and others as a necessary part of the public health infrastructure. A new state on-site code, which was adopted on July 13, 2005, (WAC

RECORD OF THE PROCEEDINGS
OCTOBER 3, 2005
PAGE NO. 2

246-272A), recognizes local health jurisdictions needs to address the issue of management of on-site septic systems. She explained that by July 1, 2007, the Health Department is going to require regular inspections to be done.

With that said, Ms. Story advised the Board of a change to the resolution from what was presented in their packets. She said that the Skagit County Health Department has the authority as given in Skagit County Code 12.05.220 to designate "Areas of Special Concern." WAC 246-272(a), on-site sewage rules and regulations approved by the Washington State Board of Health on July 13, 2005, requires local health jurisdictions to adopt a management plan to fully implement inspections of on-site sewage systems by July 1, 2007. Ms. Story said the implementation will take place gradually throughout Skagit County.

Ms. Story addressed a letter that was received from the Director of Environmental Health who is in support of this effort.

Steve Olsen, Environmental Health Specialist, gave a PowerPoint presentation. He explained that the Yokeko Point, Dewey Beach and Quiet Cove (YDQ) Committee approached the Public Health Department with their water quality and public health concerns and issues. Mr. Olsen said the YDQ on-site septic issues were introduced to the Board of Health on April 8, 2003. They held a community open house/public meeting on May 14, 2003 and the committee has its first formal meeting on July 10, 2003.

Mr. Olsen stated that the members either volunteered or were "drafted by their neighbors" and they defined the boundaries of their community. He then shared the definitions and a survey of the problem, which he outlined on a map. The color red indicates that there is no record of a permitted septic system and no record of a monitoring/maintenance inspection. Yellow indicates a permitted septic system, but no record of a monitoring/maintenance inspections. Green indicates a permitted septic system and a recent monitoring/maintenance inspection.

According to Mr. Olson, the goal is to have all red areas switched to yellow by September 30, 2004, and all yellow areas switched to green by September 30, 2005.

Chairman Munks opened the Public Hearing.

Paul Maughan, 15619 Yokeko Drive, said that two years ago worried neighbors met with health officials to describe their issues within the community. Mr. Maughan expressed concern for a number of young children in the neighborhood that were playing in an area where there were a number of inoperable septic systems. Mr. Maughan said he is troubled to think that the green areas could again become yellow or red. For that reason, he encouraged the Commissioners to support the area of special concern and pass the resolution.

Sally Lawrence spoke on behalf of the Washington State Department of Ecology's Water Quality Program. She thanked the Board for the opportunity to come before them to express her concerns. Ms. Lawrence read a letter in support of the proposal based on studies that have taken place in the marine waters next to Yokeko Point, Dewey Beach and Quiet Cove.

Howard Gulley, 15815 Yokeko Drive, said that he thought the area of special concern should be maintained as a Skagit County area of special concern, which will help prevent other state agencies from jumping in taking over. Ms. Gulley stated that the community is very capable of taking care of their own problems.

Tom Stowe, 15870 Quiet Cove Drive, stated that he is not against cleaning up the environment and is pleased with the efforts of the Health Department. However, he feels staff is asking to create a test case, or guinea pig trial run, on the subarea so that they have a model for the treatment of the rest of the County in the mandated 2010 period. Mr. Stowe asked the Commissioners to be careful in studying the actual effect of what is being requested. He thinks that if such a test area is to be created, that it should cover the entire area of drainage into the Similk Bay from Deception Bridge, to and including the reservation.

**RECORD OF THE PROCEEDINGS
OCTOBER 3, 2005
PAGE NO. 3**

Carole Ehlers, Fidalgo Island, explained that she has had experiences such as these in her area. She then referenced WAC 246.270 as well as 246.272-09501 (4)(e) and WAC 246.272A – 0230 (2)(c). and stated there were two things which have been proposed that need to be dealt with. Ms. Ehlers suggested that the whole County be obligated to do exactly what is being mandated at Yokeko Point.

Terry Hall, Puget Sound Action Team, conveyed a letter of support from his agency and said he appreciated the Board and staff in their efforts to support additional maintenance of on-site sewage systems.

Scott Harrison, 15855 Yokeko Drive, said that he also supported a mandated area of special concern.

Jeff Brown, 214 N. 7th Street, Mount Vernon, said he owns property at Yokeko Point and feels the problem is wider spread than what has been outlined. Mr. Brown said he is hopeful that citizens become better at managing their septic designs; however, he doesn't believe the government should come in and tell them what to do.

Commissioner Dahlstedt motioned to close the public hearing. Commissioner Anderson seconded the motion, which carried.

Chairman Munks said a decision will be rendered on this matter on Monday, October 10, 2005, at 10:00 a.m.

PUBLIC WORKS DEPARTMENT – CHAL MARTIN, DIRECTOR

1. Proclamation – Flood Awareness Week, October 16-22, 2005, and Activity Schedule.

Ric Boge, Surface Water Manager, announced that October 16 through October 22, 2005, has been declared Flood Awareness Week in Skagit County. Mr. Boge presented a list of events that will be scheduled during the month, including coordination meetings with the local Dike Districts, the Department of Emergency Management, cities and other agencies. Scheduled activities aim at preparing Public Works staff for flood fight operations in the case of a flood event. According to Mr. Boge, the week's events will also provide educational information to the public regarding actions that can be taken by citizens to help reduce flooding damages.

Commissioner Dahlstedt read the proclamation declaring October 16-22, 2005, as Flood Awareness Week in Skagit County.

2. Resolution – Appointment of Flood Fight Coordinators for the 2005-2006 Flood Season.

Commissioner Dahlstedt motioned to appoint Dave Brookings and Steve Flude as Flood Fight Coordinators during the 2005/2006 flood season in Skagit County. Commissioner Anderson seconded the motion, which passed unanimously. **(Resolution No. R20050354)**

3. Resolution – Adoption of 2004 Final Draft Skagit County Comprehensive Solid Waste Management Plan.

Dave Brookings, Public Works Administrator, presented the Skagit County Comprehensive Solid Waste Management Plan. Mr. Brookings reviewed the chronology of events leading to the adoption of the Plan, which only the Towns of Lyman, Concrete and La Conner have actually adopted. The Plan will now be submitted to the Washington State Department of Ecology, which has 45 days to review the document. Mr. Brookings stated that the Plan is not effective until it is adopted by the Department of Ecology.

Commissioner Dahlstedt expressed his concern regarding financial impacts that other sites might have on the cities.

**RECORD OF THE PROCEEDINGS
OCTOBER 3, 2005
PAGE NO. 4**

Commissioner Anderson stated that this issue has been an inclusionary process with all the cities. He said they've been the ones unwilling to work together towards a partnership. Commissioner Anderson said when the cities propose changes or diversion of their waste; the County should have a right to weight in on those decisions but have never been asked to. He said it is time to move on with the issue and send the Plan to the Department of Ecology.

Chairman Munks thanked the Solid Waste Advisory Committee and everyone else that worked on the Plan. He said the document contains everything the County has asked for.

Commissioner Anderson made a motion to approve the document as presented, which was seconded by Chairman Munks. Commissioner Dahlstedt voted against the motion. The motion was carried.
(Resolution No. R20050355)

4. Skagit River Impact Partnership Resolution and Interlocal Agreement.

Mr. Brookings asked the Commissioners to sign a Resolution and Interlocal Agreement with the "Skagit River Impact Partnership," which includes the following public agencies:

Skagit County; City of Burlington; City of Mount Vernon; Skagit County Dike District Nos. 1, 3 and 17; Skagit County Dike, Drainage and Irrigation Improvement District Nos. 12 and 17; and Skagit County Consolidated Dike District No. 22.

Mr. Brookings stated that the Partnership is interested in finding cost effective, long term environmentally responsible methods to reduce the risk from flood damage.

Chairman Munks asked why the County is no longer acting as the fiscal agent for the Partnership. Mr. Brookings explained that it is not the intent of the group to have their own budget, but to seek funding together.

Commissioner Anderson said the focus for flood control projects is too narrow and thinks it needs to have broader representation. He encouraged Mr. Brookings to come back before the Commissioners when a Flood Control Zone District is in place.

After a lengthy discussion, the Commissioners decided that the Interlocal Agreement should be broader to include those cities that want to be included. It was felt that the agreement is too premature at this point.

Commissioner Dahlstedt noted that by including other cities, they would also serve as financial partners. He asked Mr. Brookings to find a way to make this Partnership palatable for everyone.

5. Miscellaneous.

Public Works Director Chal Martin showed a photograph of an oil filter on the M/V Guemes and mentioned several difficulties that were occurring with the installation of engines on the Ferry. The Commissioners agreed that it might be wise to engage County employees to conduct routine maintenance on the vessel in the future.

CONSENT AGENDA.

Staff made note that the end date has been extended to October 26, 2005, on item #29.

Commissioner Dahlstedt motioned to approve the Consent Agenda for Monday, October 3, 2005, items 1 through 36. Commissioner Anderson seconded the motion, which passed unanimously.

COMMISSIONERS' OFFICE:

1. Record of the Proceedings for Monday, September 19, 2005.

**RECORD OF THE PROCEEDINGS
OCTOBER 3, 2005
PAGE NO. 5**

AUDITOR'S OFFICE:

2. Agency Agreement between the State of Washington Department of Licensing and the Skagit County Auditor, which allows the Auditor's Office to serve as an agent of DOL in the provision of vehicle and vessel licensing services. The agreement shall commence on July 1, 2005, and continue until June 30, 2007. At the discretion of DOL, this agreement may be renewed twice for periods of no more than two years each, for a total period of performance not to exceed six years or June 30, 2011. **(Contract No. C20050412)**

BUDGET/FINANCE:

3. Interlocal Cooperative Agreement, per Resolution No. R20050271, between Skagit County and the Port of Anacortes, which awards \$400,000 of Distressed County Funds to be used for the Pier 1 Redevelopment and Advance Compensation Site, Phase 1 Project. The agreement shall become effective upon the date of execution and expires upon the completion of the project. **(Contract No. C20050413)**
4. Interlocal Cooperative Agreement, per Resolution No. R20050271, between Skagit County and the Town of Hamilton, which awards \$300,000 of Distressed County Funds to be used for the Hamilton Relocation Water System and Water Rights Project. The agreement shall become effective upon the date of execution and expires upon the completion of the project. **(Contract No. C20050414)**
5. Interlocal Cooperative Agreement, per Resolution No. R20050271, between Skagit County and the City of Mount Vernon, which awards \$367,506 of Distressed County Funds to be used for the Mount Vernon/Burlington Fiber Optic Project. The agreement shall become effective upon the date of execution and expires upon the completion of the project. **(Contract No. C20050415)**
6. Memorandum of Agreement between Skagit County and Loggerodeo, Inc., which provides \$5,000 of Lodging Tax Funds to be used for the purpose of tourism promotion – marketing for the Loggerodeo Fourth of July celebration. The agreement shall commence on January 1, 2005, and continue through December 31, 2005. **(Contract No. C20050416)**
7. Resolution calling for a public hearing regarding the authorization of a 2005 supplemental and amended budget for various funds. The hearing will be held on Monday, October 17, 2005, at 11:45 a.m. **(Resolution No. R20050339)**

DISTRICT COURT:

8. Personal Services Agreement with Dr. Michael Hughes, MD, Associates in Family Medicine, to perform medical examinations for indigent clients of the Pioneer Center North alcoholism treatment facility. The agreement shall commence on August 2, 2005, and continue through June 30, 2007. Compensation for the examination of each client shall be up to, but not in excess of \$125 each. **(Contract No. C20050417)**

FACILITIES MANAGEMENT:

9. Resolution authorizing a public hearing to consider leasing County owned property located at 18911 Kelleher Road, Burlington, which is currently occupied by the Humane Society of Skagit Valley. The hearing will be held on October 24, 2005, at 10:45 a.m. **(Resolution No. R20050340)**
10. Resolution awarding the bid for the Boiler Replacement Project located at the Skagit County Larry E. Moller Public Safety Building to Blythe Plumbing and Heating, Inc. for the low bid of \$30,818. **(Resolution No. R20050341)**

**RECORD OF THE PROCEEDINGS
OCTOBER 3, 2005
PAGE NO. 6**

11. Resolution calling for bids for an HVAC upgrade at the Skagit County Prosecutor's office – Courthouse Annex. The bids will be opened on October 24, 2005, at 10:30 a.m. (**Resolution No. R20050342**)

FAIRGROUNDS:

12. Amendment No. 1 to Personal Services Agreement **No. C20050242** with Whatcom Security Agency, which increases the compensation amount by \$218.96, for a new contract total of \$6,944.16. All other terms and conditions of the original contract shall remain in effect. (**Amendment No. A20050162**)

HUMAN RESOURCES:

13. Resolution authorizing the transfer of sick leave for an employee in the Public Health Department. (**Resolution No. R20050342**)

HUMAN SERVICES:

14. Amendment No. 1 to Personal Services Agreement **No. C20050330** with Washington Vocational Services, which adds an additional \$9,000 to the contract for continuance of Developmental Disabilities Person-to-Person Employment Retention Services for the period July 1, 2005, through June 30, 2007. All other terms and conditions of the original contract shall remain in effect. (**Amendment No. A20050163**)
15. Personal Services Agreement with Compass Health, which allows for the continuance of Substance Abuse Crisis services during the period July 1, 2005, through June 30, 2007. Compensation in the amount of \$360,000 is funded by the Washington State Department of Social and Health Services – Division of Alcohol & Substance Abuse and by contributions from the alcohol profits and taxes collected by Skagit County and the Cities of the County. (**Contract No. C20050418**)
16. Resolution appointing Teresa Reynoza to the Substance Abuse Board to serve a three year term effective September 27, 2005, and expiring on September 26, 2008. (**Resolution No. R20050344**)
17. Resolution re-appointing Joan Lubbe to serve on the Skagit County Mental Health Advisory Board for a three year term effective October 1, 2005, and expiring on December 30, 2008. (**Resolution No. R20050345**)

INFORMATION SERVICES:

18. Resolution authorizing the transfer of surplus County computer equipment to the McLean Road Fire Department. (**Resolution No. R20050346**)

MEDIATION SERVICES:

19. Resolution authorizing a revision to the fee schedule for Mediation Services. (**Resolution No. R20050347**)

PLANNING & DEVELOPMENT SERVICES:

20. Personal Services Agreement with Berryman and Henigar, Inc. to provide a continuation of services related to Skagit County's Comprehensive Plan update. The agreement shall commence on April 1, 2005, and continue until July 1, 2006. Compensation is not to exceed a total of \$123,399.75. (**Contract No. C20050419**)

RISK MANAGEMENT:

21. Personal Services Agreement with Terry L. Bowen to provide professional services such as training and consultation, including all required materials pertaining to Employee De-escalation and Violence in the Work Place. Ms. Bowen will also perform consultation for placement of office furnishings for optimum employee safety in the event of an emergency for various departments as requested. The agreement shall commence on October 1, 2005, and continue through October 31, 2006. Compensation is not to exceed a total of \$5,000. **(Contract No. C20050420)**

TREASURER:

22. Resolution authorizing the cancellation of warrants, per RCW 36.22.100. **(Resolution No. R20050348)**

YOUTH & FAMILY SERVICES:

23. Interlocal Cooperative Agreement, per Resolution No. R20030306, between Skagit County, on behalf of Juvenile Court, and the State of Washington Administrative Office of the Courts to handle Becca Bill programs and services within its jurisdiction. The agreement shall commence on July 1, 2005, and continue through June 30, 2007. Compensation is not to exceed a total of \$307,300. **(Contract No. C20050421)**
24. Personal Services Agreement with Roland J. Matthews, L.AC., M.AC to provide an eight week course on Stress Reduction to youths referred by the Department. The agreement shall commence on September 1, 2005, and continue through August 31, 2007. Compensation is not to exceed a total of \$10,000. **(Contract No. C20050422)**
25. Personal Services Agreement with CORE to provide seminars on self-esteem, anger management, anti-violence, anti-substance abuse, problem solving, personal safety, conflict management, and other social skills for youth. The agreement shall commence on November 1, 2005, and continue until October 31, 2007. Compensation is not to exceed a total of \$15,000. **(Contract No. C20050423)**
26. Personal Services Agreement with Camwood Counseling Services, Carl C. Epp, Ph.D., to provide specialized child, adolescent, adult and family assessment, evaluation and treatment services to those referred by the Department. The agreement shall commence on September 1, 2005, and continue until August 31, 2007. Compensation is not to exceed a total of \$15,000. **(Contract No. C20050424)**

PUBLIC WORKS DEPARTMENT:

27. Resolution appointing Kathleen Hennig, Dennis Smith and Holley Ross to the Bryson Road Sub-flood Control Zone Citizen Advisory Committee. **(Resolution No. R20050349)**
28. Resolution authorizing refunds to holders of valid frequent user tickets for the Guemes Island Ferry, to be made after the implementation of the new ferry rates and ticketing. **(Resolution No. R20050350)**
29. Resolution authorizing the collection and disposal of normal household solid waste from Guemes Island during the period of the haul out of the M/V Guemes from September 12, 2005, through October 26, 2005. Payment of 50% of the boat rental and costs incurred by Waste Management that are deemed to be above the normal costs of solid waste collection and disposal for a similar period is also authorized. **(Resolution No. R20050351)**

**RECORD OF THE PROCEEDINGS
OCTOBER 3, 2005
PAGE NO. 8**

30. Vendor Services Agreement with Land Title Company to provide title reports and escrow services for various projects. The agreement shall commence on July 1, 2005, and continue until July 1, 2006. Compensation is not to exceed a total of \$15,000. **(Contract No. C20050425)**
31. Personal Services Agreement with Skagit Business and Staffing, LLC to provide professional services consisting of on-call general office, clerical, and/or accounting staffing. The agreement shall commence on October 1, 2005, and continue through September 30, 2006. Compensation is not to exceed a total of \$10,000. **(Contract No. C20050426)**
32. Resolution awarding the contract for the North Fork Bridge #40037-2 Scour Repair Project ES 40037-2 to American Civil Constructors West Coast, Inc. for the low bid of \$593,880. **(Resolution No. R20050352)**
33. Contract with American Civil Constructors West Coast, Inc. for the North Fork Bridge #40037-2 Scour Repair Project ES 40037-2 for the low bid of \$593,880. The agreement shall commence upon the date of execution and continue through the completion of the project. **(Contract No. C20050427)**
34. Resolution AND Joint Funding Agreement with the U.S. Department of the Interior, U.S. Geological Survey and Skagit County for the operation and maintenance of the Skagit River Basin gaging station network. The agreement authorizes the County to contribute \$26,515 in FY 06 and \$28,110 in FY 07, with the understanding that the USGS will contribute \$9,905 in FY 06 and \$10,500 in FY 07 as a match. The funds pay for basic service and utility power at the gaging stations on the Sauk and Skagit Rivers and at Nookachamps Creek near Clear Lake. The agreement shall commence on October 1, 2005, and continue through September 30, 2007. Compensation is not to exceed a total of \$54,625. **Resolution No. R20050353 AND Contract No. C20050428)**
35. Local Agency Standard Consultant Agreement with Shearer Design, LLC to provide structural engineering services for Skagit County bridges and Guemes Ferry projects. The agreement shall commence on August 1, 2005, and continue through December 31, 2007. Compensation is not to exceed a maximum amount payable of \$99,000. **(Contract No. C20050429)**
36. Amendment No. 1 to Professional Services Agreement **No. C20050145** with Parametrix, Inc., which provides continuing engineering services for Inman Landfill and other landfill facilities, focusing on landfill gas issues. This amendment extends the contract end date by one year from December 31, 2005, to December 31, 2006. It also adds Tasks 3 and 4 to Phase 1 and Tasks 5 and 6 to Phase 2. Compensation is increased by \$15,000 for a new contract total of \$20,000. All other terms and conditions of the original contract shall remain in effect. **(Contract No. C20050164)**

MISCELLANEOUS.

1. Mr. Flude presented a Resolution authorizing the ratification of change orders to Contract No. C20050382 with Fairhaven Shipyard. He indicated that more work is needed than originally thought. Mr. Flude said additional change orders would be forthcoming; however, it still cannot be determined how long the Guemes Island Ferry will be out of commission.

Commissioner Anderson suggested that the County take over all maintenance work on the Ferry in the future as it is critically important to have regularly scheduled maintenance on the boat.

Commissioner Dahlstedt motioned to approve the Resolution as outlined by Mr. Flude. Commissioner Anderson seconded the motion, which passed unanimously. **(Resolution No. R20050356)**

**RECORD OF THE PROCEEDINGS
OCTOBER 3, 2005
PAGE NO. 9**

2. Mr. Flude also brought forth a change order from Fairhaven Shipyard for unanticipated and necessary repairs to the Guemes Island Ferry, which Commissioner Dahlstedt motioned to approve. The motion was seconded by Commissioner Anderson and passed unanimously. **(Contract No. C20050430)**
3. Staff presented a Quit Claim Deed and Excise Tax Affidavit for Robert and Janet Tivel. The Tivels plan to purchase adjoining property owned by David Grey.

Commissioner Dahlstedt motioned to approve the Quit Claim Deed as outlined. Commissioner Anderson seconded the motion, which passed unanimously. **(Approved)**

4. Carly Ruacho, Associate Planner, requested that a date and time be set to consider a change in the fee schedule for Planning and Development Services. JoAnne Giesbrecht, Clerk of the Board, indicated that Monday, October 24, 2005, at 10:00 a.m. would be available.

A motion was made by Commissioner Dahlstedt to hold a public hearing to review a fee schedule amendment for the Department of Planning and Development Services on Monday, October 24, 2005, at 10:00 a.m. The motion was seconded by Commissioner Anderson and passed unanimously.

5. 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, October 3, 2005, 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 \$53,230.95 (Transmittal No. C-123-05); and

Warrants numbered 206071 through 206072 from Clearing Fund 696 in the total dollar amount of \$167,378 (Transmittal No. C-124-05); and

ACH Transfer Request Form and Certification to Xpress Flex from Clearing Fund 696 in the total dollar amount of \$258.50 (Transmittal No. C-125-05); and

Warrants numbered 206073 through 206506 from Clearing Fund 696 in the total dollar amount of \$1,563,920.67 (Transmittal No. C-126-05); and

ACH Transfer Request Form and Certification to Premera Blue Cross from Clearing Fund 696 in the total dollar amount of \$99,229.89 (Transmittal No. C-127-05); and

Warrants numbered 206507 through 207226 from Clearing Fund 696 in the total dollar amount of \$1,332,916.49 (Transmittal No. C-128-05); and

Payroll warrants numbered 173386 through 174209 in the total dollar amount of \$1,058,555.37 (Transmittal No. P-36-05); and

Payroll warrants numbered 967844 through 968008 in the total dollar amount of \$207,942.23 (Transmittal No. P-37-05).

PUBLIC COMMENT PERIOD.

During the public comment period, Carol Ehlers of Fidalgo Island spoke about public disclosure laws and the destruction of public records. She also asked that funds be included in next year's budget for a watershed study on Fidalgo Island.

**RECORD OF THE PROCEEDINGS
OCTOBER 3, 2005
PAGE NO. 10**

Shirley Solomon was present to speak on behalf of her role as a Fish and Wildlife Commissioner. She asked the Board to extend an invitation to the Washington State Fish and Wildlife Commission to come before them for an update. Ms. Solomon said she would finalize a date and time with the Clerk of the Board.

Chuck Hiscock, 16707 Augusta Lane, Burlington, commented on the photograph of the oil filter for the Guemes Island Ferry. He feels it was deliberately neglected. Hiscock said a well established maintenance schedule tells a person exactly what is happening with the engines.

DISCUSSION/POSSIBLE ACTION – AMENDMENT TO THE CAPITAL FACILITIES PLAN.

Commissioner Dahlstedt motioned to approve amendments to the Capital Facilities Plan pursuant to the Planning Commission recommendations. The motion was seconded by Commissioner Anderson and passed unanimously.

**CLOSED RECORD APPEAL NO. PL05-0559, SUBMITTED BY MICHAEL FOHN,
REGARDING THE HEARING EXAMINER'S DECISION APPROVING SPECIAL USE
PERMIT NO. PL05-0002 FOR KATIE AND AMY CARSON.**

Marge Swint, Associate Planner, explained that this is a closed record appeal of the Hearing Examiner's decision to approve Special Use Permit PL05-0002 to allow a home furnishing wholesale and design company (Bitters Co. Wholesale and Design) as a Home Based Business II. As of September 26, 2005, the appellant has revised his appeal to limit the proposed business to the design portion only and not allow the wholesale distribution portion. In effect, the appellant is asking the Board to modify the permit to only approve the design portion of the request.

The proposed project is located at 14034 Calhoun Road, Mount Vernon, and is zoned Agriculture-NRL. There is an existing single-family residence and several outbuildings located in the northwest corner of the property, which are served by a driveway located off Calhoun Road. The property is served on site by septic and PUD water. The remaining property consists of fields that are used for agricultural purposes, including a 1 acre parcel directly across from Calhoun Road from the subject property.

The main activities of the business will be conducted in the 50' x 63' two-story barn. The office for the wholesale operation will be located in a portion of the existing house that once was used as a summer kitchen. The main focus of the design shop will be tables made from Douglas Fir boards. Initially, the business will have four employees and the hours of operation will be Monday through Friday, 10:00 a.m. to 6:00 p.m. Clients will come on an appointment-only basis. Adequate room for parking has been shown on the site plan for the residents, employees, and clients. The company uses the services of UPS and Roadway for the shipping of wholesale orders. Quarterly shipments from overseas are delivered in vans, the largest being 20 feet. All of these vehicles are only on the premises during off loading.

Ms. Swint said Skagit County Code 14.04 defines Home Based Businesses as home occupations that remain incidental to the use of a residence for general dwelling purposes and are compatible with rural character. There are two categories of Home Based Businesses allowed. Home Based Business I is generally a permitted use, while Home Based Business II requires a Special Use Permit. The subject property is zoned Agriculture-NRL. SCC Section 14.16.400(4)(2) lists Home Bases Business II in the Agriculture-NRL zone as a Hearing Examiner Special Use provided no conversion of agricultural land is required to accommodate the business activity.

A letter of completeness was issued on March 30, 2005, followed by the Notice of Development. Three letters in support of the request and two letters of opposition were received during the comment period. Additional correspondence in opposition to the request was received prior to the public hearing. A Determination of Nonsignificance was issued. The application was routed to the appropriate County departments/divisions for review. Comments were provided and they were incorporated into the Department's staff report and conditions of approval. SCC Section 14.16.900(2)(v) Special Uses, requires

**RECORD OF THE PROCEEDINGS
OCTOBER 3, 2005
PAGE NO. 11**

specific criteria to be reviewed when approving or denying Special Use Permits. The Department found the proposed home based business met the special use criteria and the home based business criteria.

Ms. Swint said that in the Appellant's appeal application; several items were identified in which he felt the Hearing Examiner made an error in law and an error in judgment. Basically, the Appellant feels that the general special use criteria and the specific criteria for Home Based Businesses have not been met. Specifically, the Appellant feels that the proposal does not:

- Meet the definition of a Home Based Business because it is not compatible with the rural character.
- The proposed use is not "clearly incidental and secondary to the use of the property for dwelling purposes" because the square footage devoted to the business is more than the square footage used for the residence.
- The business is not "consistent with the character of adjoining properties and neighborhoods."
- The proposed use will create a level of parking demand beyond that which is normal to a residential area.

The Appellant has also identified other items he feels should have been further explored. These items include:

- Site plan and traffic flow
- Compliance with stormwater detention and treatment standards
- Compliance with the American Disabilities Act
- Floodplain issues
- Fire flow and fire suppression equipment
- Discharge of toxic waste into ground water and surrounding soils
- Building setbacks

Ms. Swint said the application was reviewed and determined that the proposal is compatible with existing and planned land uses and does comply with Skagit County Code and the Comprehensive Plan.

The Hearing Examiner made the following conclusions – Home Based Businesses are allowed in the Agriculture-NRL zone as a Hearing Examiner Special Use, provided that no conversion of agricultural land is required to accommodate the business activity. No agricultural land will be converted and the portion of the property that is currently under production will continue to be farmed. Under the Code, a proposed business is the wrong thing for a particular zone only if it fails to meet the requirements for a Home Based Business. SCC 14.04.020 defines "home based businesses" as home occupations that remain "incidental to the use of the residence for general dwelling purposes and are compatible with rural character." There are no exterior indications that the business will detract from the rural setting; therefore, the Hearing Examiner concluded that the business, as proposed, is compatible with rural character.

The business as described in the application is obviously within the scope of all of these requirements, with the exception of (b). Whether the business is incidental and secondary to use of the property for dwelling purposes is subject to no clear test. The Department and the Hearing Examiner have consistently taken the position that once applicants show that they are in fact occupying a home on the property as their primary residence and show that the business is in fact within the scope of the other "home based business" limitations, only extraordinarily compelling circumstances can dictate denying a business on the basis that it is not incidental to use of the property for general dwelling purposes. No such circumstances are evident here.

The Staff Report contains a detailed discussion of the compatibility of the proposed use with the Comprehensive Plan. The project meets a number of land use and economic development goals and objectives. As to conformity to the County Code, the project complies through seeking Special Use Permit authorization. The project is, thus, consistent with the first two of the special use criteria. Moreover, the

**RECORD OF THE PROCEEDINGS
OCTOBER 3, 2005
PAGE NO. 12**

facts support a conclusion that this home based business proposal is consistent with the balance of the Special Use Permit criteria, if the conditions set for by the Hearing Examiner are imposed and complied with.

In regards to the level of parking and traffic, any clients that are coming to the site are on “an appointment only basis” so the applicant is able to monitor traffic so that it won’t conflict with the delivery of materials. In addition, there is no evidence to show that the traffic generated as a result of this proposal would cause any more disruption to the farming activities that are carried on in the neighborhood.

Ms. Swint reported that the majority of other items identified by the Appellant have been addressed by the conditions placed on the proposal by the Department and the Hearing Examiner. The Department is recommending that the Board of County Commissioners uphold the Hearing Examiner’s Decision.

Robert Carmichael, Attorney for Michael V. Fohn and Fohn Lands II, LLC argued the following:

The Hearing Examiner deliberately refused to require the Applicants to meet the following permit criteria: that the business is “clearly incidental and secondary to the use of the property for dwelling purposes.” Instead, the Hearing Examiner ruled that if the other permit criteria were met, then this particular permit criteria was presumed to have been met, absent “extraordinarily compelling circumstances.” This presumption is not authorized by ordinance and contravenes the requirement that the Applicant prove its proposal meets all code criteria.

Mr. Carmichael said the Hearing Examiner approved the Special Use Permit, subject to mostly generic conditions. These conditions place no limitation on the intensity of the wholesale distribution activity for the Home Based Business such as the frequency and size of trucks and cargo containers coming and going from the property. Moreover, the conditions fail to assure that the business will be subject to the same code compliance scrutiny as any other new commercial/light industrial development in Skagit County.

Mr. Carmichael said the burden of demonstrating that the proposed business meets the permit criteria, including that it is “clearly incidental and secondary to the use of the property for dwelling purposes,” lies squarely on the Applicants. The Hearing Examiner ruled that if the Applicants met all criteria except for the requirement that the business be “clearly incidental and secondary to the use of the property for dwelling purposes,” that he would grant the application unless there existed “extraordinarily compelling circumstances.” Mr. Carmichael said this is not the test.

Commissioner Anderson asked Mr. Carmichael where he received information that Skagit County Code states that the activity must be related to what is taking place in the building. Mr. Carmichael said that information is not in the County Code – he only cited it as a court case.

Mr. Carmichael continued to argue the conditions of the permit listed by the Hearing Examiner.

Richard Langabeer, Attorney for the Applicants, stated that Home Based Businesses II are allowed in Agricultural-Natural Resource Lands as a Hearing Examiner Special Use. Nevertheless, the Appellant alleges the proposed business is not “clearly incidental and secondary to the use of the property for dwelling purposes;” and therefore, the proposed business does not satisfy SCC 14.16.900(3)(e) specific criteria sub (b).

The Appellant asserts that the proposed business space within the barn is twice that of the residence and that the Applicants obviously did not acquire the property as a residence. The square footage of the business space in the barn versus the square footage of the residence is not a factor in determining whether the business is incidental or secondary. Mr. Langabeer said if square footage was a factor it would have been incorporated as part of the criteria.

**RECORD OF THE PROCEEDINGS
OCTOBER 3, 2005
PAGE NO. 13**

Mr. Langabeer said the Hearing Examiner is not a legislative body. It is not his function to put conditions on Special Use Permits, but to look at the facts of the proposal and make a decision on whether the proposal meets the criteria of the permit being applied for.

Mr. Carmichael said the Hearing Examiner has not done his job in applying the code as this type of facility is not allowed in an agricultural area.

Mr. Langabeer said he doesn't see anywhere in Skagit County Code that prohibits a business from ordering and distributing small home items out of their home based business.

Chairman Munks thanked everyone for attending the closed record meeting and indicated that the Commissioners will render their decision on Monday, October 10, 2005, at 1:30 p.m.

**DISCUSSION – DEPENDENCY AND TERMINATION EQUAL JUSTICE COMMITTEE
REPORT BY THE WASHINGTON STATE OFFICE OF PUBLIC DEFENSE.**

Joanne Moore, Director for the Washington State Office of Public Defense (OPD), stated that in 2000, the OPD created a parents' representation pilot program, at the request of the state's legislature, to examine specific problem areas in dependency and termination cases. The Washington State Legislature appropriated \$500,000 to the OPD and mandated the following objectives for the pilot program:

- Provide better representation to parents: Attorneys will communicate regularly with their clients, provide them with meaningful legal counsel and advice, and properly prepare their cases for court hearings and negotiations.
- Decrease the number of court delays caused by overburdened parents' attorneys: Reduce parents' attorneys' caseloads to manageable levels, and require them to refrain from requesting continuances based on their unavailability for court hearings due to over-scheduling.
- Increase compensation for parents' attorney: Raise the payment level per case to an amount more equal to the funding provided to the state for initiating and pursuing dependency and termination cases.

Complying with an additional mandate calling for the program to be implemented in both eastern and western Washington, the OPD chose the Benton-Franklin Juvenile Court and the Pierce County Juvenile Court to serve as pilot demonstration sites.

Ms. Moore said the evaluation of the program found a noticeable difference in case processing timeframes, time spent in and out-of-home care, and case outcomes among each of the samples. While the pilot program may not be the sole explanation for these outcomes, Ms. Moore said it is evident that the pilot program succeeded in having a positive impact on the legal representation of parents of dependent children.

According to Ms. Moore, declaring in Senate Bill 5454 that "The legislature recognizes the state's obligation to provide adequate representation to...parents in dependency and termination cases," the 2005 Legislature provided \$8.5 million in funds for the continuation and expansion of the OPD Parents' Representation Program.

This biennium, the program is being implemented in Cowlitz, Ferry-Stevens-Pend Oreille, Grant, Grays Harbor, Kittitas, Pacific, Skagit, and Yakima Juvenile Courts, in addition to continuing programs in Benton-Franklin and Pierce Juvenile Courts. Ms. Moore stated that Washington State OPD will work with the courts, dependency attorneys, Children's Administration and others to ensure successful implementation of the program.

Commissioner Anderson thanked Ms. Moore for her efforts. He said it is important to get families reunited and back together as a unit.

**RECORD OF THE PROCEEDINGS
OCTOBER 3, 2005
PAGE NO. 14**

Ms. Moore said safe reunification is the best outcome for all, according to the laws. Children need to be honored by helping their parents get better. She said very few reunifications fail because these families go through torture to get their children back.

Keith Tyne, Director of the Public Defender's Office, gave accolades to the Washington State OPD and Superior Court for obtaining this much needed help.

PROCLAMATION – 4-H WEEK IN SKAGIT COUNTY, OCTOBER 2-8, 2005.

Michael Wallace, 4-H Director, introduced several members of the audience. Teresa Van Ausdle played her guitar and sang a few songs that she wrote herself. Her mother, Teresa Van Ausdle said she has been a 4-H leader for many years. Christopher Bogle showed the Commissioners a booklet he put together regarding 4-H.

Commissioner Dahlstedt read a proclamation declaring October 2 through October 8, 2005, as "4-H Week in Skagit County."

ADJOURNMENT.

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

**BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Don Munks, Chairman

Kenneth A. Dahlstedt, Commissioner

Ted W. Anderson, Commissioner

ATTEST:

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