

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
TUESDAY, FEBRUARY 14, 2007**

- *T 9:00 a.m. – 10:00 a.m.** Closed Record Appeal No. PL05-0918 by Karen Blanton of the Hearing Examiner's Decision on Appeal No. PL05-0566 and Reconsideration Request No. PL05-0847
- *T 10:00 a.m. – 11:00 a.m.** Health Department – Peter Browning, Director
1. Recognition For Public Health Department Employee Jan Haugen
 2. Public Hearing – Requirement of Onsite Sewage System Inspections at the Time of a Real Estate Sale
 3. Public Hearing – Adoption of the Washington State Department of Health's Recommended Standards and Guidance For Onsite Sewage System Proprietary Treatment Products
 4. Discussion – Washington State Department of Health's Guidance Concerning the Use of Clinics Housed in Immigration Facilities
 5. Miscellaneous
- *T 11:00 a.m. – 12:00 p.m.** Closed Record Appeal No. PL05-0916 of the Hearing Examiner's Decision to Deny Appeal No. PL05-0427 and Approve an Administrative Special Use Permit No. PL05-0941 For a Temporary Manufactured Home For Farm Worker Housing
- *T 2:00 p.m. – 3:00 p.m.** Planning and Development Services – Gary Christensen, Director
1. Discussion – Fidalgo Subarea Plan Citizen Advisory Committee Member Eligibility
 2. Discussion – Selection of Citizen Advisory Committee Members For the 2006 Critical Areas Ordinance Update
 3. Discussion – Information Regarding Release of the Skagit County 2005 Growth Management Act (GMA) Update Proposal and Related Information Workshops and Public Hearings Before the Planning Commission
 4. Discussion – Growth Management Act Steering Committee Agenda for February 15, 2006
 5. Miscellaneous

The Skagit County Board of Commissioners met in regular session on Tuesday, February 14, 2006, with Commissioners Kenneth A. Dahlstedt, Ted W. Anderson and Don Munks present.

CLOSED RECORD APPEAL NO. PL05-0918 BY KAREN BLANTON OF THE HEARING EXAMINER'S DECISION ON APPEAL NO. PL05-0566 AND RECONSIDERATION REQUEST NO. PL05-0847.

Senior Planner Brandon Black explained Closed Record Appeal No. PL05-0918 by Karen Blanton of the Hearing Examiner's Decision on Appeal No. PL05-0566, filed by Karen Blanton of Administrative Decision No. PL05-0332, filed by Willard Hendrickson requesting a reduction in the setback requirement within the Rural Resource-NRL designation. The applicant's request was made to reduce the required 50 foot setback requirement on Lots #8 and #10 to allow for setbacks of 35 feet off of the front property lines, 25 feet off of the rear property lines, and 8 feet off of the side property lines.

Mr. Black said the proposed project is located at 39790 (Lot 8) Willard Lane and 39844 (Lot 10) Willard Lane, both within the plat of Willard Estates in Concrete. He continued to summarize the chronology of events.

**RECORD OF THE PROCEEDINGS
TUESDAY, FEBRUARY 14, 2006
PAGE NO. 2**

The application that was submitted on June 7, 2005, for review (#PL05-0332) was a request for Skagit County Code (SCC) 14.16.810(4) to reduce the setback requirements on two lots (Lots #8 and #10) due to the lots size and configuration, to allow for the reasonable development of the existing lots of record. The appeal that was filed by Ms. Blanton on August 15, 2005, (#PL05-0566) contained no information for or against the reduction request, and spoke exclusively to past projects that have no bearing on the proposal under review.

SCC 14.16.810 (4), "Administrative Reduction of Setbacks," states "The Administrative Official may reduce the required front, side or rear setbacks where topography or critical areas or the lot's size and configuration impact the reasonable development of the property. To reduce the front or rear setback, the Administrative Official must determine that the public health, safety and welfare will be maintained. Consultation with the Public Works Department concerning traffic safety may be solicited during this analysis." According to Mr. Black, the Department further notes that there is also a policy in place, complete with definitions, which addresses the specific areas of property constraints that are considered for review of Administrative Reduction requests. The appeal filed does not address any relevant code sections, nor does it ever speak to SCC 14.16 generally or specifically. Mr. Black said again, the appeal is based on past projects that have no bearing on the Administrative Reduction request.

Mr. Black noted that the appeal filed by Ms. Blanton has no relevance to the requested setback reduction filed by Willard Hendrickson, and the appellant has clearly not demonstrated that the decisions of the Hearing Examiner and the Administrative Official are clearly erroneous.

Karen Blanton, 8198 Lusk Road, Concrete, provided a copy of Chapter 1.04 of the Skagit County Code and referenced it and other documents during her argument before the Commissioners. Ms. Blanton contends that when the Skagit County Code is violated, it would be wrong for the Commissioners to approve applications for building permits when the Code states that none should be issued.

During a discussion about deadlines for filing land divisions, duplicate parcel numbers and accurate legal descriptions, Maryanne Manville-Ailles from Skagit Surveyors and Engineers indicated that their firm was preparing a large number of submittals and each was treated equally.

Ms. Blanton argued that her application was brought to the Planning Department the same day as Willard Hendrickson's application – both to develop the same parcel with the same tax identification number.

Ms. Manville-Ailles explained that she inadvertently put the same tax identification number on both applications; however, the error was caught and corrected. She noted that Ms. Blanton had filed for a short plat and Mr. Hendrickson has filed for a long plat.

After a lengthy discussion, Ms. Blanton stated that she was not appealing the setback allowance as she considers it a moot point. She contends that the development was in violation of Skagit County Code, and is; therefore, appealing the decision of the Administrative Official for allowing the permits.

Commissioner Anderson motioned to render a decision regarding this matter on Tuesday, February 21, 2006, at 3:30 p.m. Commissioner Munks seconded the motion, which passed unanimously.

HEALTH DEPARTMENT – PETER BROWNING, DIRECTOR

1. Recognition For Public Health Department Employee Jan Haugen.

Due to the fact that Ms. Haugen was called to jury duty, her recognition will be scheduled at a later date.

2. Public Hearing – Requirement of Onsite Sewage System Inspections at the Time of a Real Estate Sale.

Steve Olson, Environmental Health Specialist, and the lead for the Onsite Septic and Maintenance Program explained that two resolutions are being considered today. The first would require septic system

**RECORD OF THE PROCEEDINGS
TUESDAY, FEBRUARY 14, 2006
PAGE NO. 3**

inspections at the time of a property transfer and the second resolution would adopt the Recommended Standards and Guidance for onsite septic system proprietary treatment products.

Mr. Olson continued with a PowerPoint presentation. At the conclusion, Chairman Dahlstedt opened the public hearing for both items.

Environmental Health Supervisor Corinne Story said Mr. Olson has been working closely with the real estate community; therefore, a lot of input was received prior to this hearing.

Sally Lawrence spoke on behalf of the State Department of Ecology's Water Quality Program. Ms. Lawrence said the Department of Ecology supports these two resolutions. They represent actions taken by local government that are likely to lead to improvements in water quality. Both resolutions fit well with the Clean Water Program the Skagit County Commissioners adopted in December 2005. Ms. Lawrence said they also support a property owner's understanding and awareness of his/her own septic system and how best to be a good steward of land and water.

There being no further public testimony, Commissioner Anderson motioned to close the public hearing, which was seconded by Commissioner Munks. The public hearing was closed.

The Commissioners said they believe this is a positive step in the right direction and are hopeful that the cities will step up to the plate as well.

Commissioner Anderson motioned to approve a resolution requiring septic system inspections at the time of property transfer. The motion was seconded by Commissioner Munks and passed unanimously. **(Resolution No. R20060056)**

3. Public Hearing – Adoption of the Washington State Department of Health's Recommended Standards and Guidance For Onsite Sewage System Proprietary Treatment Products.

Commissioner Anderson made a motion to adopt the Washington State Department of Health's Recommended Standards and Guidance for proprietary treatment products. Commissioner Munks seconded the motion, which passed with a unanimous vote. **(Resolution No. R20060057)**

4. Discussion – Washington State Department of Health's Guidance Concerning the Use of Clinics Housed in Immigration Facilities.

Public Health Department Director Peter Browning provided a report, which outlined the recent Tuberculosis case in Skagit County and how it was handled by the Health Department. The controversy started in November 2005 after Mr. Browning talked to State Department of Health officials about reporting a Health Department client with a difficult-to-treat case of TB to Immigration and Customs Enforcement (ICE). Concerns about the high cost of treating the young man, an illegal immigrant from Mexico, prompted the conversation.

Though the Health Department never made a report to ICE, the discussion also prompted outrage among immigrant advocates, who say it has discouraged illegal immigrants from seeking medical care and has put the public at risk.

Mr. Browning indicated that the Department has been working on a draft document establishing guidance guidelines for Department of Health staff and recommendations for local public health regarding contact to and use of the U.S. Public Health Services clinic housed within the ICE facility. The document that lays out the guidelines says the clinic in the Tacoma ICE facility is used to screen detainees to prevent the spread of disease within the facility and is not an appropriate place to refer illegal immigrants who are public health patients.

**RECORD OF THE PROCEEDINGS
TUESDAY, FEBRUARY 14, 2006
PAGE NO. 4**

The new guidelines prohibit State Department of Health employees from contacting the ICE clinic to seek treatment of illegal immigrants living in communities and recommend that County Public Health Departments don't either.

Stephanie Ruiz Angulo, 1109 Victoria Street, Burlington, said she is concerned with racial discrimination in the Health Department and feels Mr. Browning used race and national origin when making his decisions. Ms. Angulo said she and a group of immigrant advocates would pursue their own investigation of the Health Department's actions. The group also plans to draft a resolution for the Board to consider stating that the Health Department will not contact ICE about its patients.

Rosalinda Guillen of Bellingham told the Board that State guidelines didn't go far enough and should apply to all ICE facilities, not just the Tacoma clinic. Ms. Guillen asked the Board of Health to allow the State Health Department Tuberculosis nurse Molly Pulido to return to her work here as it would be an important part of rebuilding the Department's reputation with Latinos.

Smiley Lopez, 1516 North LaVenture, Mount Vernon, reported that the Latino community is afraid to come to the Health Department – they live in fear. Mr. Lopez said the Latino population is a large part of the community who only want to embrace all of their brothers and sisters the same way.

Chairman Dahlstedt said the last thing the County needs are to have those in our community be afraid to come to the County for care.

Commissioner Anderson said preventing outbreaks of disease is the Board's priority and no one should go without medical care. He feels we're all community here in Skagit County, regardless of immigration status.

Commissioner Munks concurred and said the County will work in partnership with all community members.

5. Miscellaneous.

There were no miscellaneous items to discuss.

CLOSED RECORD APPEAL NO. PL05-0916 OF THE HEARING EXAMINER'S DECISION TO DENY APPEAL NO. PL05-0427 AND APPROVE AN ADMINISTRATIVE SPECIAL USE PERMIT NO. PL05-0941 FOR A TEMPORARY MANUFACTURED HOME FOR FARM WORKER HOUSING.

Planning and Development Services Deputy Director Oscar Graham indicated that a few of the issues being discussed today are part of the 2005 Uniform Development Code update; however, those won't be considered for this hearing.

The property is located at 10566 District Line Road, Burlington, and is accessed via State Route 20 off District Line Road. It is located in an Agricultural Natural Resource Lands (Ag-NRL) zoning/comprehensive plan designated area.

John Vendeland, 10519 District Line Road, Burlington, spoke for the appellants, which include he and his wife Susan, Lois Ayers, Gilbert and Linda Dawson and Loyd and Carol Morgan. The appellants have stated that the County has allowed "backdoor" development of agricultural lands without the existence of a legitimate need for farm worker housing, and have compromised the rural character of the County, setting a dangerous precedent to move forward.

Mr. Vendeland gave a number of explanations as to why the appellants think the County failed to apply the Code in approving the requested permit, and subsequently the Hearing Examiner upheld the decision based on a misinterpretation of the Code for the following reasons:

**RECORD OF THE PROCEEDINGS
TUESDAY, FEBRUARY 14, 2006
PAGE NO. 5**

1. The decision did not consider all of the relevant sections of the Skagit County Code. The requirements of the definition of Temporary Manufactured Home, was not fully applied in the interpretations of SCC 14.16.900 (3). More specifically, the appellants have indicated that the County did not require the applicant to document the need for the farm worker to be available to work on the property.
2. The Hearing Examiner did not appear to differentiate between farm operations and agricultural support services. The appellants have indicated that if Mr. Ron Power's need had been documented as required by the SCC, the review by the County would have shed light on the split between the two categories. The appellants question how much actual farm work is taking place on site, versus labor to support the applicant's off-farm service businesses and to maintain his rental properties, and further makes reference to the night watchman duties of the farm worker.
3. The appellants acknowledge that the Code is vague in terms of several key points, but indicate that the overall intent of the language is clear when viewed in aggregate. They believe that the intent of the Code is to meet the need of legitimate farming operations, ensure that the housing provided is safe and in compliance with relevant codes, protects against inappropriate uses, and documents the need on an ongoing basis. The appellants also make a point that the Skagit County Agricultural Advisory Board apparently agrees with these basic summations. The appellants further state that the Board has recommended to the County that Code language be adopted to clarify these issues, in that neither the Hearing Examiner nor the Planning Department appeared to consider the intent of the Code in arriving at their decisions.
4. The appellants indicate that the decision by the Planning Department sets a dangerous precedent for the County, by approving a request that is obviously deficient to many observers (letters on record signed by 20+ citizens), and risks undermining trust within the community. The appellants further state that no one is served well by actions that compromise the integrity and intent of the process, and due to these risks, the appellants have proposed a moratorium on approvals of this nature until the Code is debated and clarified. The appellants agree with key points made by the Hearing Examiner, that in summation indicate that the issues of the case are beyond the authority of the Hearing Examiner to impose and the matter is properly addressed to the legislative arm of the County government.

Ron Power, 10095 District Line Road, Burlington, told the Commissioners that he had a need for temporary farm workers in the fall of 2004. Mr. Power said he spoke with staff in the Planning and Development Services Department and they indicated that he would qualify for an Administrative Special Use Permit for a temporary manufactured home for farm worker housing.

Chairman Dahlstedt stated that the County has a lot of seasonal crops where laborers are only needed for 2-3 months a year. Therefore, renting to these workers becomes a challenge.

Commissioner Munks said the job of the Commissioners is to look at the facts and decide whether or not the Hearing Examiner made the right decision.

Commissioner Anderson concurred and motioned to render a verdict on this matter on Tuesday, February 21, 2006, at 4:00 p.m. The motion was seconded by Commissioner Munks and passed unanimously.

PLANNING AND DEVELOPMENT SERVICES – GARY CHRISTENSEN, DIRECTOR

1. Discussion – Fidalgo Subarea Plan Citizen Advisory Committee Member Eligibility.

Planning and Development Services Director Gary Christensen said that in late January 2006, the Fidalgo Subarea Plan Citizen Advisory Committee (CAC) met and elected to appoint three members to discuss options and alternatives. He said during that meeting the committee spoke about the membership of Bill Turner of the Fidalgo Subarea CAC.

**RECORD OF THE PROCEEDINGS
TUESDAY, FEBRUARY 14, 2006
PAGE NO. 6**

Mr. Christensen stated that the committee has asked that Mr. Turner step down as he is now an Anacortes City Councilmember as of last fall, which poses a conflict of interest. Mr. Christensen went on to say that he advised the committee members that this issue needs to be brought before the Board of Commissioners for discussion.

Commissioner Munks explained that the CAC was asked to submit a name from Anacortes. He said that he doesn't feel any elected official should be on the Committee as it could be a conflict of interest should an issue arise that the city needs to vote on. Commissioner Munks said he feels strongly that the intent was not to have a City Councilmember or City Employee on the CAC; therefore, he recommends removing Mr. Turner from the CAC.

With that said, Commissioner Munks motioned to remove Bill Turner from the Fidalgo Subarea Plan CAC. Commissioner Anderson seconded the motion with the understanding that a letter will be sent to Mr. Turner thanking him for his services. The motion carried. Chairman Dahlstedt voted against the motion.

Mr. Christensen said that a letter will be drafted for the Board's signature regarding Mr. Turner's position on the CAC.

2. Discussion – Selection of Citizen Advisory Committee Members For the 2006 Critical Areas Ordinance Update.

Oscar Graham, Deputy Director, discussed the selection of members to serve on the 2006 Critical Areas Ordinance Update (CAO). He said that on November 28, 2005, Planning and Development Services requested and was granted authorization by the Commissioners to proceed with the formation of a CAC to assist with the 2006 CAO.

He stated the Board received seven letters of interest. Due to the limited response, the Board authorized a second release of a public service announcement in an attempt to recruit additional interest. Ten new applications were received.

Mr. Graham asked the Commissioners to consider the list of interested citizens and appoint members for the CAC in order to convene the first Committee meeting in February. He said that following the selection of CAC members by the Commissioners, staff will prepare a resolution for signature establishing both the 2006 CAO Update and the Public Outreach Citizens Advisory Committee.

Commissioner Anderson nominated Paul Kriegel, C. W. Crider, and Jean Shea to serve on the CAC.

Commissioner Munks indicated that he would contact the Upper Skagit Indian Tribe to see if someone would be interested in serving on the committee. In the mean time, Commissioner Munks nominated Robert Bailey and Stuart Van Buren.

Chairman Dahlstedt nominated Andrea Xavier, Ralph Heft, and Carrie Youngquist.

Commissioner Anderson suggested sending a letter to those that applied thanking them and encouraging them to apply again in the future.

3. Discussion – Information Regarding Release of the Skagit County 2005 Growth Management Act (GMA) Update Proposal and Related Information Workshops and Public Hearings Before the Planning Commission.

Mr. Christensen stated that on February 10, 2006, Skagit County made available on its website certain portions of its 2005 Growth Management Act Update Proposal, including Countywide Planning Policies 1.1 and 2; the Skagit County Comprehensive Plan; Skagit County Code Title 14, the Unified Development Code, and Title 15 - Buildings and Construction; and the Skagit County Comprehensive Plan/Zoning map.

**RECORD OF THE PROCEEDINGS
TUESDAY, FEBRUARY 14, 2006
PAGE NO. 7**

The release of the remainder of the Proposal, including supporting documentation, GMA and State Environmental Policy Act (SEPA) review and analysis, will occur on February 17, 2006.

Mr. Christensen thanked several staff members who spent numerous hours putting the proposal together. He then explained that the Planning and Development Services Department has scheduled two Planning Commission informational workshops on major topics related to the 2005 Growth Management Act Update. Mr. Christensen stated that the purpose of these workshops is to inform Planning Commission members of some of the major policy issues and choices that have arisen during development of the County's 2005 GMA Update proposal over the last year and a half.

The workshops are not public hearings; but Planning Commission work sessions. Mr. Christensen said the Planning & Development Services Department plans to send out 66,000 postcards encouraging citizens to visit the County's web site to get information on these workshops.

4. Discussion – Growth Management Act Steering Committee Agenda for February 15, 2006.

Mr. Christensen said that on February 15, 2006, the GMA Steering Committee, which is comprised of city/town mayors (or council members designated by the mayor) and the County Commissioners, will meet to hear a brief report on the County's work program and issues associated with developing a joint city/county framework for analyzing Urban Growth Area (UGA) modification proposals.

Mr. Christensen then discussed the February 15, 2006, GMA Committee agenda and presented the following documents to the Board for their review, preparation and discussion with staff.

1. CTED Competitive Grant Proposal to Develop a Framework for Analyzing UGA Modifications
2. Skagit County – City/County UGA Expansion Issues for presentation to and discussion by the GMA Steering Committee
3. Skagit County – City/County UGA Expansion Issues for discussion with the Skagit Council of Government Technical Committee

5. Miscellaneous.

There were no Planning and Development Services miscellaneous items to discuss.

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, February 14, 2006, 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 \$152,319.54 (Transmittal No. C-18-06).

**RECORD OF THE PROCEEDINGS
TUESDAY, FEBRUARY 14, 2006
PAGE NO. 8**

ADJOURNMENT.

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

**BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Kenneth A. Dahlstedt, Chairman

Ted W. Anderson, Commissioner

Don Munks, Commissioner

ATTEST:

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