

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
TUESDAY, JANUARY 23, 2007**

TUESDAY, JANUARY 23, 2007:

- *T 9:00 a.m. – 10:00 a.m.** Public Works – W. Eugene Sampley, Interim Director
1. Public Hearing – Consideration of Revision No. 1 to the 2007-2012 Six-Year Transportation Improvement Program (TIP)
 2. Signature – Ordinance Creating Skagit County Lake Management District No. 4 for Clear Lake and Beaver Lake
 3. Update – Skagit County Drainage Utility 2006 Accomplishments
 4. Miscellaneous
- *T 10:00 a.m. – 11:00 a.m.** Closed Record Appeal No. PL06-1089 by Skagit Citizens Alliance for Rural Preservation (SCARP) and Friends of Skagit County (FOSC) of the Hearing Examiner's Decision on Appeal No. PL06-0066 of Administrative Special Use Permit No. PL05-0580 Filed by Skagit County Public Utility District #1 for the Installation of Approximately Five Miles of Water Conveyance Infrastructure to Reduce Further Degradation of Instream Flows in the Samish and Lower Skagit Rivers by Providing Potable Water to Existing Development and Future Growth
- *T 11:00 a.m. – 11:30 a.m.** Consideration of the Hearing Examiner's Recommendation for Approval for the Following Open Space Timber Applications:
1. A. J. Kuntze and Elizabeth Mills for Approximately 20 Acres Located in the Bayview Area (C/U O/S #2-2006)
 2. Charles Tewalt, Et Al for Approximately 76.20 Acres Lying West of Beaver Lake Road and East of Nookachamps Creek (C/U O/S #3-2006)

The Skagit County Board of Commissioners met in regular session on Tuesday, January 23, 2007, with Commissioners Sharon D. Dillon, Don Munks, and Kenneth A. Dahlstedt present.

PUBLIC WORKS DEPARTMENT - W. Eugene Sampley, Interim Director

1. Public Hearing – Consideration of Revision No. 1 to the 2007-2012 Six-Year Transportation Improvement Program (TIP)

Ann Marie Gutwein, Programs Manager, presented a summary of the additions and changes to the Six Year Transportation Improvement Program and explained that the 2007 additions included Skagit River bridge modification and interstate highway protection and the Cook road project. Ms. Gutwein went on to describe changes to the

Anderson/Laventure Extension to Anderson/Laventure Road Extension and Park and Ride, and, the Josh Wilson Road project milepost designation from Interstate 5 interchange to Farm to Market Road (previously Higgins Airport Way).

Chairman Dillon opened the public hearing.

There being no one present, Chairman Dillon closed the public hearing.

Commissioner Munks motioned to adopt the proposed revisions for the 2007-2012 Six-Year TIP. Commissioner Dahlstedt seconded the motion which passed unanimously. **(Resolution No. R20070043)**

2. Signature - Ordinance Creating Skagit County Lake Management District No. 4 for Clear Lake and Beaver Lake

Michael See, Water Resource Technician, introduced two members of the Skagit County Advisory Committee for Lake Management District No. 4; Ron Walt and Brian Adams. Mr. See gave a brief overview of the Lake Management District. Mr. See informed the Board that Skagit County Public Works Department has been awarded a \$75,000 grant for aquatic vegetation management for Clear and Beaver Lakes.

Commissioner Munks motioned to approve an Ordinance creating Skagit County Lake Management District No. 4 for Clear Lake and Beaver Lake. Commissioner Dahlstedt seconded the motion which carried unanimously. **(Ordinance No. O20070001)**

3. Update - Skagit County Drainage Utility 2006 Accomplishments

Ric Boge, Surface Water Management Public Works, gave an overview of the accomplishments of the Skagit County Drainage Utility section of the Skagit County Public Works Department. Mr. Boge said this section was first established in 1994 to address and correct drainage problems outside the county right-of-way.

Mr. Boge went on to say the section has completed ten construction projects, two regional stormwater management plans, and addressed 259 citizen drainage concerns in 2006.

Mr. Boge stated the goal for the section in 2007 is to work on several projects, including Bay View, Big Lake, and Cockreham Island.

The Commissioners thanked Jan Flagen and staff for their work in the Surface Water Management area.

4. Miscellaneous

There were no miscellaneous items to report.

CLOSED RECORD APPEAL NO. PL06-1089 BY SKAGIT CITIZENS ALLIANCE FOR RURAL PRESERVATION AND FRIENDS OF SKAGIT COUNTY (FOSC) OF THE HEARING EXAMINERS DECISION ON APPEAL NO. PL06-0066 OF ADMINISTRATIVE SPECIAL USE PERMIT NO. PL05-0580 FILED BY SKAGIT COUNTY PUBLIC UTILITY DISTRICT #1 FOR INSTALLATION OF APPROXIMATELY FIVE MILES OF WATER CONVEYANCE INFRASTRUCTURE TO REDUCE FURTHER DEGRADATION OF INSTREAM FLOWS IN THE SAMISH AND LOWER SKAGIT RIVERS BY PROVIDING POTABLE WATER TO EXISTING DEVELOPMENT AND FUTURE GROWTH

Chairman Dillon outlined the parameters of the Closed Record Appeal process.

Senior Planner, Brandon Black, provided a brief history of the appeal, and stated Closed Record No. PL06-1089 was submitted by Skagit Citizens Alliance for rural Preservation (SCRAP) and Friends of Skagit County (FOSC) of the Hearing Examiner's decision on Appeal No. PL06-0066 of Administrative Special Use Permit No. PL05-0580 filed by Skagit County Utility District #1 (PUD #1) for installation of approximately five miles of water conveyance infrastructure to reduce further degradation of instream flows in the Samish and lower Skagit Rivers by providing potable water to existing development and future growth.

Mr. Black stated the proposed project is located north of the City of Sedro-Woolley and ranges over several roadways which include Fruitdale, Grip, Mosier, Bassett, and Hansen Roads. The pipeline extensions begin at Fruitdale and Kallock Roads and continue further along the primary roadways. Located within a portion of Section 31, Township 36 North, Range 5 East W.M.; Sections 1, 2, 11, 12, and 13, Township 35 North, Range 4 East W.M.; and Sections 6, and 7, Township 35 North, Range 5 East W.M., situated within Skagit County, Washington.

Mr. Black provided a memorandum that included a permit chronology, which stated, on September 21, 2005, the application was determined to be complete. A Notice of Development was published and posted along proposed route on September 29, 2005, per SCC Section 14.06.150. All property owners within 300 feet of the project site were sent the Notice of Development. There was a fifteen (15) day public comment period associated with the Notice which ended on October 14, 2005. There were fifteen (15) comment letters received during the "Notice" comment period. On January 12, 2006, the Department issued a decision of approval of the Administrative Special Use Permit request. The decision had a fourteen (14) day appeal period associated with it which ended on January 26, 2006. On January 26, 2006, SCARP and FOSC filed a timely appeal (#PL06-0066) of the departmental decision on the application.

On April 12, 2006, the appeal was heard before Skagit County Hearing Examiner - Wick Dufford. On May 22, 2006, the Hearing Examiner issued a decision affirming the Administrative Special Use Permit along with a remand back to Planning and Development Services to further demonstrate that the project will comply with Skagit County Critical Areas Ordinance. On June 1, 2006, a Request for Reconsideration was received (#PL06-0522), submitted by appellants SCARP and FOSC. The Request indicated that there were "Material Legal Errors" with, among other things, the Hearing Examiner's partiality, as well as Material Factual Issues Overlooked. On July 5, 2006, the Hearing Examiner issued an Order Granting Request for Reconsideration, stating the previous decision on the appeal is withdrawn and that the Hearing Examiner recuses himself from further participation. On September 20, 2006, the appeal was heard before

**RECORD OF THE PROCEEDINGS
TUESDAY, JANUARY 23, 2007
PAGE NO. 4**

Skagit County Hearing Examiner Pro-Tem - Bradford E. Furlong. On October 11, 2006, the Hearing Examiner issued a decision affirming the Administrative Special Use Permit #PL05-0580 and denying Appeal #PL06-0066.

On October 23, 2006, a Request for Reconsideration of the Hearing Examiner's decision was received (#PL06-0954), submitted by the appellants (SCARP and FOSC). On November 30, 2006, the Hearing Examiner denied the Reconsideration Request #PL06-0954. On December 13, 2006, SCRAP and FOSC filed a timely appeal (#PL06-1089) of the Examiner's decision on the application.

Mr. Black stated the Planning & Development Services department recommends the Board uphold the Hearing Examiner's Decision.

Chairman Dillon opened the Closed Record hearing.

Diane Freethy representing SCARP & FOSC submitted an audio transcript, CD, of the hearing before Examiner Bradford Furlong on September 20, 2006, and a copy of appellant's testimony to Appeal #PL06-0066.

Ms. Freethy stated the appellant's are convinced the Hearing Examiner's decision of October 11, 2006 is clearly erroneous. Ms. Freethy went on to say the Hearing Examiner failed to exercise due diligence in examining the facts and circumstances presented at the hearing on September 20, 2006. Ms. Freethy went on to argue the case against the Hearing Examiner's decision to deny the Reconsideration Request #PL0954.

Peter Gilbert, attorney for PUD No. 1, submitted a memorandum for the record which briefly summarized and highlighted the points he considered most pertinent to the approval of this Special Use Permit. Mr. Gilbert requested the Hearing Examiner's decision be upheld.

Commissioner Munks made a motion to render a decision regarding this matter on Tuesday, February 6, 2007. Commissioner Dahlstedt seconded the motion, which carried.

Linda White from Assessor's Office presented resolutions to grant the Hearing Examiner's recommendations to approval of two Open Space Applications. Commissioner Munks moved to approve the following applications:

- 1) Current Use Open Space Application of A.J. Kuntze and Elizabeth Mills for approximately 20 Acres located in Bayview Area (C/U O/S #2-2006) **(Resolution No. R20070044)**
- 2) Current Use Open Space Application of Charles Tewalt, et al., for approximately 76.20 acres lying west of Beaver Lake and East of Nookachamps Creek (C/U O/S #3-2006) **(Resolution No. R20070045)**

Commissioner Dahlstedt seconded the motion which passed unanimously.

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

**RECORD OF THE PROCEEDINGS
TUESDAY, JANUARY 23, 2007
PAGE NO. 5**

R.C.W. 42.24.090, have been recorded on a listing, which has been made available to the Board.

As of this date, January 23, 2007, 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 \$95,161.51 (Transmittal No. C-07-07).

ADJOURNMENT

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

**BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Sharon D. Dillon, Chairman

Don Munks, Commissioner

Kenneth A. Dahlstedt, Chairman

ATTEST:

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