

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
TUESDAY, MAY 12, 2009**

The Skagit County Board of Commissioners met in regular session on Tuesday, May 12, 2009, with Commissioners Kenneth A. Dahlstedt, Sharon D. Dillon, and Ron Wesen present.

I. CALL TO ORDER:

Chairman Dahlstedt called the proceedings to order at 8:32 a.m.

II. PLEDGE OF ALLEGIANCE:

Chairman Dahlstedt led the gallery in the pledge to the flag.

III. AGENDA:

A. 8:30 a.m. - 9:00 a.m. Planning & Development Services - Gary Christensen, Director

1. Discussion - Alternative Futures Project Update

Kirk Johnson, Senior Planner, provided an update of the Alternative Futures project. Mr. Johnson explained the project is a long-term, watershed-wide visioning and planning process that seeks to maintain the health of the Skagit ecosystem, its natural resource industries, and its communities and economy in the face of population growth, climate change, and other large-scale changes. He discussed the Steering and Technical Committees' public outreach efforts. He went on to explain the population projections for 2060 being considered for use in the project.

Mr. Johnson also discussed the Envision software program, which is a GIS-based tool designed for community alternative-futures analysis.

2. Miscellaneous

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

Chairman Dahlstedt recessed the proceedings at 8:45 a.m.

B. 9:00 a.m. - 10:00 a.m. Public Hearing - To Consider Testimony Regarding a Moratorium on the Acceptance of Applications to Permit Solid Waste Utilities in Zoning Districts, Not Specifically Designated for Such Uses, Under SCC 14.16.600 Until Amendments to Title 14, Skagit County's Uniform Development Code Relating to the Subject of the Moratorium, Can be Developed, Evaluated and Adopted, if Appropriate

Chairman Dahlstedt reconvened the proceedings at 9:04 a.m.

Arne Denny, Civil Deputy Prosecutor, stated the need for the moratorium Skagit

County Ordinance No. O20090002, which was adopted on March 23, 2009, arose from a need to preserve the status quo to allow the County to consider code amendments.

Gary Christensen, Director of Skagit County Planning & Development Services, explained the moratorium's effective dates are derived from State statutes as well as Skagit County Code, which can be in effective for at least six months. He explained it can also be extended up to twelve months if there is a work program in place. Mr. Christensen stated a code amendment recommendation will be presented to the Board on or about September 23, 2009, which is within the six month time period.

Chairman Dahlstedt opened the public hearing at 9:13 a.m.

James Tupper who is an attorney representing Scott Wardal and Skagit Hill Recycling, stated he believes the business and its operations are consistent with the County's Solid Waste Comprehensive Plan and Skagit County Code. Mr. Tupper said he thinks the moratorium is specifically directed at Skagit Hill Recycling and feels it is unnecessary.

Carol Ehlers of West Fidalgo Island, stated commented on the water system on Fidalgo Island. She stated the water system was designed to be purely for residential use.

Seeing no further public testimony forthcoming, Commissioner Dillon made a motion to close the public hearing at 9:36 a.m. The motion was seconded by Commissioner Wesen, which passed unanimously.

Chairman Dahlstedt stated it is not the intention of the Commissioners to single any business out individually.

- C. 10:00 a.m. - 10:45 a.m. Consideration of the Hearing Examiner's Recommendation for Approval of the Following Open Space Applications:

Chairman Dahlstedt reconvened the proceedings at 10:01 a.m.

Linda White of the Assessor's Office was present and gave a brief description of each application.

Commissioner Dillon made a motion to approve the following open space applications:

1. Lew Plummer for Approximately 9.29 Acres Located at 23315 Gunderson Road, Which is a Portion of Lot 1, S/P #PL01-0363 (P24680) (CU/TROS #12-2008) **(Resolution No. R20090204)**
2. James Danforth and Sharon Robbins for Approximately 17.94 Acres Located in the Gunderson Road Area (P30315) (C/U TROS #13-2008) **(Resolution No. R20090205)**
3. William and Patsey Blunt for Approximately 56.19 Acres Located Southwest of Prevedal Road (P40810, P40812, P117904) (C/U TROS #15-2008) **(Resolution No. R20090206)**

4. Scott and Martha Rhodes for Approximately 1.52 Acres Known as Lots 3 and 4 and a Portion of Lot 2, Block, 20, Plat of West Addition to Clear Lake (P75057) (CU/OS #11-2008) **(Resolution No. R20090207)**
5. T. W. and Anne Martin for Approximately 9.16 Acres Known as Lots 8 and 9 in the Plat of Sunset Addition to Clear Lake (P69908, P69909) (CU/OS #14-2008) **(Resolution No. R20090208)**
6. Equity Trust Company, c/o Lloyd Foulds for Approximately 14.72 Acres Lying East of Old Hwy 99 North and South of Parsons Creek Road (P49676) (CU/OS #16-2008) **(Resolution No. R20090209)**

Commissioner Wesen seconded the motion which carried unanimously.

Commissioner Dillon made a motion to approve the following current use timber applications:

7. Gordon and Michou Yenokida for 19 Acres Located in the Chuckanut Mountain Area (P47715) (C/U TRTMB #4-2008) **(Resolution No. R20090210)**
8. 3F GAARD, LLC, c/o Chris Dunton and Britt Pfaff-Dunton for Approximately 38.39 Acres Located in the Bulson Road Area (P17397, P17398) (C/U TRTMB #5-2008) **(Resolution No. R20090211)**
9. GMN Investments, LLC, c/o Morris Nilson, for Approximately 14.80 Acres Lying East of Gunderson Road and West of the East Fork of Nookachamps Creek (P24660, P24678) (C/U TRTMB #6-2008) **(Resolution No. R20090212)**
10. Ray and Marilyn Koenig for 11.12 Acres Lying North of Alger Cain Lake Road and West of the CCC Road (P48822) (C/U TRTMB #7-2008) **(Resolution No. R20090213)**
11. Ray and Marilyn Koenig for 9.05 Acres Lying North of Alger Cain Lake Road and West of the CCC Road (P48814) (C/U TRTMB #8-2008) **(Resolution No. R20090214)**
12. Frank and Teresa Campbell for 9.01 Acres Lying North of Alger Cain Lake Road Within Lot 1 of Short Plat #PL08-0236 (P128145) (C/U TRTMB #9-2008) **(Resolution No. R20090215)**
13. Duane and Patricia Gilliland for 12.70 Acres Lying East of Andal Road and Southwest of State Route 9, Lots 1 & 4 of Short Plat #97-0001 (P112533 and P112535) (C/U TRTMB #1-2009) **(Resolution No. R20090216)**

Commissioner Wesen seconded the motion which carried unanimously.

- D. 10:45 a.m. - 11:00 a.m. Proclamation - May 15, 2009, as Bike or Walk to Work Day in Skagit County

Chairman Dahlstedt reconvened the proceedings at 10:49 a.m.

Commissioner Wesen read and made a motion to approve a Proclamation declaring May 15, 2009, as Bike or Walk to Work Day in Skagit County. Commissioner Dillon seconded the motion which carried unanimously.

Chairman Dahlstedt recessed the proceedings at 10:52 a.m.

- E. 11:00 a.m. - 11:30 a.m. Decision - Closed Record Appeal No. PL09-0122 of the Hearing Examiner's Decision No. PL08-0610 and Decision on Reconsideration No. PL09-0034 Regarding Code Enforcement Case No. CE04-0262 Submitted by Beverly and Marvin Macken

Chairman Dahlstedt reconvened the proceedings at 11:00 a.m.

Chairman Dahlstedt stated made the following statements:

Here in Skagit County farms, salmon and shellfish have been part of our way of life. The ordinance the Mackens are being charged with violating is, at the end of the day, about trying to make sure that future generations get to enjoy all of these things the way we have.

The Board of Commissioners sees this matter as an opportunity to help educate agricultural landowners about the balances we have struck in our ordinance between farms, salmon, water quality and shellfish.

Skagit County spent a great deal of time and money putting in place a Critical Areas Ordinance for agriculture that doesn't require mandatory no-touch buffers, but instead requires farmers to do two basic things:

First, farms can't cause water quality violations by putting effluent in streams. That's the "no harm" portion of our ordinance. Second, everyone has to follow industry conservation practice standards within 200 feet of streams. That's the "water protection measures" part of the ordinance. For dairymen, this means a dairy nutrient management plan consistent with state law. For other livestock, this means following Natural Resources Conservation Service (NRCS) conservation practice standards created for the State of Washington. NRCS is what used to be called the Soil Conservation Service. These are the people with expertise about farming, and our ordinance is set up so Skagit County and our agricultural industry can rely on their expertise as we try to find ways for fish and farms to co-exist.

The NRCS conservation practice standards are online and are pretty straightforward. But when there is a question, what we do under our code is rely on the Skagit Conservation District to say what the NRCS standards mean. These folks are the experts on this stuff. What our code encourages you to do is to work with the Conservation District ahead of time and get a farm plan in place that follows NRCS standards and is approved by the Conservation District. That is going to provide you safe harbor protection from enforcement under our code as long as you are following the plan and aren't dumping stuff in the stream. The NRCS standard applicable here is NRCS 575, which says that you can't use water gaps that allow cattle directly in streams where the stream already has high level of fecal coliform. Not every stream in Skagit County is impaired by fecal coliform.

It's mostly in the lower basin where there is higher human population and more dense development. Fecal coliform comes from human waste and animal manure. When there's too much of it in a stream, it creates problems for folks downstream like Taylor Shellfish Farms. It isn't coming from any one person or farm. So we all have to pitch in and do our part. So one of the things this means is keeping animals out of stream that are impaired by fecal coliform. The NRCS standards don't say that you have to keep your animals out of the stream even if there's no other way to water them. If it would be economically unfeasible to water them offstream, then the NRCS standards make an exception. But we have to leave it up to the experts at the Conservation District to say whether offstream watering options aren't feasible. And according to the record John Schuh at the Conservation District testified that you were offered other options for solar powered pumps and wells and the like.

Commissioner Wesen stated as a dairyman he understands the issue and it appears the animals have been kept out of the creek lately. He urged the Mackens to keep the animals out of the stream in the future. He said the County will waive the \$9,600 daily fine and suspend the \$5,000 one-time fine. He went on to say the Critical Areas Ordinance will be enforced.

He stated going forward, the County would like the Mackens to work with the Conservation District, Ecology and Taylor Shellfish to help find solution.

Commissioner Dillon concurred with her fellow Commissioners' statements.

A motion was made by Commissioner Dillon to approve a resolution pertaining to the closed record appeal of the Macken Hearing Examiner Decision, PL 08-0610, finding the Hearing Examiner's decision clearly erroneous in that it requires additional findings, conclusions and modifications to the decision as set forth in the resolution, including a conditional suspension of the fine levied against the Mackens. (**Resolution No. R20090217**) Commissioner Wesen seconded the motion, which passed unanimously.

Chairman Dahlstedt recessed the proceedings at 11:11 a.m.

F. 11:30 a.m. - 11:45 a.m. Public Comment Period

Chairman Dahlstedt reconvened the proceedings at 11:30 a.m.

Randy Good of 25512 Minkler Road in Sedro-Woolley, stated he was concerned about the precedent that could be set by the resolution, which the Commissioners signed today pertaining to the Closed Record Appeal (PL09-122) of the Hearing Examiner Appeal (PL08-0610) of the Macken Notice and Order to Abate Public Nuisance (CE04-0262). Mr. Good stated the resolution has the potential to have a long-lasting impact on Skagit County farmers, cattlemen, and livestock owners.

Margaret Youngblood of 1198 Alger Cain Lake Road in Sedro-Woolley, urged the Commissioners to reduce the speed limit on Alger Cain Lake Road and put in a solid yellow, no passing line, in front of her house.

Carol Ehlers of West Fidalgo Island in Anacortes, commented on the need to improve the Alger Cain Lake Road. Ms. Ehlers also commented on the reorganization of the Public Works Department and the current County budget.

Chairman Dahlstedt closed the public comment period at 11:45 a.m.

IV. ADJOURNMENT:

Chairman Dahlstedt adjourned the proceedings at 11:45 a.m.

**BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Kenneth A. Dahlstedt, Chairman

Sharon D. Dillon, Commissioner

Ron Wesen, Commissioner

ATTEST:

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