

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
TUESDAY, DECEMBER 4, 2012**

The Skagit County Board of Commissioners met in regular session on Tuesday, December 4, 2012, with Commissioners Kenneth A. Dahlstedt, Sharon D. Dillon, and Ron Wesen present.

I. CALL TO ORDER:

Chairman Dahlstedt called the proceedings to order at 8:30 a.m.

II. PLEDGE OF ALLEGIANCE:

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

III. AGENDA:

a) 8:30 a.m. - 10:00 a.m. Public Works - Henry Hash, Director:

Director Hash introduced County Engineer Paul Randall-Grutter to give the Commissioners an update on the projects accomplished by the Engineering Division in 2012.

1. Division Updates from the Engineering, Equipment, and Operations Divisions

Mr. Randall-Grutter said that the Engineering Division was one of seven divisions in Public Works. He introduced staff in the audience and said that their division performed development review, transportation-programs, and design-construction including surveys and construction inspection.

Mr. Randall-Grutter briefed the Commissioners on the following projects worked on and or completed in 2012: 9 to 5 Safety Corridor Project Alger Intersection, Anderson/La Venture Road Extension, Asphalt Overlay of Fir Island Road, Farm to Market Road and Chillberg Road, Parson Creek and Friday Creek Slope Stabilization, Francis Road, Josh Wilson Road Repair, Prevedal Road Slide Repair, Run Off Road and Intersection Safety to improve guardrails and intersections and signage throughout the County, Samish River Prairie Road Bridge Deck Repair, South Shore Road on Guemes Island: culvert and slide repair, Transfer Station construction project completed, Anacortes Ferry Dock Rehabilitation & Guemes Island Ferry Dock Repair (Public Works was awarded the annual APWA Award for this project), the South Del Mar Road Bank stabilization project, and Upper Finney Creek bridge repair.

Mr. Randall-Grutter briefed the Board on the projects planned for 2013 (listed in Resolution No. R20120346 and R20120368, Resolutions Adopting Annual Construction Program).

The Commissioners thanked Mr. Randall-Grutter and reminded him to submit information to them for projects Public Works would like the Commissioners to bring to the attention of State and Federal offices for funding.

Director Hash introduced ER & R Fund Coordinator Mike Elde. Mr. Elde briefed the Commissioners on the work performed by the Equipment division. Mr. Elde thanked his six hard-working mechanics who maintain Skagit County's fleet for Public Works, the Sheriff's Office, and other departments as well as Central Valley Ambulance Authority's equipment.

Mr. Elde reported that \$113,174.74 was received from 33 items that were recently

surplused and auctioned. Mr. Elde also reported on the County's rock quarries, fuel system improvements, and 2013 call for bids for maintenance materials. He said that Public Works would be meeting with the Sheriff's Office to discuss replacement vehicle options that met their needs and budget. He said that Ford no longer produced the make and model of vehicle commonly used by law enforcement agencies.

Upcoming projects included updating the process to fuel County vehicles, the plan to procure tarps for County dump trucks, replacing the agitation system on the oil tanks used to store oil for the roads, and building covers for the sand and salt piles in Concrete and Marblemount.

The Commissioners thanked Mr. Elde for the update and asked him to send their thanks to his staff for taking care of the County's equipment and machinery. They understood that because of their division, Skagit County could rely on their equipment and would get full use of it.

Operations Division Manager Cliff Butler said that Skagit County maintained approximately 800 miles of road, right-of-ways, and signs. He reported that each of the three road districts were divided up geographically and had an equal number of miles to maintain. Mr. Butler reported that Public Works no longer maintained primitive roads and he would provide more information to the Commissioners about this change in the near future. Mr. Butler introduced Environmental Specialist Chris Kowitz.

Mr. Kowitz briefed the Board on the projects completed in 2012 which included permitting, supervising, and monitoring reports for other divisions and included flood mitigation work at Mill Creek, multiple culvert replacements, slope stabilization projects to protect fish habitat, erosion mitigation projects, drainage projects, and habitat restoration projects.

The Commissioners thanked Mr. Kowitz for the update.

2. Miscellaneous

Mr. Hash informed the Board that Public Works appreciated the Commissioners support and welcomed holding a retreat in the future with Public Works managers.

Chairman Dahlstedt recessed the proceedings at 9:58 a.m.

- b) 10:00 a.m. - 11:30 a.m. Closed Record Appeals Hearing PL12-0305 Submitted by Joyce Holmes and PL12-0345 Submitted by Randy and Vickie Hawkinson of the Hearing Examiners Approval of Special Use Permit PL12-0032 and Administrative Variance PL12-0083 Submitted by Verizon Wireless

Chairman Dahlstedt reconvened the proceedings at 10:00 a.m. and noted that the hearing was a Closed Record Appeal and that each appellant and respondent would have 15 minutes to provide their opening arguments, followed by rebuttal statements or clarification by the appellant and the respondent. He stated that no new evidence or testimony could be received. Chairman Dahlstedt introduced Senior Planner Marge Swint to brief the Commissioners on the history of the permit and process to date.

Julie Ainsworth-Taylor, attorney for Appellant Joyce Holmes, PL12-0305, questioned the order of the presentations, making the point that normally in an appeal, the appellants had the opportunity to present their case first. Chairman Dahlstedt informed Ms. Ainsworth-Taylor that it was normal process for the Commissioners to hear from staff first regarding the decisions made which lead to the appeal, and then to hear from the appellants, and afterwards from the respondent.

Senior Planner Marge Swint briefed the Board on Verizon Wireless' project and provided background information. Ms. Swint said that Planning and Development Services was recommending that the Board of County Commissioners uphold the Hearing Examiner's decision to approve the special use permit PL12-0032 for the construction of a wireless telecommunication facility consisting of a 120' monopole, equipment cabinets and diesel generator and to approve the request to allow for the reduction of setbacks for the location of the pole PL12-0083.

Julie Ainsworth-Taylor, attorney for Appellant Joyce Holmes, PL12-0305, provided a packet of information to the Commissioners and renewed her objection to the order of the presentations. Ms. Ainsworth-Taylor argued with the Hearing Examiner's decision and said that he should have used Skagit County Code 14.10 Variances to make his decision which required a 100% setback (120' is the height of the tower and should be the length of the setback). She also pointed out that there was potential for another 20' of height for the tower, so the setback should be 140'.

Ms. Ainsworth-Taylor said that Skagit County Codes needed to be read in harmony, specifically 14.16.810 and 14.10. She said that the Hearing Examiners' decision did not satisfy all setback criteria and that Verizon should find suitable property that met setback requirements for their pole. Ms. Ainsworth-Taylor was also concerned that Verizon was a lessee of the property, not the property owner. Finally, Ms. Ainsworth-Taylor said that the Hearing Examiner did not take into consideration what could be located on neighboring parcels in the future (more homes), and that he based his decision only on the current condition of the neighborhood (wooded area). Ms. Ainsworth-Taylor also pointed out that the Hearing Examiner specifically ignored the section of code requiring communication towers to be set back the length of their height in order to increase safety due to potential falls. She said that the health, welfare, and safety of the neighbors had not been taken into account.

Alan Souders, attorney for Appellant Randy and Vicki Hawkinson, PL12-0345, invited his clients to speak first. Randy Hawkinson brought up concerns about frequent water saturation of the ground where the tower would be located. He said that water saturation at that location was so common that they had to install a curtain drain between their properties. Mr. Hawkinson was concerned about the effect the tower would have on his home's value and he reported that another area in the vicinity could be explored for tower placement.

Vicki Hawkinson said that the tower would be visible from their front yard and by guests arriving at their home. She said that their property value would be compromised and she was concerned about the health and safety risks associated with living near a communications tower. She said that the FCC Act of 1966 was outdated and did not properly address potential health risks. Mrs. Hawkinson said that the International Association of Firefighters was advocating to ban cell towers from fire stations due to concerns of radio frequency radiation on the central and nervous immune systems. She said that the risk of long-term exposure to tower emissions was not known. She ended by saying that cell towers do fall, and do catch fire, and she shared some examples she had recently read about. She asked that the Verizon tower consider locating on Mt. Erie with the other towers.

Mr. Souders, attorney for Mr. and Mrs. Hawkinson, said that the Hearing Examiner made several errors. He said that the Hearing Examiner should never have approved a tower that was so close to a neighbor's home. He said that Skagit County Code 7.20 should have been considered which listed specific criteria for tower-siting. He said that the Hearing Examiner admitted that not all setback requirements could be met, but he decided against Skagit County Code anyway. Mr. Souders said that he had not seen any evidence that Verizon looked at other locations for a tower. He ended by saying that

Public Utility District No. 1 was reasonably using the property, but a tower without proper setbacks was not reasonable.

Charles Maduell, attorney for the Applicant Verizon Wireless pointed out that most of the testimony provided by Vicki Hawkinson should not be considered since it was not already in the record (towers falling and catching on fire). Mr. Maduell said that it was difficult to site these facilities and that the process took a long time. He said the site was chosen due to the lack of coverage in the area and that the height and location for the proposed tower would correct the coverage problem. He said that the parcel was the only suitable location for the tower. Mr. Maduell shared that there were three requirements that needed to be met when siting a tower: access, power, and landline phone service. He said that this was the only parcel in the area that met those needs. He said that zoning requirements were also considered and that Verizon did their best to minimize visual impacts on neighbors.

Mr. Maduell said that the tower would be a complementary and compatible use of the property since it had an existing utility, and, was forested and undeveloped. He said both appeals submitted mainly objected to the variance criteria, which were incorrect since the Hearing Examiner had the authority to grant administrative variances per Skagit County Code, Chapter 14. Mr. Maduell said that the Hearing Examiner found that the lot size and configuration impacted reasonable development of property and concluded that utilizing the property for utilities was the best fit.

Mr. Maduell said that, contrary to the appellants claim; public health, safety and welfare were maintained since the tower would be more than 125' from the Holmes residence. He also described how it would be screened from nearby properties by the water tank, fence, and trees. He said since towers have to comply with stringent safety requirements: wind, ice, seismic activities, and are designed to collapse on themselves, that the Hearing Examiner was correct to disregard the portion of Skagit County Code dealing with setback requirements. The last point Mr. Maduell made was that if Skagit County failed to grant the permit to Verizon, Skagit County would be violating federal laws by prohibiting services via the Federal Telecommunications Act. Mr. Maduell said that there was a significant gap in coverage, the property provided the best suitable location to close the gap, and the property met all three tower siting requirements. He believed the Board should uphold the decision of the Hearing Examiner.

Ms. Ainsworth-Taylor provided rebuttal saying that the Hearing Examiner needed to consider and apply all Skagit County Code. She said not enough consideration was given to the neighboring properties and that a tower would harm property values. She said Verizon was given special privileges by being granted a 4-side reduction in setbacks and that the tower would negatively impact all neighbors.

Mr. Souders said that Verizon's claim that there were no other feasible alternatives was incorrect. He believed there were many other alternative locations, but that Verizon would not explore them due to a higher acquisition cost. Mr. Souders said that the Hearing Examiner did not properly apply all criteria to the siting of the tower (minimizing the impact on residential use). While the use of the property may match, the impact on neighboring parcels and their current and future use was not considered.

Mr. Maduell said there were no other feasible alternatives since no other parcels met Verizon's siting requirements: access, power, and landline phone service. He said that the property was also the only non-residential site in the area and was well screened from all parcels but one. Mr. Maduell said that they met all requirements of Skagit County Code and that the Hearing Examiner made the correct decision.

Ms. Swint said that the variance criteria, 14.10, was not brought before the Hearing Examiner. She said that perhaps a tree-design tower would blend better, which had not

yet been brought up for consideration. Ms. Swint informed the Commissioners that the Hearing Examiner visited the site before making his decision. She ended by saying that a lot of the testimony provided by Mr. and Mrs. Holmes had not been provided to the Hearing Examiner. She encouraged the Commissioners to view those hearings if they had not already.

Chairman Dahlstedt thanked everyone for their presentations and said that the Commissioners would render a decision on the matter on Tuesday December 11, 2012, at 9:00 a.m.

Chairman Dahlstedt recessed the proceedings.

c) 11:30 a.m. - 11:45 a.m. 1. Public Comment Period

Chairman Dahlstedt reconvened the proceedings at 11:30 a.m. Seeing no one present to give public comment, Commissioner Dillon made a motion to close the public comment period, which was seconded by Commissioner Wesen. The motion passed unanimously.

2. Miscellaneous Announcements

The Commissioners announced that on Tuesday, December 18, 2012, at 10:00 a.m. there would be a recognition for the service provided to Skagit County by Senator Mary Margaret Haugen and they invited others to also come honor her.

Commissioner Wesen reminded everyone about the upcoming public meeting being held on Thursday, December 13, 2012, at 6:30 p.m. to discuss Northern State Recreation Area and a proposed plan for development.

Chairman Dahlstedt reminded those who were fortunate to remember their neighbors and help the efforts of local food banks and programs in place to provide families with a happy Christmas.

IV. ADJOURNMENT:

Chairman Dahlstedt adjourned the proceedings at 11:34 a.m.

**BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Kenneth A. Dahlstedt, Chairman

Sharon D. Dillon, Commissioner

Ron Wesen, Commissioner

ATTEST:

Linda Hammons, Clerk of the Board