

A Resolution to Consider Enrollment in the ESHB 1886 Voluntary Stewardship Program for Critical Areas Protection

Whereas natural resources, including salmon and agriculture, are integral to Skagit County’s culture and the quality of life enjoyed by our community;

Whereas the Washington State Growth Management Act, RCW Chapter 36.70A, establishes thirteen planning goals, including goals to protect the environment, conserve fish and wildlife habitat, maintain and enhance natural-resource based industries, and protect productive agricultural lands from conversion to other uses;

Whereas RCW 36.70A.172 requires “special consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries”;

Whereas RCW 36.70A.060 requires a county to “adopt development regulations” that both protect critical areas and ensure the conservation of such agricultural lands, designated pursuant to RCW 36.70A.170 as those “that are not already characterized by urban growth and that have long-term significance for the commercial production of food or other agricultural products”;

Whereas RCW 36.70A.030 defines “critical areas” to “include the following areas and ecosystems: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas”;

Whereas Skagit County has made several efforts to comply with the GMA’s directive to protect critical areas, each resulting in challenges by the Swinomish Indian Tribal Community and other parties to the Growth Management Hearings Board;

Whereas Skagit County’s current “no harm or degradation” approach has generally been upheld by the Growth Management Hearings Board and the Washington State Supreme Court;

Whereas both the Hearings Board and the Supreme Court also found that Skagit County’s approach is less-than-precautionary and therefore requires a Monitoring and Adaptive Management Program to ensure it is providing protection for critical areas;

Whereas both the Hearings Board and the Supreme Court found that Skagit County’s Monitoring and Adaptive Management Program does not comply with GMA because it lacks benchmarks and triggers for corrective action;

Whereas critical areas protection on agricultural lands is an issue of statewide significance;

Whereas Substitute Senate Bill 5248 (2007) created a three-year moratorium on changes to critical areas ordinances “as they specifically apply to agricultural activities”;

Whereas Substitute Senate Bill 6520 (2010) extended the moratorium for an additional year, to July 1, 2011;

Whereas, based on SSB 5248 and SSB 6520, the Western Washington Growth Management Hearings Board (“GMHB”) granted a stay in the County’s GMA compliance case until July 1, 2011, and set a new compliance deadline of December 28, 2011;

Whereas, over the past four years, the UW-WSU William D. Ruckelshaus Center has worked with county, environmental, agricultural, and tribal interests to find a way to protect and enhance critical areas while maintaining and improving the long-term viability of agriculture;

Whereas Skagit County participated in that process, which led to the development of legislation establishing a Voluntary Stewardship Program, introduced in the Legislature in February 2011;

Whereas Engrossed Substitute House Bill 1886 (“ESHB 1886”), effective July 22, 2011, creates a new Voluntary Stewardship Program in which counties may enroll in “as an alternative to protecting critical areas in areas used for agricultural activities through development regulations adopted under RCW 36.70A.060”;

Whereas jurisdictions desiring to enroll in the Voluntary Stewardship Program must do so by January 22, 2012;

Whereas the Growth Management Hearings Board, in response to the pending challenge to the County’s critical areas ordinance, set a compliance deadline of December 28, 2011;

Now Therefore Be It Resolved That:

Section 1. The Skagit County Board of Commissioners finds that it is in the best interests of Skagit County, its agricultural community, and the needs of Skagit River Basin fish and wildlife, including anadromous fisheries, to evaluate potential enrollment in the ESHB 1886 Voluntary Stewardship Program.

Section 2. Planning and Development Services (“PDS”), in conjunction with Public Works Natural Resources staff, and in consultation with the Prosecutor’s Office, is hereby directed to:

- (a) Prepare a report analyzing the costs (including staff time and available funding sources) of enrollment and the benefits of enrollment and including consideration of the factors identified in ESHB 1886 § 4(3) and (4);
- (b) Develop a draft ordinance for consideration by the Planning Commission and the Board of County Commissioners that complies with ESHB 1886 § 4(1)(b) and integrates the Voluntary Stewardship Program into the County’s Critical Areas Ordinance;
- (c) In the draft ordinance, propose modifications to the County’s existing ag-critical areas ordinance to simplify, streamline, and reflect the new objectives of the Voluntary Stewardship Program.

Section 3. PDS is hereby directed to meet or exceed the public participation requirements of RCW 36.70A.035 and SCC 14.08 by, at a minimum, taking the following measures:

- (a) Create a project page on the County website with a description of the project, and including all project materials;
- (b) Pursuant to ESHB 1886 § 4(2), confer with tribes and environmental and agricultural interests;
- (c) Publish an initial staff report that includes the principal bullet point concepts that PDS plans to propose;
- (d) Hold a televised work session with the Planning Commission, with invitations to the Agricultural Advisory Board and Forestry Advisory Board, to receive substantive feedback on those concepts;
- (e) Shape the formal proposal using the feedback received from the Planning Commission, tribes, and environmental and agricultural interests;
- (f) Provide substantive options, and recommendation, to the Planning Commission in the code proposal that PDS releases for formal public comment;
- (g) Provide a staff report, a draft recorded motion, and a draft ordinance, to the Planning Commission with the proposal;
- (h) Include a substantive summary of the proposal in public notices, including a succinct version for legal notices;
- (i) Provide responses to comments.

Section 4. Schedule

- (a) The Board of County Commissioners expects to comply with the Growth Management Hearings Board's compliance schedule as established in its Order Extending Stay of September 15, 2010.
- (b) PDS shall achieve planning milestones on the following schedule:
 - (i) Work session before the Planning Commission on or about August 23;
 - (ii) Release of draft ordinance for formal public comment on or about October 1;
 - (iii) Public hearing before the Planning Commission on or about November 1.

Witness Our Hands and the Official Seal of Our Office this __th day of August, 2011.

**Board of County Commissioners
Skagit County, Washington**

Ron Wesen, Chair

Kenneth A. Dahlstedt, Commissioner

Sharon D. Dillon, Commissioner

ATTEST:

Linda Hammons, Clerk
Skagit County Board of Commissioners

APPROVED AS TO CONTENT:

Gary Christensen, Director
Skagit County Planning & Development Services

APPROVED AS TO FORM:

Ryan Walters, Civil Deputy
Skagit County Prosecutor's Office