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SKAGIT COUNTY
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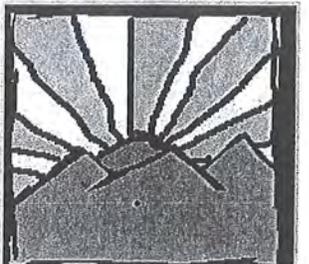
FROM CAROL EHLERS

Northwest Regional Council

600 Lakeway Drive, Suite 100
Bellingham, WA 98225

2012-2015 Area Plan Update Public Hearing Draft

Continuing Toward Elder Readiness



POPULATION PROFILE

The populations of Island, San Juan, Skagit, and Whatcom Counties have been rapidly growing. In particular, the population of older adults in each of these counties exceeds the growth in other parts of the state.

The overall population in the region grew from 277,565 in 1990 to 355,420 in 2000 (+28%) to 418,485 in 2010 (+18%). The growth for 60+ residents exceeded that of the population as a whole, growing from 51,041 to 61,603 (+21%) to 91,624 (+49%) from 1990 to 2000 to 2010. Each county experienced different rates of change in their 60+ populations, but all experienced growth. The chart below indicates the beginning of the Baby Boomer Age Wave in Northwest Washington State.

County	60+ Population 1990 Census	60+ Population 2000 Census	60+ Population 2010 Census
Island	10,929	13,524 (+24%)	20,540 (+52%)
San Juan	2,811	3,629 (+29%)	5,493 (+36%)
Skagit	16,235	19,271 (+19%)	26,615 (+38%)
Whatcom	21,066	25,179 (+20%)	38,976 (+55%)
Region Total	51,041	61,603 (+21%)	91,624 (+49%)

The change for the 85+ population is included in the chart below:

County	85+ Population 1990 Census	85+ Population 2000 Census	85+ Population 2010 Census
Island	504	944 (+87%)	1,752 (+86%)
San Juan	165	288 (+75%)	452 (+57%)
Skagit	1,191	1,984 (+67%)	2,690 (+36%)
Whatcom	1,754	2,582 (+47%)	3,743 (+45%)
Region Total	3,614	5,798 (+60%)	8,637 (+45%)

A general summary of the population of older adults from the 2010 Census compared with the total for their county and for the region is included in the chart below:

Area	60+ (% of total)	85+ (% of total)	Total Population
Island	20,540 (26%)	1,752 (2%)	79,177
San Juan	5,493 (35%)	452 (3%)	15,824
Skagit	26,615 (23%)	2,690 (2%)	118,222
Whatcom	38,976 (20%)	3,743 (2%)	205,262
Region Total	91,624 (22%)	8,637 (2%)	418,485

Demographic Characteristics

	Island	San Juan	Skagit	Whatcom	Totals	Source
Total Population	79,177	15,824	118,222	205,262	418,485	2010 Census
60+	20,540	5,493	26,615	38,976	91,624	2010 Census
65+	14,439	3,657	18,876	26,640	63,612	2010 Census
60+ Low Income	781 (3.8%)	203 (3.7%)	1,703 (6.4%)	2,728 (7.0%)	5,415 (5.9%)	****ACS 2007-2011 5 yr est.
65+ Low Income	506 (3.5%)	138 (3.7%)	1,133 (6.0%)	1,811 (6.8%)	3,588 (5.6%)	ACS 2011
60+ Minority	1,306 (6.3%)	167 (2%)	1,258 (5%)	1,708 (6.4%)	2,947 (7.5%)	2010 Census
65+ Low Income Minority**	40	11	162	184	397	ACS 2011
18+ Disability	9,919	2,140*	13,014	23,267	48,340	****ACS 2011 *2000 Census
65+ LEP	337	21	499	1115	1,972	****ACS 2007-2011 5 yr est.
Native American Elders	94	17	248	603	962	**ACS 2011
60+ Rural	9,448	5,493	7,718	9,744	32,403	2010 Census
American Indian Tribes*****	None	None	Sauk-Suiattle, Samish, Swinomish and Upper Skagit	Lummi and Nooksack	Six Tribes in the Region	

*Washington State Office of Financial Management, 2008.

**American Community Survey data released in January 2012 for Island, San Juan, Skagit, and Whatcom Counties.

***Census only allows for a count of 65+ low-income minorities and Limited English Proficiency.

****The data for San Juan County are decennial census data because the numbers are too small to report without potentially identifying individuals and so ACS did not include San Juan County data in 2011.

*****All Northwest American Indian Communities have Title VI funding. Sauk-Suiattle and Samish share a grant.

From: [Patrick Hayden](#)
To: [Ryan R. Walters](#); [PDS comments](#)
Subject: Comments of City of Sedro-Woolley 4-7 Hearing
Date: Tuesday, April 07, 2015 4:26:39 PM

Please enter the attached letter of the City of Sedro-Woolley into the record of the planning commission meeting scheduled for 4-7.

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This email has been checked for viruses by Avast antivirus software.
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April 6, 2015

Skagit County Planning Commission
1800 Continental Place
Mount Vernon, WA 98273

Skagit County Planning and Development Services
1800 Continental Place
Mount Vernon, WA 98273

Re: Proposed Capital Facilities Plan 2015-2020 Update
(Public Hearing: April 7, 2015)

Introduction. The purpose of this letter is to submit written comment on the proposed Capital Facilities Plan and ordinance update. I represented the City of Sedro-Woolley in the WWGMHB cases (consolidated under Case No. 03-2-0013c) and the negotiations which led to the adoption of Skagit County Ordinance No. O020050007. This letter is written on behalf of the City of Sedro-Woolley.

First, the City of Sedro-Woolley wants to recognize the efforts of Skagit County, through Ryan Walters in particular, to address the deficiencies in County ordinances and policies which were not addressed in the last ten years following the adoption of Skagit County Ordinance No. O020050007. These efforts should not be minimized. However, the City of Sedro-Woolley wants to focus the County's efforts on the mandatory enforcement of impact fees and development standards in the unincorporated UGA, and in the obligations of both the County and City of Sedro-Woolley to bring the infrastructure standards up to urban standards prior to annexation, or alternatively, modify the City's UGA to remove these areas.

Absence of "Concurrency". In 1998 Skagit County entered into interlocal agreements with the cities of Mount Vernon and Sedro-Woolley to adopt and apply the development standards and impact fees of the respective cities within the unincorporated Urban Growth Areas (UGA). Consistent with the Growth Management Act (GMA), the City of Sedro-Woolley adopted impact fees and development regulations which would permit incremental development in the unincorporated UGA, and satisfy the GMA requirements of concurrency and transformation of governance. This was to be accomplished by County enforcement of City urban development standards, extension of city sewer services, and annexation; and the private financing of development would contribute to the public costs of development.

However, when the City of Sedro-Woolley presented its updated standards and impact fees ordinances to Skagit County, the County consistently refused to adopt the Sedro-Woolley ordinances, and refused to collect its impact fees, for the unincorporated UGA. Further, the Skagit County Planning Department routinely granted variances from all urban development standards within the unincorporated Sedro-Woolley UGA for any development, so that most developments were on private septic systems, and without sidewalks, street improvements, or other urban infrastructure, as well as without any realistic mechanism to fund urban infrastructure upon annexation.

Resulting “Chinese Wall” Blocking Annexation. As a result, the City of Sedro-Woolley has large adjacent, unincorporated areas which are not amenable to annexation, though they are developed to urban residential densities. The City is left to fully fund all infrastructures upon annexation, as it was deprived by the County of the normal and means of funding infrastructure as part of development. This urban development, though inside the UGA, is unlikely to be annexed. It forms a "Chinese Wall" around portions of Sedro-Woolley, in that the City will never be able to afford to annex it. The primary impediment to annexation and GMA compliance is the cost of installing sewer and urban street improvements.

Arbitrary Nature of Policy. This County policy was not supported by a comprehensive or capital facilities plan. Nor was it the result of any deficiency in Sedro-Woolley's capital facilities planning and impact fee legislation (which mirrored Mount Vernon's plans in quality and scope). This policy was enforced off the books, through directives from the Commissioners to Skagit County Planning and Development Services. The arbitrary nature of this policy was evident in that Skagit County enforced impact fee and development ordinances for Mount Vernon. In negotiations between Skagit County and the cities, the County admitted that it would never willingly adopt Sedro-Woolley's development regulations and impact fees for the unincorporated UGA. To my knowledge, it still has not done so. Ultimately, Skagit County stated this policy in a resolution, R20030160, applicable only to Sedro-Woolley's UGA.

Negotiated Stalemate. Sedro-Woolley repeatedly brought this issue before the WWGMHB. The board twice directed Sedro-Woolley and Skagit County to resolve the matter. However, Skagit County would not adopt urban development standards for the Sedro-Woolley UGA, and the City would not accept rural standards for development. The City and County were unable to reach an agreement. The WWGMHB ended the stalemate with its June 18, 2004 decision in Case No. 03-02-0013c. This order required the County to maintain a five (5) acre minimum lot size for the unincorporated Sedro Woolley UGA pending adaption of GMA compliant development regulations.

Following the 2004 decision, the cities and County negotiated a County-wide ordinance, O020050007, which still did not adopt the Sedro Woolley development standards or impact fees for the unincorporated UGA, but instead retained the five (5) acre minimum lot size for Sedro Woolley's UGA. As five (5) acres was the minimum size for rural lots, the ordinance was technically GMA compliant. In distinction, the County maintained impact fees and development standards of other cities, and adopted development processes for lots of less than five (5) acres, under provisions which do not apply to Sedro Woolley. I assumed that the County would adopt the Sedro Woolley regulations when a new commissioner was elected, but it did not do so.

Deficiencies of County Ordinance. The proposed ordinance and plan update is a movement in the right direction, but needs to be strengthened. First, it fails to adopt Sedro-Woolley's GMA compliant impact fees and current development regulations as mandatory standards of County development ordinances. Second, departs from the negotiated GMA settlement made in 2005, with respect to Mount Vernon. Second, it does not deal with the "Chinese Wall" of unsupported one (1) acre lots which the County created in Sedro Woolley's unincorporated UGA.

Shared Responsibility for Funding Deficits. In 2005-06 Sedro Woolley attempted to implement Section 11 of Ordinance O020050007 by negotiating an interlocal agreement with the County to provide for joint City – County road construction in the unincorporated UGA. This was successful for the Janicki industrial annexation, but no progress was made for other, purely residential areas, which lacked political support at the County level. The bottom line is that Skagit County has a significant share of responsibility development in the unincorporated UGA without concurrent infrastructure, which is an impediment to annexation, transformation of governance, and concurrency required by GMA. The failure to collect transportation impact fees and require annexation and construction of sewer has created a "black hole" in the universe of municipal infrastructure funding which neither the County nor the City of Sedro Woolley dare to approach.

Both the City and County were initially blind to the problems created by development at urban densities and rural standards outside the City, until the GMA was adopted. But the GMA focused the City's attention on the costs associated with development and annexation. Yet after 1998, the County's refusal to require developers to pay their fair share of costs was intentional and politically motivated. Simply put, the County treated Sedro Woolley as a second-class City, and subordinated its taxpayers' interests to those of out of town developers. I believe this is changing, but the County's actions have left the City and County to negotiate which local government will bear the cost of a bad policy. No doubt both will have to do so.

Recommendation. In an effort to help focus Skagit County policy making on these enduring problems, the City of Sedro-Woolley urges the Skagit County Planning Commission to (1) recommend that the collection of impact fees for GMA compliant capital facilities plans remain mandatory, and not optional, in the County ordinances. In this context, (2) Sedro Woolley's impact fees, along with Mount Vernon's fees, should be expressly included in County development ordinances, and not made optional. Further, (3) this update should include the adoption into County ordinances of the City of Sedro Woolley's current development standards for the unincorporated UGA. Finally, (4) these changes should also include a policy to deal with the County's fair share of deficient infrastructure in Sedro Woolley's unincorporated UGA upon annexation.

The City recognizes that some of these objectives may be in the works, but incorporating them into this update will make it less likely that they will not be further delayed.

Very truly yours,

Patrick M. Hayden

Patrick M. Hayden

PMH/dmf

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COMMENTS ON PROPOSED "CAPITAL FACILITIES PLAN 2015-2020 Q1 UPDATE"

Planning and Development Services
1800 Continental Place
Mount Vernon, WA 98273

April 6, 2015

Skagit County Planning and Development Services
1800 Continental Place
Mount Vernon, WA 98273

Skagit County Planning Commission
1800 Continental Place
Mount Vernon, WA 98273

RE: Comments on proposed "Capital Facilities Plan 2015-2020 Q1 Update"

Thank you for providing an opportunity for the City of Mount Vernon (Mount Vernon) to comment on the proposed changes to Skagit County Code Chapters 14.02; 14.04; and 14.30 relating to impact fees. Mount Vernon supports a continued County policy to assess and collect all (e.g. transportation, parks and fire) impact fees associated with development in Mount Vernon's unincorporated Urban Growth Areas (UGA) as set forth in Chapter 3.40 of the Mount Vernon Municipal Code as now or hereafter amended.

Current language in SCC 14.02.040 makes evident County's mandate to impose Mount Vernon impact fees set forth in Chapter 3.40 (as well as school impact fees). Indeed, this language was relied on by Mount Vernon in its stipulation to the Western Washington Growth Management Hearings Board (WWGMHB) that the County meets Growth Management Act (GMA) concurrency obligations - a mandate that the County ensure that urban services be provided concurrently with urban development. *See RCW 36.70A.020(12); See also City of Sedro Woolley, Friends of Skagit County, et al. v. Skagit County, WWGMHB consolidated case no. 03-2-0013c, Compliance Order (June 18, 2004); Compliance Order (July 13, 2005).*

However, the proposed textual change to the Skagit County Code shifts the County's current mandatory obligation:

*Skagit County **has adopted and will apply** the following Mount Vernon codes; MVMC 3.36 Impact Fees for School Facilities; MVMC 3.40 Impact fees for Public Streets, Road, Parks, Open Space and Recreational Facilities and Fire Protection, including Attachment A, Fee Schedule. See SCC 14.02.040 (emphasis added)*

To one that is permissive and discretionary:

- (1) *The County shall collect impact fees on a district-by-district basis as reflected in this Section as may hereafter be amended. The County may collect fees on behalf of any special purpose district, or a town or city for development within its urban growth area (any of which are referred to in this chapter as a "district", that has submitted its Capital Facilities Plan and impact fee calculations to the County, and whose Plan has been incorporated into the County's Comprehensive Plan."*

Proposed SCC 14.30.020 (emphasis added)

In addition, by repealing the incorporation by reference of Mount Vernon's Chapter 3.40 and fee schedule the City fails to see any requirement codified in County regulations that it adopt a similar fee schedule absent further legislative action.

The proposed changes mark a significant shift in policy, raise concerns regarding Skagit County's current and future compliance with its concurrency obligations, compliance with previous orders of the Western Washington Growth Board, compliance with agreements with Mount Vernon, and raise an old specter of the County's degree of commitment ensuring urban infrastructure improvements and methods for paying for them within unincorporated UGA's.

The WWGMHB has made clear that ensuring methods are in place to pay for urban infrastructure in UGA's should not be left to future political decision making. The flaw in the proposed ordinance is that it leaves the assessment of Mount Vernon's impact fees in Mount Vernon UGA's as a future political decision. Current code mandating the assessment of Mount Vernon's impact fees (adopting by reference Mount Vernon's code and fee schedule) in combination with many other changes to Skagit County development regulations is the product of lengthy (and at times acrimonious) litigation between the cities and the County. Described in detail by the WWGMHB, this was due in part because the parties could not put aside their differences and agree on a comprehensive plan to provide a reasonable level of support for infrastructure in anticipation of annexation of UGA areas. *City of Sedro Woolley, Friends of Skagit County, et al. v. Skagit County, WWGMHB consolidated case no. 03-2-0013c, Compliance Order (June 18, 2004) page 1.*

Agreement with Mount Vernon

In an agreement dated November 16, 1997 Skagit County committed to Mount Vernon that it would develop necessary processes "for the collection of the City's impact fees (Ordinance No. 2596) for the urban growth area." *See Section 7 of attached Agreement.* Changes to development regulations which now allow Skagit County to simply decide not to collect such fees despite presentation by Mount Vernon of a duly adopted fee ordinance is an abrogation of

such terms. To date, Mount Vernon has no knowledge that this agreement has been terminated.

Adoption of Ordinance 02005007

After lengthy litigation, cities and the County reached agreement upon compliant regulations applicable to lands within UGAs in the County's jurisdiction to satisfy transformance of governance and concurrency noncompliance issues. This culminated in County's adoption of Ordinance 020050007. *See City of Sedro Woolley, et al. v. Skagit County, WWGMHB consolidated case no. 03-2-0013c Compliance Order July 13, 2005.*

Ordinance 020050007 overhauled the County's regulatory scheme over development in unincorporated UGA's of cities and towns after the WWGMHB found that the County was not in compliance with the GMA. *See Ordinance 020050007 Recitals p. 1-2 and supporting documentation.* The basis for Mount Vernon's stipulation to a finding of compliance in the consolidated case before the Board was the County's adoption of this ordinance - both the changes to the County's development regulations and **those areas that remained** such as language mandating assessment of Mount Vernon impact fees. *See City of Sedro Woolley, WWGMHB consolidated case no. 03-2-0013c Compliance Order July 13, 2005.*

Of important note is the legislative intent of Ordinance 02005007 which makes clear that changes in the regulatory scheme not interfere in any manner current language requiring County adopt Mount Vernon impact fees. This was well explained in County staff's memorandum to the Board of Count Commissioner's at the time:

The Department is proposing a slight revision to the language that repeals previously adopted City codes that the County has implemented within the UGAs. That revision, shown in double underline and double strikethrough on page 22 of the ordinance, would leave in place the County's adoption of Mount Vernon Municipal Code sections 3.36 and 3.40, authorizing the collection of City impact fees. This technical change is consistent with Section 11(1) of the proposed ordinance which states: 'Nothing in this Ordinance is intended to amend or alter, in any way, the county's authority to assess impact fees, including impact fees on behalf of a city in whose UGA a property is located...' This revision is also consistent with the current and previous interim ordinances, under which Skagit County continued to collect Mount Vernon impact fees ...

See Memorandum of Kirk Johnson to Board of County Commissioners; March 22, 2005 p. 1-2.

As a result, repealer language set forth in Section 15 of the ordinance was modified in order to keep in place current and mandatory language set forth in SCC 14.02.040 which County now

proposes modification. Certainly, at the time should County have failed to guarantee that impact fees would be collected or leave it a discretionary issue for future legislative decisions this material change to Ordinance 02005007 would have altered the City's position on GMA compliance given impact fees were a substantive issue in the underlying case.

WWGMHB # 03-2-0013c; City of Sedro Woolley v. Skagit County.

The County was party to a number of cases before the WWGMHB (beginning in 1997) dealing with transformance of governance and noncompliance issues which were consolidated in *City of Sedro-Woolley v. Skagit County*, WWGMHB #03-02-0013c.¹ After hearing the WWGMHB found the County non-compliant and concluded that in order to come into compliance "the County must adopt a set of development regulations which *ensure* development at urban densities with concurrent urban infrastructure and transformance of governance within the unincorporated portions of the municipal UGAs." *City of Sedro-Woolley v. Skagit County*, WWGMHB #03-02-0013c, Compliance Order (June 18, 2004) p.1-2 (emphasis added).

At issue (raised by the City of Sedro Woolley) was County's refusal to adopt city's impact fee ordinances to support infrastructure development. *Id. p.7, p.8*. The Board found that the County's lack of requiring infrastructure improvements and failure to provide other methods for paying for them such as impact fees failed to ensure that urban services can be provided concurrently with urban development and thus not comply with RCW 36.70A.020(12). *Id. p.15*.

The Board in its holding directed changes in County regulations to ensure concurrency issues are addressed in a manner so as to not leave this as a discretionary item for future political consideration:

Until the County adopts development regulation that address these fundamental concerns, the Board is unable to find that the County has adopted development regulations to ensure that urban levels of growth and urban service levels are provided in the unincorporated portions of the Sedro – Woolley UGA.

Id. p. 19

A mechanism allowing the County to pick and choose which City regulations was not a scheme that the Board found acceptable:

However, the County's decision to only adopt those City DRs it deems appropriate for application within the City UGAs makes the scheme unworkable for ensuring compliance

¹ *Abenroth v. Skagit County*, WWGMHB No. 97-2-0060c; *Evergreen Islands v. Skagit County*, WWGMHB No. 00-2-0046c; *City of Anacortes v. Skagit County*, WWGMHB No. 00-2-0049c; and *Friends of Skagit County v. Skagit County*, WWGMHB No. 00-2-0050c.

with the Act. The Board has always had a serious concern as to whether this scheme would ever be workable. In this case, where the County has elected to pick and choose among the City's development regulations, it is clearly not going to work. Therefore, the Board must look at the actual development regulations in place in the unincorporated portions of the municipal UGAs and determine if these are compliant with the GMA.

Mount Vernon applauds the County for revisiting the issue of impact fees to see if there are changes that make for a better code text and supports any code changes adding clarity to how Mount Vernon impact fees and the schedules shall be assessed and collected. However, the proposed change appears to backslide to old ways where County engaged in picking and choosing. This path led to lengthy, costly (at times acrimonious) litigation and ultimately was found to be not workable by the WWGMHB. Mount Vernon seeks a mandatory commitment that the County will adopt Mount Vernon impact fees upon presentation to the County of an impact fee ordinance duly adopted by the City of Mount Vernon and presentation of supporting authority compliant with state statute.

Sincerely,



Kevin Rogerson
City Attorney
City of Mount Vernon

cc: Planning Department
City Council
Mayor