

## BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS

JANUARY 16, 2001

Chairperson Mary Jo Cady called the meeting to order at 9:03 a.m. Commissioners Herb Baze and Wesley E. Johnson were in attendance.

### APPROVAL OF MINUTES

Cmmr. Baze/Johnson moved and seconded to approve the meeting minutes for January 2, 2001 as presented. Motion carried unanimously. B-aye; C-aye; J-aye.

Cmmr. Johnson/Baze moved and seconded to approve the meeting minutes for January 9, 2001 as presented. Motion carried unanimously. B-aye; C-aye; J-aye.

### CORRESPONDENCE

#### **2001 BUDGET/LEVY**

A copy of the Timberland Regional Library's levy rate for 2001 was received.

### BUSINESS

#### **AMENDMENT NO. 6 - CONSULTANT AGREEMENT**

Jerry Hauth, Public Works Director, recommended the Board approve Amendment No. 6 to the consultant agreement with Skillings & Connolly. The amendment would compensate the consultant \$3,996.18 for completion of maps requested by the Community Development/Planning Department. It was noted that Public Works has explored some alternatives with Skillings & Connolly trying to define in graphic areas of flood plain out in the Skokomish Valley. A number of maps have been prepared. The maps were to complete the work required by the Growth Management Hearings Board on the Frequently Flooded Ordinance.

Bob Fink, Lead Planner, explained he understood the Growth Management Hearings Board was trying to understand how the regulations were applied and what areas were affected by the different designations. The County was hoping to produce a map, which would, should in adequate detail where building could occur, where building could occur after certain conditions were done; and where new building could not occur. There are different types of physical conditions go into play in a no new footprint area.

**Cmmr. Baze/Johnson moved and seconded the Board authorize the Chairperson to execute Amendment No. 6 of Agreement No. 99033 with Skillings-Connolly, Inc. for the Skokomish River Flood Analysis, extending the "Time for Completion" from November 30, 2000, to January 31, 2001, and amending the Scope of Work to include additional tasks within and outside the original study area. The scope of work will increase the dollar amount for a total of \$207,436.18. Motion carried unanimously. B-aye; C-aye; J-aye.**

#### **RESOLUTION 127-00**

It is recommended the Board approve a Resolution amending Resolution No. 127-00 clarifying the dollar amount of the petty cash fund, which is being eliminated.

**Cmmr. Baze/Johnson moved and seconded to approve Resolution No. 3-01 amending Resolution No. 127-00 clarifying the dollar amount of the petty cash fund that is being eliminated. Motion carried unanimously. B-aye; C-aye; J-aye. Resolution No. 3-01. (Exhibit A)**

#### **LAND USE ATTORNEY**

Skip Wright, Human Resources Director, presented the Board a draft resolution to create a full-time position of Land Use Attorney. In the past, a deputy prosecutor who also did appellate work provided legal support for Growth Management Act. That combination of duties led to periodic conflict among competing priorities. That position has been vacant since early last summer. The Prosecutor has been unable to find a suitable replacement.

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**Prosecutor's Salary Plan by adding the job title of Land Use Attorney as specified in Attachment A of Resolution No. 4-01 effective January 16, 2001. Motion carried unanimously. B-aye; C-aye; J-aye. Resolution No. 4-01 (Exhibit B)**

**THERMAL IMAGING CAMERA - COUNTY – FIREFIGHTERS**

Bill Bruder, Vice-President of the Mason County Fire and Safety Coop, asked if there has been any further discussion or thought of having a free dump of burn barrels since the County will be making these illegal. He felt it would parallel the new burn ban in the County.

He informed the Board that he has initiated a project of acquiring a thermal imaging camera for the County firefighters. He took it to the fire commissioners and they have sanctioned it. He has been working with the Shelton Fire Department. There are funds (donations) which have not been solicited. The cost of a camera is \$18,000 - \$20,000 each. He would really like to see three cameras purchased. A thermal imaging camera helps to identify fires and source fires as well as bodies in buildings. It could be used for search and rescue.

**RECESS**

The Board recessed at 9:40 a.m. until 10:00 a.m.

**LAW ENFORCEMENT BLOCK GRANT**

Sheriff Steve Whybark announced the 2000 Local Law Enforcement Block Grant. The purpose of the grant is for procurement of equipment, technology, and other material directly related to basic law enforcement functions. The Sheriff proposes the procurement of the following equipment: Ten (10) sets of nonlethal weapon and associated equipment that goes with it, supplies & software \$7,500 approx.; ten (10) portable radios for the Jail staff \$7500 approx.; and 20 digital cameras for patrol deputies \$9000 approx. All of these either supplement existing equipment or is new equipment, which will increase the technology capabilities.

**HEARING – MASON COUNTY RESOURCE ORDINANCE & FLOOD DAMAGE PREVENTION ORDINANCE AMENDMENTS**

At 10:00 a.m. the Board held a public hearing to take testimony on the draft amendments to the Mason County Flood Damage Prevention Ordinance and to the Frequently Flooded Areas section of the Mason County Resource Ordinance.

Allan Borden, Long Range Planner, presented the proposed version of the ordinance.

Bob Fink, Lead Planner, explained that the County has been working with Skillings & Connolly to prepare the maps as part of the changes which would show as clearly as possible those areas in the Skokomish Valley which are no new footprint zones; those areas where development may be allowed subsequent to meeting special conditions such as a study of avulsion risks; areas within the floodplain where normal floodplain regulation would apply as they would in other floodprone areas of the county; and the areas outside the floodplain and flood risk altogether. Currently the County received draft maps from Skillings & Connolly. The crosshatched purple area indicates "no build" areas. A large part of the Skokomish Valley falls into this no build area. The no build, no new footprint areas would have water depth greater than two feet at a 100-year flood. It may be areas that were identified either as avulsion risk areas or overbank flow path areas. The maps are still in draft and do not show the avulsion risk areas. They are trying to identify avulsion interpretation areas. The difficulty is the level of detailed analysis to evaluate the site is beyond the scope of the work Skillings & Connolly has done to date. They have identified certain general locations where there is advanced risk or higher risk of the avulsions taking place. They haven't done the type of analysis that allowed them to draw boundaries over exactly where those areas where construction should be prohibited vs. those areas where construction could be allowed in the general vicinity of the avulsion paths. They try to identify a larger area of conservative boundaries for further studies in order to allow development.

There is wording in the ordinance to allow for case by case studies of the avulsion risk. The way the regulation is set up now is there would be three areas: no new footprint area; area which could be built in the flood plain; and the area outside of the flood plain. With the conditional areas, it is a concrete designation. The wording in the current

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would be designated as no new footprint anyway for other criteria that would not apply to the areas. There might be a few areas where there is an overflow path identified that was not otherwise designated as no new footprint areas. It appears there will be a few locations in the Valley identified as overbank flow paths, which would be on higher ground. It is on higher ground, but still there is a pattern of flow over some of the areas and they would need to do further evaluation on what would be appropriate for those areas. They might not need to be no new footprint areas. One of the difficulties in the lower valley is there is not information on velocity. Ultimately, these areas might be identified as one requiring site specific study. Not because they are avulsion risk areas necessarily, but because the combination of risk between water depth and the velocity of the flow has not been fully assessed.

When the area is mapped there may be a few question marks on how things are best addressed. It is possible there might be some future change to the regulation, which is advisable because of it.

The Board questioned if the ordinance has enough language that the areas, which are not sufficiently mapped, will have to go through a deeper review by the department.

Mr. Fink responded the wording designates the paths as shown on the KCM map. The path is designated as a no new footprint area. The question which is left open is having represented the general path with an arrow, is it basically a narrow arrow or is there a broader area that should be considered. Some of the arrows appear to lie over high ground. Some of the deeper areas fill up and start getting overflow over the higher ground to other lower areas that then fill up a little later. The flow paths may be fairly distinct on the ground or they may be very shallow like a sheet flow. The areas may be relatively few, but until they overlay those two different areas (overbank flow paths and other no new footprint areas) and see how many areas there are and can investigate the pattern. That would tell better how to handle each individual one. The intention was to portray clearly what the regulation does so people would know how their properties are affected. The Growth Management Hearings Board concerns were based on their difficulty in interpreting the ordinance. Another question, which came out of the study, is there was a draft flood analysis report in December. The new information developed is not different than what was done before, but it has additional analysis. It raises a question if the current regulations in the upper valley should be changed in some way to address this new analysis. They have identified areas that might be an avulsion risk in a generalized way.

The areas might be identified as one requiring site specific study. Not because they are avulsion risk areas but the combination of risk between water depth and velocity of the flow has not been fully assessed

There was discussion that a draft study is being prepared by Skillings & Connolly.

The study is a draft dated December 2000 is the South Fork Skokomish River and Vance Creek Flood Analysis and Risk Assessment prepared by Skillings & Connolly. **(Exhibit C)**

The Board also referred to the maps by Skillings & Connolly maps **(Exhibits D1 & D2)** Mason County Planning Department Mason County Public Works Department Skokomish River Vance Creek Flood Plain No New Footprint and Conditional Footprint Analysis.

The Board questioned what regulations and maps are available for the Decker Creek and Tahuya, Union areas.

Mr. Fink responded that most of the areas subject to the flooding in the county are regulated in a way that could be called fairly standard for the state or country. The Federal Emergency Management Agency (FEMA) has model ordinances and minimum standards that they promote in order to participate in the federal flood insurance program. They publish FIRM maps which is Flood Insurance Rate Maps which delineate the 100 year flood plain and may in addition create a series of maps which delineate floodways within the floodplain. Within the floodways and all other parts of the county that are designated, construction of new single family houses are prohibited and construction of anything else or any other development that would block flood waters is very tightly controlled; including the condition that they cannot raise flood elevations or block flood water. The flood plain buildings are required to be floodproofed or elevated above the base flood level. These are the general standards and restrictions, which exist throughout Mason County in all the flood areas. The maps are adopted by reference in the existing ordinance.

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effective date of the ordinance.

The Board questioned if new construction would also refer to repairs on buildings, which were damaged.

Mr. Fink responded that “substantial improvement” is generally defined as the cost exceeding 50 percent of the market value of the structure before the improvement.

The question was raised if a home burned down would it be able to be built on the no new footprint zone.

They referred to page 20 of the draft document referring to new residences.

The Board referred to page 4 of the memo dated January 16, 2001 to the Board. The end of the first full paragraph beginning with “Development in . . . precluded in certain areas. . .” should add “such as” before the “. . .no new footprint zone. . .”

The Board directed that the language “. . . at this time.” Be deleted at the end of the second full paragraph on page 4 of the memo.

Also, on page 13 – 4.4-1 (1) It was recommended to add “The Board of County Commissioners or authorized Hearings Examiner . . .” If there is a Hearings Examiner in place they would hear the appeal, otherwise the Board of County Commissioners would hear the appeal.

The Board questioned if the draft ordinance is a clarification of the previous ordinance that was declared invalid. It does not appear to have changed anything in a significant way. It is basically the same fundamental part of the ordinance, but with clarification.

Mr. Fink responded the basic concepts and regulatory structure is the same as was previously. There were some specific changes made with diking and having diking being monitored. There was a specific monitoring provision added for diking when approval was given. There were some minor modifications of that nature to address specific concerns. A lot of the redrafting was to make the framework already in place more understandable.

The Board noted concern with the wording on page 2 of the memo under Purpose for Action when it refers to “clearly map” and “clearly designate” as frequently flooded areas, floodplains, floodways, areas of special flood hazards, special flood risk areas, special flood risk zones or detail study areas and clearly preclude new construction within them. Hopefully the testimony and staff report will show that they should not all be frequently flooded areas or preclude new construction.

There was discussion that it was never the intent to outlaw new construction in a frequently flooded area.

They commented that on page 3 of the draft Flood Damage Prevention Ordinance (FDPO) the “Area of Special Flood Hazard” definition notes that the designation of the areas on FIRM maps always include the letter A. They deleted the reference to including the letter V. It is a common nomenclature used by FEMA. The V is issued for velocity and is usually shoreline areas where storm and wave action is around. There are none of these areas in Mason County.

Also, due to the most recent Order from the GMHB the County has eliminated the reference to the Belfair UGA, because it is now out of the flood plain.

Wendy Ervin – Page 2 of the Memo – Referred to the Purpose for Action (5) and noted that the language is very confusing. She questioned how an agricultural resource land could be in an urban growth area.

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prior studies they came up to a sectional subdivision line and decided that was as far as they were going.

She stated she has lost some property at Riverhaven and Decker Creek.

Mr. Hauth stated that the County went in to the Decker Creek area and tried to stop an avulsion approximately six years ago.

Ms. Ross expressed her frustration that it appears they have not progressed any further in their area with the flooding.

Richard Guest, Skokomish Indian Tribe Attorney, commented that the maps were created from a specific request to the Board to delineate specific detail on the no new footprint zone, avulsion risk areas and hopefully to the overbank flow path areas. He referred to RCW 86.16.041 that new residential development in floodplains is inappropriate. The Growth Management Act provides guidelines in the WAC provisions that states avoidance oftentimes is better than mitigation. Avoidance of the critical areas may be the only remedy. Mitigation or trying to set out development regulations to minimize the impacts may not be appropriate in certain circumstances. The comments will be brief based on the review of the staff report.

He referred to page 5 of the staff report under numbers 5 & 6. The discussion of the 3% area displacement limit and the attempt at explaining how this displacement limit does not replace the density limitation of one unit per 10 acres. He felt that the way it is written in the ordinance, it could be read as a loophole. It may need to specifically reference residential density for the Skokomish Valley in order to close the loop hole. The way the ordinance reads in referencing the 3% displacement limit in the Comprehensive Flood Hazard Management Plan, discussions heard at public hearings have focused on the fact they can develop in the Skokomish Valley. Landowners may not be viewing any sort of limitation other than the 3%, regardless of the fact it is designated agricultural resource lands or some other designation.

The Board responded that the most restrictive always comes into play.

Mr. Guest replied that they have always viewed it as not being a part of the ordinance. There is no where in the ordinance that states the most restrictive will apply. That is contained in staff reports, but it is not a part of the ordinance. They would like to see it incorporated specifically into the ordinance so there is an understanding that the most restrictive limitation does apply.

The Board questioned if there is a concern that development could be greater than 3%.

Mr. Guest referred to a point brought to the GmbH is that under a 3% formula, there would be a potential for a 1/10 density. With a loop hole one landowner could challenge the County's ordinance and look to the 3% of not increasing the flood flow greater than one half foot.

The Board interjected that they are talking new construction with the 1/10 density.

Mr. Guest asked that this be given more thought that it tie the 3% or the 1/10 density whichever is more restrictive. He stated that the staff report does not reference the Army Corp of Engineers diking reconnaissance study. The Tribe made it a part of the record at the last hearings Board. The results of the diking reconnaissance study was as a result of the 1997 Comprehensive Flood Hazard Management Plan adopted by the County supported by the Tribe. He questioned why the County has not incorporated the information as a result of the study.

He referred to the maps that do not delineate avulsion risk areas in the upper Skokomish Valley. He stated the Tribe is still looking to the county to produce maps even without specific boundaries of those general areas. The Tribe would be concerned regarding the timing on the final report to the GMHB.

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intended to change densities and restrictions established by other County regulations such as resource area or rural designations.

Mr. Guest commented that the language could help.

Jerry Hauth, Public Works Director, stated the draft is still the latest document as of the past couple of days. The Corps of Engineers had not received the comments they were expecting from the Valley residents. They are on the agenda for a presentation out in the valley in the next few weeks and anticipate they will bring closure in a timely manner.

There was discussion about inserting language on diking that would reference the fact there is a draft report or will be a final report.

Mr. Fink stated he was not sure if the diking reconnaissance study has policy recommendations that would be implemented through the ordinance. The Skokomish River Comprehensive Flood Hazard Management Plan is mentioned in the diking section as something that a new development would have to be consistent with. He was uncertain if the reconnaissance study would have a similar policy directive that would be applied to a permit situation as to making a decision as to how high a dike might be.

Mr. Guest interjected that the Tribe raised this issue before the GMHB to address two issues: landowner access. In the draft that was released at that point in time and subsequent draft in September of 2000 remarked that of the nine levies that were studied; five were denied access or partial access to by the landowners. This is a concern of the Tribe. The second issue was of the dikes that were studied in the case of all the dikes the Corps of Engineers was able to gather data on, none of them met the standards for the construction of levies along the river. Their conclusion was that the system of levies along the Skokomish River in the lower valley provides minimal protection and that the failure of the system is to be anticipated. They are simply not going to hold in the event of a major flood. These are the concerns they are addressing in terms of monitoring that they have to have the information initially to know what sort of protections are in place and how is this system of levies going to function.

Mr. Find referred to page 23 of the FDPO draft. He noted the monitoring provision 6 was added that “All approved permits shall be required to monitor performance which shall include, at a minimum, a post construction inspection . . .” This addresses repair of dikes and any new diking. It would not address diking failure over a pre-existing dike.

Warren Dawes, Mason County Community Development Council which is a petitioner on the action, expressed concern that they are close to completion of mapping and reporting and faced with a Growth Management Hearings Board schedule. He noted they would support an agreed delay if in a reasonable time the maps could be completed with the information.

The Board responded the mapping should be completed; however obtaining the Army Corps of Engineers report and final is difficult.

Mr. Guest stated since the Growth Management Hearings Board did not set a compliance date, the Tribe would support a motion before the GMHB which would recognize any report filed today by the County with its draft maps included as a part of the report to set a date certain for adoption of the FFA and FDPO which is in compliance, at some point in February. He asked that the County attorney forward a motion or call them so they can see a short motion where they are agreeing to a continuance.

**Cmmr. Johnson/Baze moved and seconded to continue hearing to 2:00 pm on Friday, January 19, 2001. Motion carried unanimously. B-aye; C-aye; J-aye.**

The Board noted that written comments would be accepted to the staff until 5:00 pm on Thursday, January 18, 2000.

**VETERANS ASSISTANCE APPLICATION**

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**Utilities \$116.41; Margaret Cleveland –Burial Benefit \$300.00; James W. Stott – Housing \$400.00; Raymond J. Bullard – Food \$200.00; Douglas Drinkall – Utilities \$277.71; Lloyd L. Berg – Food \$150.00; Gil Ruiz – Utilities \$245.22; Burial \$300 = \$545.22; and Claude Walker – Utilities \$189.38. Motion carried unanimously. B-aye; C-aye; J-aye.**

**MEMORANDUM OF AGREEMENT – WASHINGTON STATE UNIVERSITY**

The Washington State University/Cooperative Extension recommends the Board sign Appendix A in the amount of \$33,000 to the Memorandum of Agreement to provide an Extension Program in 2001.

**Cmmr. Johnson/Baze moved and seconded to approve the Memorandum of Agreement with Washington State University - \$33,000. Motion carried unanimously. B-aye; C-aye; J-aye.**

**2001 BOARDS, COMMISSIONERS, COUNCILS**

**Cmmr. Baze/Johnson moved and seconded to revise Commissioners representation on Board's Councils and Commissions to include Cmmr. Baze to serve on the Regional Support Network and Cmmr. Johnson to serve on the Tax Lodging Advisory Committee. Motion carried unanimously. B-aye; C-aye; J-aye.**

**ADJOURNED**

The meeting adjourned at 12:10 p.m. due to no further business.

BOARD OF COUNTY COMMISSIONERS  
MASON COUNTY, WASHINGTON

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Mary Jo Cady, Chairperson

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Herb Baze, Commissioner

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Wesley E. Johnson, Commissioner

ATTEST:

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Rebecca S. Rogers  
Clerk of the Board