

BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS

MARCH 25, 2003

1. Call to Order - The regular meeting was called to order at 6:02 p.m. by Chairperson Herb Baze. Attendance: Cmmr. Dist. 1, Herb Baze; Cmmr. Dist. 3, Jayni Kamin.
2. Pledge of Allegiance – Chairperson Herb Baze led the flag salute.
3. Roll Call - Attendance: Cmmr. Dist. 1, Herb Baze; Cmmr. Dist. 3, Jayni Kamin.
4. Approval of Minutes – **Cmmr. Johnson/Kamin moved and seconded to approve the briefing minutes of January 27, 2003 and regular meeting minutes of March 18, 2003. Motion carried unanimously. B-aye; J-aye; K-aye.**
5. Board's Calendar for week of March 25 through April 1.
6. Correspondence and Organizational Business
 - 6.1 WATER CONSERVANCY BOARD
Letter from Donald R. Melnick, Chairman of Mason County Water conservancy Board concerning a six-month plan.

WATER RESOURCE INVENTORY AREA 14
Squaxin Island Tribe noted their proposal to address water resource concerns in Water Resource Inventory Area 14.

ADVISORY BOARD APPLICANTS
Planning Advisory Commission – Wendy Ervin & Jon Swanson
Skokomish Flood Control Zone District Advisory Board – Jeff A. Heinis
Local Emergency Planning Committee/Disaster Assistance Council – Bonnie Knight, Terry Mihailov, Jerry Hauth, Vance Aeschleman, Dave Salzer, Steve Swarhout, Aaron S. Espy, Larry Waters, Bob Burbridge, and Tim McKern.
Transportation Improvement Program/Citizens Advisory Program – Christian Boad & Ken Wilson
Lower Hood Canal Watershed Implementation Committee - Charles H.T. (Tom) Springer
 - 6.2 Mason County PUD #3
Joel Myer, PUD3, talked about Bonneville Power Administration increases. There is an increase scheduled for April, and another proposed in October. They are very concerned with the Safety Net Cost Recovery Adjustment Clause, which would be a 15% to 25% increase on wholesale rates. Mr. Myer stated PUD 3 can absorb the April increase but not the October increase. He distributed information concerning the proposed increase and urged people to write to the legislature.

Cmmr. Baze stated the Board intends to send a letter to the BPA in opposition to the increase.

Dick Wilson, PUD1, stated they are also opposed to the increase.
 - 6.3 Press Release – Hearing Examiner. Staff: Kristen French
Kristen French presented information regarding the Hearing Examiner process. The Hearing Examiner process is designed to address Building, Planning and Environmental Health Department code violation issues. Since January 2002, 44 cases have been heard and \$134,628 in fines has been ordered by the Hearing Examiner. Of this,

approximately \$47,039.12 has been suspended, approximately \$8,674.33 has been paid and a total of \$78,914.55 in liens has been placed against subject properties. The efforts the County has undertaken have addressed the concerns of hundreds of citizens who are impacted by code violations that degrade the quality of life of responsible citizens.

7. Open forum for Citizen Input .

Annette McGee asked about a \$1.43 fee on her cable bill, which refers to Ordinance 109-01. She asked for a copy of the ordinance.

Ms. McGee then referred to the revenues receipted by the Fairgrounds. She stated there was an editorial in the newspaper that talked about one third of the projected revenue being collected, Ms. McGee said only 4.4% has been reported.

8. Adoption of Agenda

Cmmr. Johnson/Kamin moved and seconded to adopt the agenda as printed. Motion carried unanimously. B-aye; J-aye; K-aye.

9. Approval of Consent Agenda – Cmmr. Baze read aloud the following items:

9.1 Approval of Veterans Assistance Fund applications for Ricky L. Wood -utilities \$400.00; Larry M. Tunno - utilities \$280.56; and Billy R. Smith - housing \$400.00 for a total of \$1,080.56.

9.2 Approval of Claims Clearing Fund & Salary Clearing Fund Warrant Nos.

Claims Clearing Fund	52685-52902	\$278,843.24
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9.3 Approval of the extension of contract F02-76000-480 between Mason County and the Washington State Community, Trade, and Economic Development for the Belfair sub-area planning. The extension is from March 31, 2003 to December 21, 2003.

9.4 Approval of a reimbursable agreement for the Mason County Road Department to provide fabricated signs and materials to the Washington State Department of Natural Resources. The total cost not to exceed \$1,500.

9.5 Approval of agreement between Mason County and the Mason County Economic Development Council for 2003 in the amount of \$12,500. Resolution No. 34-03 (Exhibit A)

Cmmr. Kamin/Johnson moved and seconded to approve the consent agenda, items 9.1 through 9.5 as presented. Motion carried unanimously. B-aye; J-aye; K-aye.

10. 9:30 Public Hearings

10.1 Public hearing to consider a Supplemental Appropriation in the estimated amount of \$342,337 for the 2003 budget for the Health Services Fund due to unanticipated state and federal grants, private donations, and fees for services which will be used for salaries and operating expenses.

Ione Siegler, Budget & Finance, presented the supplemental appropriation in the estimated amount of \$342,337 for the 2003 budget for the Health Services Fund. The revenues are from the cash carry-over, Consolidated Contract, miscellaneous revenue from contributions and donations, intergovernmental revenue for the ARPS Program, state grants for the Lower Union restoration Project, WRIA 16 and 14, Assessment Project, and Food Handler's Permits. This will be used for salaries and operating expenses.

Annette McGee asked if the fees for services were not known at the time the budget was being considered.

Debbie Riley, Environmental Health, stated one of the fees is for the food handlers cards which is state regulated and was increased the first of January. That was not known when the budget was written.

Cmmr. Baze closed the public hearing.

Cmmr. Johnson asked about the \$120,000 for the assessment project.

Ms. Riley answered that is the Conservation District Assessment, the \$5 per parcel.

Cmmr. Kamin/Johnson moved and seconded to approve the supplemental appropriation in the amount of \$342,337 for the Health Services Fund as presented. Motion carried unanimously. B-aye; J-aye; K-aye. (Exhibit B)

10.2 Public hearing to consider a Supplemental Appropriation in the estimated amount of \$54,865 to the 2003 Current Expense budget for payment of compensation as required by FLSA. Staff: Ione Siegler

Ione Siegler, Budget & Finance, presented the supplemental appropriation in the estimated amount of \$54,865 for the Current Expense fund for the Fairgrounds Department. Recently it has come to the Commissioners' attention that a few past and current employees at the Fairgrounds were not properly paid for overtime as required by the Fair Labor Standards Act. This supplemental will allow payment to the individuals involved, in conformance with the Act.

To avoid further expense to the county for which there is no budget, Percy Lewis, who previously served as both a full-time Maintenance Foreman and watch person, was asked which position he wished to continue. Failing to receive a timely reply, the county took action to relieve him of his duties as watch person effective January 31, 2003.

Percy Lewis, Fairgrounds employee, stated he wanted it on the record that he was not given a choice on which position he wanted to continue. He received a letter asking him to step down as the caretaker.

Cmmr. Johnson/Kamin moved and seconded to approve the budget order for the supplemental appropriation to the 2003 Current Expense budget, Fairgrounds Department, in the amount of \$54,865. Motion carried unanimously. B-aye; J-aye; K-aye. (Exhibit C)

10.3 Public hearing to consider approval of a Substantial Development Permit for Andy Bell and Paula Richmond for a pier, ramp and float at 4261 East State Highway 106, Union. Staff: Pam Bennett-Cumming

Pam Bennett-Cumming, Planning, presented a staff report for a Shoreline Substantial Development Permit to Andy Bell and Paula Richmond for a pier, ramp and float at 4261 East State Highway 106, Union. Eight ACZA pilings will be driven to support the structure. Stub pilings and float stops will prevent grounding. Total length of the structure from the OHWM is proposed to be 70ft. She presented photos of the site to the Board. There have been four public comments received, Kenneth Reese is in favor; Ronald Mason expressed concern if it encroaches on his tidelands; Constance Ibsen objects because there are no other docks in the area and suggested the applicant can access other facilities in Union at the marina and Hal Buscher called, objecting to the project. The Skokomish Tribe has provided a letter in objection to the project. The lack of dock development in this shoreline area, the proximity to the Skokomish River estuary, the potential for interference with treaty fishing rights are each areas of concern. Staff discussed the areas of concern with the applicants, who determined they would like to go through the public process, with the project reduced from 100ft to 70ft.

Staff has determined after analysis, that this project as proposed is inconsistent with the Shoreline Management Act and applicable Mason County Shoreline Master Program policies and use regulations. Staff recommends denial of the proposal. Should the Board choose to approve the project, recommended conditions are as follows:

1. Questions have been raised about tideland boundaries relative to the proposal's location. Prior to application for the building permit for this project, applicant shall provide Mason County with a survey which clearly shows the applicant's tidelands and upland in relation to the location of the proposal, so Mason County can make a determination as to whether the location of the project meets ownership requirements and setbacks.
1. The pier, ramp, float and associated moorings shall be located to avoid shading of eelgrass and other aquatic vegetation.

3. Flotation for the structure shall be entirely enclosed and contained to permanently prevent the breakup or loss of the flotation material in the water.
4. Debris or deleterious material resulting from construction shall be removed from the beach area and project site and shall not be allowed to enter waters of the state.
5. Construction, development and/or other site activities on or adjacent to the beach shall be conducted so that there is no disturbance of the salt tolerant vegetation at the shoreline edge.
6. Water quality is not to be degraded to the detriment of the aquatic environment as a result of this project.
7. Recreational piers shall be no higher than 11 feet above mean higher high water. Piers and docks shall have at least an eight foot span between pilings.
8. The surface of floating structures shall be a minimum of eight inches above the water.
9. All floating structures shall include float stop supports to keep structures off the tidelands at low tide.
10. The applicant shall obtain a Mason County Building Permit and all other necessary state and federal permit approval prior to the start of the project (Dept. of Fish and Wildlife, Army Corps of Engineers, DOE Water Quality concurrence).
11. The total length of the proposed project shall not extend waterward further than either 70 feet or minus 3 tide, whichever is more landward.

Cmmr. Johnson asked if the 70' structure would reach the river at a very low tide.

Ms. Bennett-Cumming believes it would almost reach the river.

Amy Leitman, agent, viewed the photos with the Board. She said she was surprised by the staff recommendation. She stated the applicant has reduced the proposal so that at a -.8 tide, water would reach it. She believes the proposal was acceptable by staff until the letter was received from the Skokomish Tribe. She believes this proposal isn't any different than others that have been approved. She is concerned with the definition of estuary. She reviewed maps of the area with the Board. Ms. Leitman stated an estuary is the water that is influenced by fresh and salt water. She referred to information from a newsletter from the Northwest Indian Fish Commission News & Information with regard to the Skokomish River estuary and stated none of the plants referred to in the article are near this property. She stated the applicant has their HPA permit from the state, DOE has approved and the Corp is just about finishing their approval of this project.

Ms. Leitman believes there are no obstructions of views due to this dock. The applicant has 700 feet of waterfront so it would not be feasible to have joint-use and the proposal was reduced in size although the ramp needs to be a certain length so a wheelchair can safely go down it and that is a typical length. This is located right up against a bulkhead and there are no other houses nearby. A float would not be appropriate because an owner is in a wheelchair.

With regard to minimizing adverse effects on fish, shellfish, wildlife and water quality, she stated there are currently a lot of oysters which will not be affected by the docks and they didn't find any other type of shellfish. She believes fish, other than salmon, might be enhanced because of the shade the proposal will provide. Also because it is a vertical structure, she believes it could enhance other types of fish. Also tribal fishermen could tie off of the structure, rather than the maple tree they are currently using.

She stated there are other structures that are piers and floats further south that go further out into the water. She stated the project is not near any neighboring tidelands. She believes this proposal will enhance, not degrade the area.

Ms. Leitman talked about juvenile salmon and the time window of construction. She believes the juvenile salmon will be protected and that the structure will not harm them.

Andy Bell, applicant, stated it is true that for a mile in each direction there are no docks and piers, but there are plenty of floats. He is unable to use the marina because he is in a wheelchair. He stated they have cooperated with the Indians and this proposal will not interfere with their fishing, it may even enhance it.

Paula Richmond also stated that because Mr. Bell is in a wheelchair he couldn't use the marina. She pointed out how difficult it is to use various facilities in a wheelchair. She wondered if the ADA would allow full use of their property.

Marty Ereth, Skokomish Tribe biologist, spoke to the estuary issue. He doesn't believe that because other entities have permitted the project, that is a reason for Mason County to approve it. He submitted a letter of comments from the Tribe. He talked about salmon. The Tribe is concerned with the cumulative effects of shoreline modifications and they are recommending denial of the permit.

Cmmr. Johnson asked about Corp approval.

Ms. Leitman answered it is in the process of being approved.

Mr. Ereth stated they have received nothing from the Corp. He believes the agencies are under pressure from the legislature to approve permits.

Cmmr. Johnson asked about tribal fishing rights.

Mr. Ereth answered the Tribe has treaty fishing rights to the entire Hood Canal and the Skokomish Valley and they do exercise those rights.

Cmmr. Johnson stated he understands the Corp has jurisdiction on navigable waters and he asked if the Skokomish River is considered navigable.

Mr. Ereth stated it is considered navigable up to where the south and north fork come together.

Constance Ibsen asked about the lack of a Planning Commission hearing. She appreciates the present view without docks. She is concerned with setting a precedence.

Ms. Bennett-Cumming stated the Shoreline Substantial Development Permits such as this one do not go before the Planning Advisory Commission.

Wendy Ervin supports the project so the property owner can have full use of their property due to his disability. She does not believe this will obstruct fish.

John Diehl, Advocates for Responsible Development, opposes the proposal.

Amy Leitman talked about ESA for salmon starting in 1999 and she disagreed with Mr. Ereth's view that the agencies are issuing permits easier than in the past. She pointed out this is not shoreline armoring or a bulkhead which she believes are bad for the environment.

Cmmr. Johnson asked for Ms. Leitman's opinion as to it being the first of it's kind on this stretch of seashore.

Ms. Leitman answered it would be the first of this kind because there are piers and floats in the area, not piers, ramps and floats. She understands that Mason County doesn't issue permits for free standing floats. She believes there is more impact from the road and the bulkheads. She stated there are only six houses between this location and Union and there are a bunch of docks at Union.

Cmmr. Kamin asked about the property owners on the hillside, if they include rights to the waterfront.

Ms. Bennett-Cumming stated they do include a sliver of ownership on the waterside. The current zoning is one unit per five acres. The question is, if one dock is approved, what happens next.

Cmmr. Baze asked Ms. Bennett-Cumming to talk about what the SMP says to the number of docks in the area.

Ms. Bennett-Cumming referred to the Environment Designations Chapter which includes preserving the natural character of the shoreline. She referred the Board to the photos and noted there is much less development in this area. The SMP also talks about the cumulative effect and increasing the recreational opportunities for the public in the shoreline. She stressed that although this isn't an entirely natural shoreline it is less developed than many other areas on the Canal. The Piers and Docks Chapter talks about views and aesthetics, they are not just talking about the views of neighbors, they are talking about the views of the shorelines in general. Intensifying development would have an effect on that.

Cmmr. Baze closed the public hearing due to no further testimony.

Cmmr. Baze stated they take the docks on their own merit. This is a tough decision and they have to look at all of the information. There is always the chance it can be appealed to the State Shorelines Hearings Board. He pointed out there are still other permits that have to be obtained.

Cmmr. Johnson stated this area is unique because the Skokomish River flows in front of it. This is a stretch of shoreline that could mean a beginning of other structures in the area being permitted. He stated the mud flats have been there for a very long time although they go further out now.

Cmmr. Kamin asked that this be postponed to consider the information.

Cmmr. Kamin/Johnson moved and seconded to postpone the decision until April 1, 2003 at 9:30 a.m. and to accept written comments until March 31, 2003 at 5:00 p.m. Motion carried unanimously. B-aye; J-aye; K-aye.

Cmmr. Baze noted that the public hearing portion has been closed and only written comments will be accepted.

11. Business (Department Heads and Elected Officials)

11.1 Oath of Inventory for County Personal Property as of December 31, 2002

Auditor Theresia Erich, Chief Accountant, presented the Oath of Inventory for 2002 in the total amount of \$10,964,957.33.

Cmmr. Johnson/Kamin moved and seconded to sign the Oath of Inventory for County Personal Property as of December 31, 2002. Motion carried unanimously. B-aye; J-aye; K-aye.

11.2 Bid award for timber sale, bids opened on March 21, 2003 at 11:00 a.m. for CPR 1444, Haven Way right of way timber.

Lisa Frazier, Treasurer, stated bids were opened on March 21, 2003 for CRP 1444, Haven Way, for right of way timber. She recommended the Board accept the bid from Manke Lumber Company, Inc. in the amount of \$24,500.

Cmmr. Johnson/Kamin moved and seconded to accept the bid from Manke Lumber company in the amount of \$24,500 and execute the appropriate documentation. Motion carried unanimously. B-aye; J-aye; K-aye.

12. Administration – there was no business.

13. Adjournment

The meeting adjourned at 8:12 p.m. due to no further business.

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON

Herb Baze, Chairperson

ATTEST:

Wesley E. Johnson, Commissioner

Rebecca S. Rogers, Clerk of the Board

Jayni L. Kamin, Commissioner