

BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS

DECEMBER 14, 2004

1. Call to Order - The meeting was called to order at 9:03 a.m.
2. Pledge of Allegiance – The Chairperson led the flag salute.
3. Roll Call – Present: Cmmr. Dist. 1 – Herb Baze; Cmmr. Dist. 2 – Wesley E. Johnson; Absent: Cmmr. Dist. 3 – Jayni L. Kamin.
4. Approval of Minutes – None
5. Board’s Calendar for week of December 14 – 21, 2004.
6. Correspondence and Organizational Business
 - 6.1 Correspondence
 - 6.1.1 Comments on the public hearing to be held regarding the Belfair Sub-area Plan – Advocates for Responsible Development; Tori Stephens; Catherine Ann Wolf, CPA; Ken VanBuskirk.
 - 6.1.2 Letter of support regarding Port of Allyn’s water project: Economic Development Council of Mason County.
 - 6.2 Holiday Waste Reduction and Recycling Opportunities --- Shannon McClelland, Recycling Coordinator, read aloud the press release encouraging recycling during the holidays for Christmas trees, gift wrapping and greeting cards. Suggestions were given for gift giving with waste reduction in mind. The 2good2toss.com was suggested for in the new year for posting unwanted items on the statewide internet exchange, instead of sending them to the landfill.
 - 6.3 Solid Waste Voucher and Fall Cleanup Programs – Tom Moore, Utilities & Waste Management, reported that 450 vouchers were distributed for free disposal of one standard pickup load of solid waste at the solid waste transfer station. The materials tallied over the course of the event included over 163 tons of solid waste, 164 miscellaneous items such as mattresses and appliances, and 572 tires. A total of 354 vouchers were redeemed. In addition, over 140 tons of leaves grass and woody debris were processed; a total of 141 tons of scrap metals were processed and recycled by two local firms and 90 vehicle hulks were collected.
7. Open Forum for Citizen Input - None
8. Adoption of Agenda – **Cmmr. Baze/Johnson moved and seconded to adopt the agenda as presented. Motion carried unanimously. B-aye; J-aye; K-absent.**
9. Approval of Consent Agenda:
 - 9.1 Approval for the Assessor to post for quotes for a copier machine to replace the current machine which is in need of major repairs. Estimated cost is between \$2,500 and \$25,000 and funds are available in the Assessor’s current 2004 budget.
 - 9.2 Approval of Veterans Assistance Fund applications for: Robert Rietze – housing \$450.00 & food \$150.00; Byron W. Smith – utilities \$417.40 & food \$182.60; Edwin J. Hamilton – food \$200.00 & utilities \$76.12; Roy K. Oster – utilities \$300.00; Steven D. Inman – housing \$600.00 for a total of \$2,376.12.
 - 9.3 Approval of Warrants

Salary Clearing Fund	144053-144561	\$1,241,460.20
Claims Clearing Fund	81459-81906	\$ 945,777.89
 - 9.4 Set a public hearing on Tuesday, December 28, 2004 at 9:30 a.m. to consider a supplemental appropriation to the 2004 Current Expense budget in the estimated amount of \$44,500. **Resolution No. 124-04 (Exhibit A)**

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- 9.5 Approval of Consolidated Contract Amendment #13 for an addition to the Immunization Special Project federal program for the period of Jan-Dec 2004. This increases the contract by \$4,379 with the total maximum consideration not to exceed \$720,917.
- 9.6 Approval of the 2005-2006 Consolidated Contract with the Department of Health in the amount of \$325,435.
- 9.7 Approval for the ER&R Fund Manager to call for bids to furnish Mason County with Asphalt Concrete, MC250 (Cold Mix) and/or CSS 1 Tack Coat for 2005. Bid opening to be Friday, January 14, 2005 at 9:00 a.m.
- 9.8 Approval of the interlocal agreement with the Washington State Department of General Administration.
- 9.9 Approve the operating policy for the Mason County Central Shop. **Resolution No. 125-04 (Exhibit B)**
- 9.10 Approval of the resolution implementing the Non-Union Salary Range Table for January 1, 2005 that reflects the CPI-U index supporting a 2% COLA increase. **Resolution No. 126-04 (Exhibit C)**
- 9.11 Approval of the resolution to amend the 2005 salaries by 3% for the Prosecuting Attorney, \$108,480; Sheriff, \$76,093 and Coroner, \$46,850. **Resolution No. 127-04 (Exhibit D)**
- 9.12 Approval of the collective bargaining agreement and implementing Memorandum of Agreement between Mason County and the Deputy Sheriffs in Woodworkers Local Lodge, W536, I.A.M. for the period January 1, 2004 through December 31, 2006.
- 9.13 Approval of administrative settlement in the amount of \$9,756.13 for tax parcel 61928-41-00000 for CRP 1720, Satsop-Cloquallum Road culvert replacement project, Richardson property.
- 9.14 Approval to terminate the contract with C.W. Williams Construction Company for CRP 1598, Skookum Creek Bridge project. The contract was awarded on July 6, 2004 and has been delayed until 2005.
- 9.15 Approval of agreements between Mason County and the Mason County Convention Center/Fair, North Mason Visitor Center and the Shelton-Mason County Chamber of Commerce with regard to Hotel/Motel funds for 2004.
- 9.16 Approval to set a public hearing on Tuesday, December 28, 2004 at 9:30 a.m. to consider a planning fee increase for Hearing Examiner hearings and to establish a fee for the review of Water System Plans.
- 9.17 Approval to ratify and adopt the letter from Wes Johnson dated December 8, 2004 with regards to a Belfair Plan FSEIS appeal.
- 9.18 Approval to call a special meeting on Friday, December 17, 2004 at 3:00 p.m. to hold a hearing to consider the appeal to the Belfair Plan FSEIS.

Cmmr. Baze/Johnson moved and seconded to approve Consent Agenda Items 9.1 – 9.18 as read. Motion carried unanimously. B-aye; J-aye; K-absent.

10. 9:30 a.m. Public Hearings and Items Set for a Certain Time

- 10.1 Public hearing to consider a Supplemental Appropriation to the 2004 Current Expense Fund Budget in the amount of \$32,705.

Ione Siegler, Budget & Finance Director, presented the request for a supplemental appropriation due to the loss of Building 9 at the Fairgrounds when it collapsed. They lost an estimated \$10,230 which was needed to replace equipment. Also, District Court budget needs to be amended in the amount of \$22,475 for the unexpected cost of jury trials.

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Cmmr. Baze/Johnson moved and seconded to approve the supplemental appropriation to the 2004 Current Expense Fund budget in the amount of \$32,705. Motion carried unanimously. B-aye; J-aye; K-absent.

- 10.2 Public hearing to review proposed revisions to development standards contained in the Mason County Resource Ordinance, Title 16 Plats and Subdivisions, and Development Regulations.

Alan Borden, Planner, noted the topics under consideration include the following revisions to development standards used for the review of land uses and land divisions in the County. The changes were reviewed by the Planning Advisory Commission in September & October of 2004 and recommended for approval at their public hearings.

Resource Ordinance standards in fish and wildlife habitat conservation areas: Text on park / community recreational land use development in saltwater and freshwater areas need environmental permit review. Title 16 Plats and Subdivisions: New text clarifying what land (platted and/or unplatted lots) shall be considered for proposed boundary line adjustments, and definition of lot combinations which involve three or more lots.

Development Regulations standards on Change of Use (Non-Conforming Uses): Review of new land use in respect to immediate previous land use or approval of special use permit in respect to current site conditions and compatibility with area land uses. There is a subsection which deals with change of use of non-conforming land uses. The current term "previous use" is proposed to change to "most current use" in review standards. It is a new provision which permits the process of a special use permit to review a proposed change of use in relation to prior land uses on that property that occurred in a ten-year period before the request for special use permit. That public review will consider current site conditions and compatible only with area land uses that presently occur surrounding the property being proposed for change of use.

A letter was acknowledged from Advocates for Responsible Development (ARD) submitted late on Monday night to the Department of Community Development/Planning Division. The ARD commented on Fish & Wildlife Habitat Conservation area provision provides unlimited expansion of facilities at existing parks and recreation areas even if these impair fish & wildlife habitat conservation areas. The ARD feel it is contrary to the Growth Management Act (GMA) requirement to protect critical areas and fails to include best available science. They comment on the development regulations review of change of uses under non-conforming uses. Such a provision as broadly written applies to both change of use of structures and change of use of land ignores the concept of non-conforming uses which is to allow their continued use, but to discourage their perpetual use by allowing a range of alternative uses. If the land is subject to any such uses over the past decade the county would do nothing to encourage such non-conforming uses to be phased out. They state citations from cases held in State of Washington and go on to say the perpetuation of uses will be contrary to one or more of several GMA requirements. Interfering with the continued use of designated resource lands; interfering to protect critical areas; or prohibit development inconsistent with rural character; or prohibit urban growth outside of designated UGA.

ARD asked that they be returned to staff for redrafting with language that better circumscribes the desired result, in line with GMA goals and requirements. They are asking for staff to work additional time to see if some of their concerns can be integrated in the text.

Darren Nienaber, Deputy Prosecutor, asked if the Planning Division had a response.

Bob Fink, Planning Manager, noted that they just received the letter in the morning.

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Mr. Nienaber asked the Planning Manager why the Fish & Wildlife revision was originally proposed.

Mr. Fink responded that he looked at the letter and didn't have a lot of time to prepare a response. The first amendment ARD objects to is addressing areas of parks & recreation areas which was proposed to allow for minor improvements to existing park and recreation areas. In particular, there was a proposal to put a picnic shelter cover over existing picnic area which had a concrete floor but not a roof. They were proposing to have a roof. Under the current county regulations, the only way they could do that is through the variance process. In an attempt to serve these public purposes (parks & recreation areas) they are trying to make an adjustment to allow for these activities to be done under a reasonable set of regulations and not have to justify a variance. It was proposed to allow this to proceed with an environmental permit. It would not require a variance. The Habitat Management Plan was left out because it was seen as these areas were already developed. The development would then be able to proceed. If you look at the requirements for a Mason environment permit to be issued they do have to review the effects of the proposal. The applicant has to apply science, but they don't have the advantage of a habitat management plan.

Cmmr. Baze asked if there was consideration in asking for a variance, if they could reasonably be assured they could meet the variance criteria, and the cost of the request would not be more than the cost of the structure.

Mr. Fink responded that in this particular case the cost of the permitting would be in higher proportion of the total cost of the project.

In order to issue the environmental permit the permit should only be granted when 1) the proposed activity avoids adverse impacts to regulated fish and wildlife habitat conservation areas or takes affirmative and appropriate measures to compensate for impacts. Mitigation sequencing should follow the avoidance reduction of compensation analysis in that order of preference. 2) The proposed activity is consistent with an approved habitat management plan if such a plan is prepared. Or, the proposed activity is approved according to a variance or reasonable use exception. The requirement is still there, the impact to resource be avoided as part of the proposal. They would be looking for mitigation.

Mr. Nienaber noted there is only one paragraph comment on the park proposal.

Mr. Fink responded, essentially yes.

Mr. Nienaber asked if within the paragraph if there is anything that qualifies as best available science.

Mr. Fink responded, his statement doesn't site any science that there is any impairment.

Mr. Nienaber questioned if he knew of any best available science on the record on the proposal that rebuts this proposal.

Mr. Fink noted the current regulation that the County is making an amendment to was adopted using best available science and approved by the state Growth Management Hearings Board. That includes the provisions that normal projects go through for an MEP. The MEP review process is based on recognition of the potential impacts and incorporates a review to see if there are impacts. It was developed using best available science. They also had comments from Rick Mraz, Planner, at the Planning Advisory Commission, in support of the review. Mr. Mraz is a biologist and has a master's degree. He has several years of experience in applying these regulations and biological experience outside of his work in the county that he based his opinion.

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Mr. Nienaber asked if the only evidence or testimony which has been submitted that might be considered scientific in nature has been in general support of the proposal.

Mr. Fink responded, yes. The process in the MEP is based on the best available science as previously established. The only scientific or expert testimony they had relating it is from Mr. Mraz in support of the proposal.

Cmmr. Johnson asked if the best available science is already incorporated in the MEP.

Mr. Fink replied, yes.

Mr. Nienaber asked, based on his experience, if Mr. Fink foresees a lot of these proposals coming to the Planning Department or one or two a year.

Mr. Fink did not foresee one or two a year. This is the first instance that has come up since the regulations were adopted.

Mr. Nienaber asked if it would be extremely limited applicability.

Mr. Fink responded, yes.

Mr. Nienaber referred to the nonconforming use proposal. He asked how this proposal came about.

Mr. Fink explained the nonconforming use was related to a site which had been in commercial use for a number of years. A few years ago, a mobile home sales office closed. There was an intervening temporary use of the structure by a utility company (PUD) as a staging area. There was a proposal to use the site again for sales. Utilities are generally considered conforming uses in rural areas. The way the regulation was written it was ambiguous as to what they meant by the preceding use. The determination of the department was that they could consider the preceding use to include the mobile home sales that was there a few years prior. The staff was uncomfortable with the language, as specifically stated, and desired to make the provision explicit. They also desired to support the ability to go back further than just necessarily the preceding use. In order to allow for more economic activity in the rural area, there was concern with allowing people to go back too far if the situation when that use existed previously had changed in the neighborhood. An example is they could theorize a business operating a sawmill which would have more impact to the neighboring area. It could close down briefly, there could be something with less impact. The area could develop a number of residences built or subdivision placed nearby. The commercial property in question could come back and ask for a more intensive use. That is why they included a provision that required special use permit. This would give the county authority to review the older use to see if the situations have changed since that use fit into the neighborhood. They tried to protect the community from changes and conditions from when that use previously fit into the environment. If there was no conflict they could see no real reason why it could not be allowed in that area.

Mr. Nienaber asked if the site in particular that provoked the proposal, is almost entirely developed and paved.

Mr. Fink noted he has seen the site. It is probably gravel rather than paved.

Mr. Nienaber asked if it is in a condition that would readily convert back to a house.

Mr. Fink replied this site in particular is not a suitable candidate for residential use. There is a mobile home park on the same road a ways down. This is on Craig Road. The development immediately

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adjoining this are all commercial in nature and have been commercial for a number of years. Some of the developments nearby are zoned for commercial. Those are the ones that preceded 1990. The other ones started legally but have not been identified by the county as meeting the test as a pre-existing use in the rural area as of 1990. When they went through and zoned areas for commercial or industrial use that was their base line following the guidance given in the Growth Management Act. The area is within site of US101 and the exit for SR 3. It is readily accessed off of US 101 or SR3 through Craig Road. Most of the development is either commercial or industrial with the exception of an older RV/mobile home park.

Mr. Nienaber asked if the current regulation in the long haul encourages phasing out nonconforming uses that have been discontinued from that lot for example 10 years.

Mr. Fink replied this regulation discourages a nonconforming situation continuing. There was substantial testimony given when the county was developing these regulations by business owners and other people that being considered nonconforming is a handicap for operating a business in general. In particular the county has a provision that if uses are abandoned for a period of two years then they are abandoned altogether. If they close their operation and the land becomes unused for two years then it is considered abandoned and this provision does not allow an individual to go back and recapture the previous use. They came to the conclusion that the language as written applied to a nonconforming use. A use when it is abandoned is no longer nonconforming. This provision has taken the interpretation to not allow to go back and after the use has been abandoned altogether. It only allows for the change of use from one nonconforming use to another nonconforming use of similar or lesser impact to the surroundings. The amendment would potentially allow to go back to nonconforming use that might have more significant impact to the surroundings. It allows for review of the impact and determination if it has an acceptable impact.

Cmmr. Johnson asked if it would still require a special use permit.

Mr. Fink responded that is correct. Also, as far as the operation of the expansion of nonconforming uses, there are provisions for expansion of those uses but they are limited in what they can do. For some businesses it may keep them from reaching their business goals or plans.

Cmmr. Baze stated that this particular lot that is being talked about also is commercial on both sides, it is bordered by an access road and the freeway on one side and wetlands on another side. It is not conducive to residential as it is isolated.

Mr. Nienaber asked if this applies to just those lands in rural areas. There is a classification figure.

Mr. Fink noted that this provision is a general provision that applies in any district, any nonconforming use. There is an intensity chart but it is not limited in any way to only the rural area. The presence of nonconforming uses, in the urban area, is expected to be much less. There is interim zoning and hopefully in the near future there is a proposal for consideration in the Shelton area. At that time, they will look to determine if nonconforming provisions are appropriate.

No further public comment was received.

Cmmr. Baze/Johnson moved, that in support of the recommendations of the Planning Advisory Commission, the Board of County Commissioners shall adopt Ordinance No. 128-04 that approves the proposed revisions to development standards contained in the Mason County Resource Ordinance, Title 16 Plats and Subdivisions, and Development Regulations, as listed in the Department of Community Development staff report, and move to have the Chair sign the

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**Findings of Fact for this decision. Motion carried unanimously. B-aye; J-aye; K-absent.
Ordinance No. 128-04 (Exhibit E)**

11. Other Business (Department Heads and Elected Officials)

- 11.1 Notification of award from the Small Works Roster for the repair of the electrical wiring and installation of additional wiring for the deicer pump at the Belfair Shop. The award is to Paul's Electric NW, Inc. of Shelton in the amount of \$3,563.07 including tax

Dave Loser, Equipment Rental & Revolving Fund Manager, explained that authorization was given on 11/23/04 to repair wiring and add additional wiring at the Belfair Shop. Nine companies were solicited from the small works roster. Two bids were received and it was awarded to Paul's Electric NW, Inc. in the amount of \$3,563.07.

- 11.2 Bid award for 2005 used tire disposal services. Bid opening was Friday, December 10, 2004 and the recommendation is to reject all bids.

Mr. Loser announced that this is the first time they have gone out for bids for the tire disposal services as it was part of the tire services contract in the past. They decided to take the tire services in house. The only issue was disposing of tires and it was their understanding that the tires had value and at least they would be able to get rid of them at no cost. They only received one bid at a charge of \$2,070 per year to pick up the tires. There are approximately 300 tires. The recommendation is to reject the bid and work with solid waste and the state contract to dispose of the tires.

Cmmr. Baze/Johnson moved and seconded the Board of County Commissioners reject all bids for used tire disposal services for 2005. Motion carried unanimously. B-aye; J-aye; K-absent.

- 11.3 Bid award for Towing Services for 2005. Recommendation is for Auto/Light truck bid for all zones to Tow King of Shelton and award the Heavy Truck bid for all zones and Jump Start bid to Jim's Auto Repair and Towing of Shelton.

Mr. Loser announced that they opened bids on December 10, 2004 with four bids. It is recommended the Board award for Auto/Light truck bid for all zones to Tow King of Shelton and award the Heavy Truck bid for all zones and Jump Start bid to Jim's Auto Repair and Towing of Shelton.

Cmmr. Baze/Johnson moved and seconded the Board of County Commissioners award the bid for Towing Services for 2005, Auto/Light truck bid for all zones to Tow King of Shelton and award the Heavy Truck bid for all zones and Jump Start bid to Jim's Auto Repair and Towing of Shelton. Motion carried unanimously. B-aye; J-aye; K-absent.

12. Administration – None.

13. Adjournment - The meeting adjourned at 10:10 a.m.

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BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON

Wesley E. Johnson, Chairperson

ATTEST:

Jayni L. Kamin, Commissioner

Rebecca S. Rogers, Clerk of the Board

Herb Baze, Commissioner