

BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS

FEBRUARY 11, 2003

1. Call to Order - Chairperson Herb Baze called the regular meeting to order at 9:02 a.m..
2. Pledge of Allegiance - Chairperson Herb Baze led the flag salute.
3. Roll Call – Present: Cmmr. Dist. 1, Herb Baze; Cmmr. Dist. 2, Wesley E. Johnson; Cmmr. Dist. 3, Jayni Kamin.
4. Approval of Minutes - **Cmmr. Johnson/Kamin moved and seconded to approve the December 10, 2002 and January 21, 2003 minutes. Motion carried unanimously. B-aye J-aye; K-aye.**
5. Board's Calendar for week of February 11 - 18
6. Correspondence and Organizational Business
 - 6.1 Correspondence –
7. Open Forum for Citizen Input - No public comment.
8. Adoption of Agenda - **Cmmr. Johnson/Kamin moved and seconded to adopt the agenda as published. Motion carried unanimously. B-aye; J-aye; K-aye.**
9. Approval of Consent Agenda: The Board read aloud the following consent agenda items.
 - 9.1 Approval for the Board to sign the Emergency Operations Plan (EOP) cover sheet. (~~removed~~–acted on 1/14/03)
 - 9.2 Approval of the Declarations of Emergency for earthquake, flood, nuclear, terrorism, wild land fire, windstorm, and winter storm. These are for the Emergency Operations Plan. (**Resolution Nos. 11-03 thru 17-03**) (**Exhibit C thru Exhibit I**)
 - 9.3 Approval of the agreement with Yakima County to use their jail in the event the Mason County jail is overcrowded. The daily rate is \$56.55.
 - 9.4 Approval of Veterans Assistance Application for Charles P. Sharpe - utilities \$330.71; George W. Roberts - utilities \$220.04; and Alan R. Strait - food \$32.50, housing \$367.50 = \$950.75 (removed Ong & Valent applications)
 - 9.5 Approval of liquor license application: Assumption: From James K Park dba Spencer Lake Grocery; Applicants: Richard K & Allison Y. Kim; Tradename: Spencer Lake Grocery; Privileges Applied For: Grocery Store - Beer/Wine.
 - 9.6 Set bid opening date for 2003 manufacturing and stockpiling of mineral aggregate contract. Bid opening date to be Friday, March 14, 2003 at 9:00 a.m.; bid award will be on Tuesday, March 18, 2003.
 - 9.7 Set bid opening date for 2003 guardrail program, CRP 1771. Bid opening date to be Friday, March 7, 2003 at 10:00 a.m.; bid award to be Tuesday, March 11, 2003.
 - 9.8 Approval of CRP's 1777 through 1786 for application of bituminous surface treatment (BST). Resolution No. 10-03 (Exhibit B)**
 - 9.9 Approval for Chairperson to execute the Washington State Department of Transportation Certification Acceptance Qualification agreement.
 - 9.10 Approval of an affidavit from the Mason County Treasurer to cancel uncollectable personal property taxes pursuant to RCW 84.56.240. Total cancellation amount is \$1,913.44.
 - 9.11 Approval of Warrant Nos.: Claims Clearing Fund - 46690-47123, \$841,041.38; 47197- 49486, \$2,977,072.54 and Salary Clearing Fund - 123039-123495, \$1,105,264.89; 123497-124925, \$2,611,190.48; 124466A-124472A, \$3,269.18
 - 9.12 Approval of Park Attendant contracts for Union Park, Truman Glick Memorial Park, Foothills Park, Sandhill Park and MCRA Park.
 - 9.13 Approval for the Parks Department to post for quotes for portable toilet units at Latimer's Landing, MCRA Park, Sandhill Park, Union boat ramp and Truman Glick Memorial Park.

**BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
FEBRUARY 11, 2003 - PAGE 2**

9.14 Approval of the storage bay rental agreement between the Mason County Parks Department and the Mason County Youth Baseball Association(MCYBBA). MCYBBA will pay Mason County \$1,658.88 per year for use of the storage area at MCRA.

Cmmr. Kamin/Johnson moved and seconded to approve consent agenda items 9.1 - 9.14 as presented. Motion carried unanimously. B-aye; J-aye; K-aye.

RECESS - The Board recessed at 9:20 a.m. until 9:30 a.m.

10. 9:30 a.m. Public Hearings

10.1 Public hearing continued from 1-28-03 to consider approval of a shoreline Substantial Development Permit to the Washington State Department of Fish and Wildlife for a recreational shellfish access site. Location is north of the power lines on Hwy 302 near Victor.

Grace Miller, Planner, explained that since January 28, 2003 staff has made changes to the conditions recommended to the Board. On page 6 of the staff report, conditions 1 - 4 and 9 have changed of the eleven conditions. Staff recommended approval of the proposal with the eleven conditions.

Bill Thurston stated he lives two lots north of the proposed development. The amended conditions at least partially address some of the concerns of the neighborhood. He pointed out that in a letter dated January 30 to the Commissioners he noted that on page 2 of the staff report under Use Regulations, paragraph 12 it states the recreational facility shall make adequate provisions for water supply, sewage disposal and garbage collection. He did not feel the water supply has been addressed and two years with portable toilets is stretching it.

Curtis Wambach, Washington Department of Fish & Wildlife Engineering Division, referred to Use Regulation of the Mason County Shorelines Master Plan, Chapter 7.16.190 (3) Priority shall be given to developments which provide recreational uses and which facilitate public access to the shoreline.

He also referenced Use Regulation 12 Recreational facilities shall make adequate provisions for water supply, sewage disposal and garbage collection. They are not using water on the site, but are making provisions for sewage disposal and garbage collection. He read aloud a letter to the Planning Staff dated February 11, 2003 in response to some of the comments at the January 28, 2003 Shorelines Hearing and February 5, 2003 letter from Planning Staff.

Mr. Wambach stated that no where in the code does it require permanent toilet facilities. In compliance with Chapter 7.16.190 of the Mason County Shoreline Master Program the applicant shall provide adequate provision for litter maintenance. A maintenance schedule will closely coincide with facility use.

The Board closed the public comment period.

Cmmr. Johnson stated that dealing with garbage collection, Condition 2 the state shall provide garbage litter maintenance weekly or as agreed upon by the administrator to address the fact there will be times of heavy usage. That flexibility is for a decision of the administrator.

Cmmr. Kamin/Johnson moved and seconded to approve Shoreline Substantial Development Permit #SHR2002-00025 with the eleven conditions listed in the staff report; further move that the Board approve the Findings of Fact. Motion carried unanimously. B-aye; J-aye; K-aye.

10.2 Public hearing continued from December 30, 2002 and February 4, 2003 to review the proposed amendments to the Mason County Comprehensive Plan and Development Regulations and the Mason County Resource Ordinance in response to the Western Washington Growth Management Hearings Board August 2002 Findings and Orders.

**BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
FEBRUARY 11, 2003 - PAGE 3**

Bob Fink, Planner Manager, explained that the Growth Management Hearings Board ordered the County to address certain issues in the Rural Land Regulations Open Space Planning, Fish & Wildlife Habitat Conservation Areas and Frequently Flooded Areas.

The Planning Advisory Commission recommendation and Department of Community Development modifications were presented to the Board in a public meeting.

Mr. Fink noted they would like to present a few clarifications to the Board. Under Rural Lands Section 1.02.043 they clarified the language concerning rural commercial zoning districts to ensure the list of areas which were rezoned to rural commercial zones is complete. The second change is in the Rezone Characteristics Section 1.05.080 B, 2nd paragraph, 1st sentence to add "or any other LAMIRD under RCW 36.70A.070(5) (d)." This was added to clarify that to prevent sprawl all of the more intensive areas would be kept separated from one another to prevent changes to rural character and environmental impacts. The Planning Advisory Commission recommended designating an open space corridor between the urban growth areas of Allyn and Shelton, including expanding the open space on either side of the utility corridors and the railroad right-of-way by 600' on either side of the easement and the establishment of the Grapeview Tahuya Trail Corridor.

Community Development had recommended 100' on either side, but they modified the recommendation to 200' on either side to allow some additional protection, flexibility and opportunity in the Open Space program.

The recommendation of Community Development is to adopt the modifications of the Planning Commission as modified by the Department.

Theresa Kirkpatrick stressed that the Planning Advisory Commission has put in many diligent hours of open discussion. She felt that the Planning Advisory Commission were working hard to meet a deadline in spite that extensions would be acceptable.

She questioned about the map required by the Growth Management Hearings Board for the Open Space Corridors and Trails. She stated she has never seen the map. She was happy to hear the Community Development staff modified the recommendation for the width of the corridors to 200'. The reason the Planning Advisory Commission chose such a wide area (600' on each side of the utility easements) was it would give flexibility to addressing protection of natural features. The 600' would be designated as a study corridor.

She wanted to stress some of the changes from the Planning Advisory Commission and the final proposal. One reason the PAC suggested special use permits on some of the uses was in order to give the neighboring communities the opportunity to voice concerns about businesses that might choose to locate in the community and have an adverse impact. It was recommended the board reconsider removing restaurants from a special use permit as the lighting and traffic issues would be a great impact to a neighborhood. She also mentioned that an auto service and repair business can have an impact on a neighborhood. Businesses can rev an engine at a high volume of speed early in the morning. This is something that citizens should have an opportunity to comment on before a business of that type is allowed to locate in a rural or residential neighborhood. She commended the Board for including and excluding certain parcels in the Deer Creek, Bayshore and Spencer Lake areas to protect natural resources and keep the boundaries tight around limited commercial areas and to preserve the rural character of the county.

She noted that water on a person's property is not their water and it goes on downstream to the next property owner or shellfish beds.

The revised language in the sign ordinance would regulate what kinds of signs are available and permitted in Mason County. Regardless of the verbiage she stated she objects to the way the proposals were brought forth.

**BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
FEBRUARY 11, 2003 - PAGE 4**

Constance Ibsen asked for clarification regarding the GMA in the County. She also attended the Planning Advisory Commission meeting and there was mention made that there is legal action being pursued in court. She questioned what the legal challenges are and how that relates to the work that has been done.

Darren Nienaber, Deputy Prosecutor, gave a quick summary. He stated the GMA order relating to frequently flooded said it was not based on substantial evidence that it was arbitrary and capricious. The theory being that areas subject to hurricanes they don't necessarily prohibit development, areas subject to high earthquake risk don't necessarily prohibit development across the entire area. There are other high risk areas that are subject to natural calamities on a fairly frequent basis. They also appealed the Hearings Board requirement to delete the additional agricultural exemption. One agricultural exemption was identified previously and deleted.

On the rural areas appeal they said there was no evidence on the record that there was a likelihood of probable significant adverse environmental affects. Therefore issuance of a Determination of Non Significance (DNS) on a LAMIRD was proper.

Constance Ibsen stated she would be requesting how much money has been spent on the frequently flooded ordinance and how much money will be spent as it goes on.

The Board noted this has been a long hard process.

Darren Nienaber, Deputy Prosecutor, asked who addresses principally designing commercial businesses in the Planning Department.

Mr. Fink stated the modification to the Planning Advisory Commission and the original draft presented to the Planning Advisory Commission was prepared by Bob Fink, Planning Manager; Allan Borden, Long Range Planner, and Ron Henrikson, Director of Community Development and County Administrator.

Mr. Nienaber asked how long Mr. Fink has been a planner.

Mr. Fink responded he has a master's degree in urban regional planning; four years experience with the state of Florida reviewing local comprehensive plans; four years with Grays Harbor County and with Mason County for eight years. He also has a certification from the American Institute of Certified Planners.

Mr. Fink displayed the open space maps and noted they have prepared four sets of maps. Two maps focus on the area between Shelton and Belfair. One map shows the corridor with approximately 200' wide corridor on either side of the right-of-way and the other map shows 600' right-of-way. There is a map showing the Twanoh Grapeview open space corridor. Most of the corridor is also designated long-term forestland. It connects and provides potential for connecting with trails and state parks. There is a connection between the urban growth area of Allyn and then connecting to the north and south, Hood Canal and south sound area.

Mr. Nienaber referred to the Rural Commercial within D1 LAMIRD, local small towns and rural villages. He asked how the County goes about meeting the GMA's requirement that commercial be principally be designed to serve the existing and rural population.

Mr. Fink noted that both the Planning Department and Planning Advisory Commission proposal limits the potential development of any site that is zoned in commercial use. Controlling the size of the building, the degree of the lot that can be covered, there is a setback, which was increased by the Planning Advisory Commission. The types of uses are limited to some degree. Vehicle sales and manufactured home sales are not allowed in the rural area to control the impacts. Residential growth is very limited with the densities being either 5, 10, or 20 acres per house.

Mr. Nienaber asked what the GMA policy of rural commercial to be principally designed.

**BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
FEBRUARY 11, 2003 - PAGE 5**

Mr. Fink responded the GMA addresses the rural element, which is development in areas outside of the urban areas and outside of the resource lands. In order to have isolated commercial development there is a provision, which requires the businesses, be principally designed to serve the rural residents, not including tourism.

Mr. Nienaber asked Mr. Fink, based on his knowledge and training, asked if he believed the businesses in rural villages (LAMIRD) are principally designed to serve the existing projected rural population.

Mr. Fink stated, yes.

Mr. Nienaber also questioned if the regulations protect rural character in general.

Mr. Fink agreed that they do and further replied that given the situation in Mason County where there is low level development and great separation between the urban growth areas, where only a limited number of the more intensive areas; it would be allowed based on the current level of development, and based on the slow rate at which any additional areas might be provided.

Mr. Nienaber referred to Department of Fish & Wildlife letter.

Mr. Fink acknowledged he received a letter from the Washington State Department of Fish & Wildlife dated February 10, 2003 signed by Gloria Rogers, Habitat Biologist.

Mr. Nienaber referred to the third paragraph and asked Mr. Fink to respond.

Mr. Fink stated there are protections for the buffer. The buffer in fish and wildlife areas is vegetated and very restrictive as to what can happen within that buffer. There are certain provisions that allow modifications for trails. The clearing of the land is either prohibited or requires a permit and it has to be issued for only a given purpose. There is a specific provision for danger trees. In order for a danger tree to be cut down it has to be shown by a qualified person such as an arborist that it is a sick tree (endangered tree) that has special conditions that cause it to be a threat.

Mr. Nienaber asked if the biologist contacted Mr. Fink regarding the changes.

Mr. Fink noted the only contact was notification that the letter was being faxed.

Mr. Nienaber asked if he would disagree with the letter that there is protection for endangered tree removal.

Mr. Fink stated, yes, there is specific limitations on removal of endangered trees.

Mr. Nienaber questioned if Mr. Fink has had any other contact with Fish & Wildlife prior to the letter dated February 10, 2003.

Mr. Fink replied there was a letter sent when the Planning Advisory Commission was meeting regarding the hamlets.

Mr. Nienaber asked if other counties require setbacks to buffers.

Mr. Fink commented very few require setbacks in addition to buffer requirements.

Mr. Nienaber asked if there is any other scientific authority that might be deemed best available science that requires or necessitates a setback as opposed to being helpful to Fish & Wildlife buffers.

**BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
FEBRUARY 11, 2003 - PAGE 6**

Mr. Fink replied the County's current recommendation of going to 100' is based on the order of the Growth Management Hearings Board (GMHB) on their review of the record of best available science which was developed in the adoption of the previous ordinance. The county has not introduced additional scientific best available science to justify the 100' buffer. The buffer is taken from the order. If the Fish & Wildlife comment letter is reviewed under the requirements for best available science, per Washington Administrative Code (WAC) 365-195-905 which is criteria for determining which information is the best available science, the comments could be presumed to be expert opinion as the commentator is a biologist. However, the requirements for expert opinion on best available science must contain specific references to justify the comment. The F&W letter contains no references to their comment and therefore fails the test for best available science.

Mr. Nienaber asked if there is any other scientific authority that would be deemed best available science that would require or necessitate a setback as opposed to being helpful to Fish & Wildlife buffers.

Mr. Fink stated he is not a biologist, but in reviewing the science which was presented in previous action to the county. It is substantial and includes a number of studies on buffers. There was no particular discussion about a building setback in addition to the requirements for a buffer as far as addressing environmental concerns.

Cmmr. Johnson stated he does not agree with the allegation that the county is playing games with GMA. He stated that he feels like he has a gun to his head when he votes on the restriction to building and new construction in the Skokomish Valley. He is going along with the GMA in an attempt to get the County out of a state of invalidity. He agreed that a lot of money has been spent. He is very interested in economic development within the County.

Cmmr. Baze agreed this has been a long process. The board would like to get this behind them and move forward.

Cmmr. Kamin echoed Cmmr. Johnson that it is not the intent to play games. It is the intent to move forward in Mason County. They want to preserve the heritage and balance the needs of the environment as well as the economic needs.

Cmmr. Johnson/Kamin moved and seconded to adopt Ordinance No. 9-03 which approves the recommendations of the Planning Advisory Commission as modified by the Department; and move that the findings of fact be approved and that the chair sign for the Board. Motion carried unanimously. B-aye; J-aye; K-aye. Ordinance No. 9-03 (Exhibit A)

11. Other Business (Department Heads and Elected Officials)

11.1 Approve Memorandum of Agreement between the Squaxin Island Tribe and the Mason County Sheriff's Department.

Sheriff Steve Whybark was present concerning the Memorandum of Agreement with the Squaxin Island Tribe. He noted the Prosecutor's office and Sheriff has signed off on the agreement.

The Board questioned if there is a commitment with the Tribe regarding the 2% funds.

Mr. Whybark responded that the Tribe will pay for the costs of an officer quarterly for the next year. The intent of the agreement is to go on without having to renew each year.

Also, the Board asked if the money for the last 1.5 years funds will be forthcoming.

**BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
FEBRUARY 11, 2003 - PAGE 7**

Mr. Whybark commented that originally when he was called to renegotiate the MOU, he was told there is money being held in abeyance until the agreement is completed. They currently are acting under the agreement and have been since original discussions about the written format of the MOU.

The Board stated they would like to hear from the Tribe. The County has been assured funds would be forthcoming, but at this time they have not seen them and would like to check the status of the funds.

Sheriff Whybark added the money coming from the Tribe would be for any existing manpower. The Sheriff has not filled the position. It is vacant from attrition at this time and when the funds come in they plan to fill the position.

Cmmr. Johnson/Kamin moved and seconded to continue Agenda Item 11.1 to February 18, 2003 at 9:15 a.m. Motion carried unanimously. B-aye; J-aye; K-aye.

12. Administration - None

13. Adjournment - The meeting adjourned at 10:40 a.m.

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