

**LindaHammons**

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**From:** Diane [freeprss@wavecable.com]  
**Sent:** Thursday, January 17, 2013 4:04 PM  
**To:** GaryStoyka; prosecutor; Ryan R. Walters; Dale Pernula; GaryChristensen; AdministrativeServices  
**Subject:** Fw: Reestablishing the Skagit County PDS & and Planning Commission  
**Importance:** High

To Whom It May Concern  
Subject: Reestablishing the Skagit County PDS & and Planning Commission

> Public notice for the Jan 22nd meeting is clearly inadequate. It was  
> published only once ... on Jan 11th (a county furlough day). Of the  
> eleven days preceding the meeting date, four were on a weekend, two  
> were furlough days, and one was a federal holiday. So, providing  
> everyone received a copy of the notice, the public's opportunity to  
> submit comments was limited to only FOUR DAYS!!!  
>  
> Moreover, we are EXTREMELY concerned that County officials are  
> overstepping their bounds by following the examples of King County and  
> Bellingham. We understand that these are "charter" governments and ...  
> as you may recall ... the voters of Skagit County rejected that form  
> of government several years ago.  
>  
> Whatever the objective for "reestablishing" the planning department  
> and planning commission, this appears to be a litigious move by those  
> who repeatedly claim that the County cannot afford any more lawsuits.  
> At the very least, extensive public discussion is needed before any  
> rash decisions are made.  
>  
> We hereby request a series of public forums during the coming months  
> to collect new ideas and recruit citizens who are willing to  
> participate in land-use planning in the future.  
>  
> Best regards,  
> Diane Freethy, President  
>  
> SKAGIT CITIZENS ALLIANCE for RURAL PRESERVATION  
>  
> PO Box 762, Sedro-Woolley WA 98284  
>  
> 360-856-2290  
>  
>  
>  
>

## Debra L. Nicholson

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**From:** Ellen Bynum [skye@cnw.com]  
**Sent:** Friday, January 18, 2013 12:14 PM  
**To:** Ryan R. Walters  
**Cc:** KenDahlstedt; Sharon D. Dillon; Ron Wesen; Dale Pernula; Gene Derig; June Kite; FOSC Office  
**Subject:** Comments on proposed changes to Planning Commission organization and operation

Hi Ryan -

Thanks for discussing the proposal to abolish the Planning Commission created under Resolution 3078 and Resolution 20090532 and reinstate the Planning Commission under the proposed Ordinance to be considered in the public hearing before the Board of County Commissioners on Tuesday, January 22, 2013 at 11 a.m.

We have discussed the proposed Ordinance with at least a dozen organizations and citizen groups and distributed it over a number of listserves. The feedback we are getting is that there has not been enough public information and public process about the Ordinance to pass it as it is now written at this time.

Some of the concerns range from the often cited "if it's not broken..." argument which many people referenced and pointed to the good work of the Planning Commission over the years, despite the difficulties in making appointments, educating commissioners, the workload itself, etc.

Many people did not know the Ordinance had been brought forward at this time. Nor did they know that the Planning Commission had discussed such a major change in a manner that was thorough enough to make an informed decision. This included fully understanding how the examples cited in the Ordinance related to the proposed changes and the future functioning and authority of the PC.

There appear to be other ways to address the concerns put forward in the Ordinance, short of disbanding the Planning Commission. For example, recruiting a roster of citizens to serve in appointments to the Commission for full or partial terms would give the Board of County Commissioners a "supply" of willing candidates and would ensure a fully constituted and functioning Planning Commission at all times. Another example given to me is that there is nothing that would prevent the Planning Commission from adopting Roberts Rules as the preferred operating procedure. The same was cited for the adoption of a standing ethics rules provision and for the adoption of the Open Public Meetings Act and Public Records Act provisions.

No one felt comfortable dissolving the PC and not providing in the dissolution resolution the re-appointment and re-organization of the Commission within the same document.

While many of the actions suggested in the Ordinance were considered positive and desirable, the lack of public discussion and involvement in the crafting of the Ordinance was the largest concern. Second was concern that the prospective authority of the Planning Commission was being changed at a time when upcoming important decisions such as the update to the Shoreline Master Plan might be compromised in some way due to the changes in the PC.

We'd like to propose that no decision be taken on the Ordinance on Tuesday and that in addition to the public hearing that the County schedule a series of public meetings to gather, discuss and assess the opinions and ideas. This would allow you, the Planning Department, the PC and the Board of County Commissioners to determine if the proposed Ordinance can be crafted so that, if adopted, it improves the functions and efficiency of the Planning Commission and accurately reflects citizen concerns.

Friends will provide comments at the hearing on Tuesday, but I wanted to get these concerns to you in advance.

Ellen

Ellen Bynum, Executive Director  
Gene Derig, President  
Friends of Skagit County  
110 N. First St. #C  
P.O. Box 2632 (mailing)  
Mount Vernon, WA 98273-2632  
360-419-0988  
[friends@fidalgo.net](mailto:friends@fidalgo.net)  
[www.friendsofskogitcounty.org](http://www.friendsofskogitcounty.org)  
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**Debra L. Nicholson**

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**Subject:** FW: Proposed changes to County Code chapters 2 & 14

**From:** Clancey [<mailto:gclancey@comcast.net>]  
**Sent:** Sunday, January 20, 2013 7:16 PM  
**To:** LindaHammons  
**Subject:** Proposed changes to County Code chapters 2 & 14

Dear Clerk Hammons,

The Skagit County Board of Commissioners has proposed changes to the County Code in regards to how the Board deals with the Planning Commission.

I have two questions of concern.

- 1) The current system, in use for decades, has functioned well. What necessitates this urgent change ?
- 2) Code Section 14.08.090 deals with Board Review and Decisions. Paragraph (5) of the existing Code specifies the steps that the Board must take if it disagrees with the Planning Commission's recommendations. The Board's proposed revision deletes this entire section, replacing it with the word "Reserved." Does that mean the the Board "Reserves" the right to ignore the Planning Department and simply do whatever it wants ?

Clarification of these two straightforward questions would be in the interests of the citizens of Skagit County before **our** Board moves ahead with such sweeping changes to a working system.

Gary Clancey  
3351 Green Cliff Rd.  
Anacortes, WA

**Debra L. Nicholson**

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**Subject:** FW: Thank you and Planning

-----Original Message-----

From: Ellie Herr [<mailto:soher@aol.com>]

Sent: Monday, January 21, 2013 9:41 PM

To: Commissioners

Subject: Thank you and Planning

Dear Commissioners,

First, I would personally like to thank Commissioner Wesen for talking with me after the SCOG meeting last week. The offer to help with finding recent county grant proposals is much appreciated. I called Thursday to see if you might be available Friday, not being aware that it was a furlough day. I am currently out of state and will call again when I return.

On a different subject, while I was on the phone, I asked for help understanding the Ordinance Repealing Resolution #3078 and R 20090532 reestablishing the Skagit County Planning and Development Services. While trying to read the proposed changes, I found the language hard to read and sometimes even harder to find the law that was cited. I was transferred to Mr. Walter's voice mail.

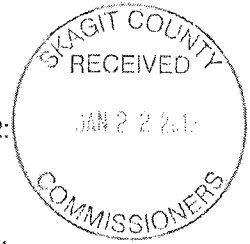
I understand that Mr. Walters is a Civil Deputy for Skagit County who advises the Commissioners, various commissions, and many departments of our county government. He is also a member of the Anacortes City Council which, in my opinion, could be seen as a conflict of interest.

Finally, I have been attending different County Commissions and groups to include Shoreline Management, Transfer of Development Rights, and Planning and have been very impressed with the knowledge and dedication that these citizens have exhibited. They seem to be excellent examples of the current law that highly values the views of citizens over county employees who are to support the Commissions.

I ask that you strongly consider voting against the Ordinance Repealing Resolution #3078 and R20090532 Re-establishing the Skagit County Planning and Development Services Commission.

Sincerely,  
Ellie Herr

Sent from my iPad



**Out of Office AutoReply:** Draft Ordinance Repealing Resolutions 3078 and R20090532:

On 1/21/13 4:54 PM, "LindaHammons" <lindah@co.skagit.wa.us> wrote:

Sorry I missed you. I will be out of the office from Friday, January 18 through Wednesday, January 23, 2013. If you need immediate assistance during that time, please contact Amber Killogjeri or Cheri Cook-Blodgett at 3336-9300.

**From:** Kathy Mitchell <ksmitchell@startouch.net>  
**Date:** Monday, January 21, 2013 4:54 PM  
**To:** Linda Hammons <lindah@co.skagit.wa.us>  
**Subject:** Draft Ordinance Repealing Resolutions 3078 and R20090532

Board of Skagit County Commissioners,

In my opinion, a key part of the Resolution #3078, Sec 7 is being abandoned for no apparent cause: *"The PC shall adopt its own rules & regulations governing the conducting of its internal affairs provided such that such rules & regulations will not be in conflict with State law or County Resolutions"*.

I respectfully request more public input and time for public examination of the concept of a new proposed ordinance. I am deeply concerned by the proposed abandonment of the intent and guidelines found in the statutory foundation and bylaws for the Planning Commission. As the proposal reads, this new course of action would:

- greatly decrease the Planning Commission's independence for internal functioning and review of materials without interference, manipulation, delay of delivery, and filtering of information by the Planning Department staff.
- allow for even more potential obstruction, interference, and manipulation of Planning Commission recommendations to reach the BOCC unaltered and intact.

There is already a problem, as the public sees it, for the ability of the PC to be able to function, hear, accumulate, receive, read, and utilize public testimony, facts, and opinions with appropriate time for consideration and deliberation, without interference and injection of Planning Department staff bias and personal agendas. The PC should be able to review all materials and make its recommendations to the BOCC unconstrained by the Planning Department. This new ordinance, as written, would make these pervasive problems even worse.

In a nutshell, it appears to me that this new ordinance is intended to effectively 'hogtie' the autonomy and usefulness of the Planning Commission into becoming a 'rubber stamp' for the Planning Department's plans. The Planning Commission should remain a genuine, independent watchdog for the people's business for which the Planning Commission was originally created.

Therefore, I respectfully request that:

- the BOCC seek additional outside legal counsel from attorneys with expertise in Constitutional law and land use with regard to the function and operation of the proposed Planning Commission restructuring before even attempting to discuss, let alone pass, such an ordinance and to reject this proposal in its entirety.
- the BOCC and Mr. Walters hold two-way public hearings for frank questions and answers directly with the public on this important issue; a significant important change such as this should be thoroughly, openly, and clearly reviewed and approved by the citizens before implementation. This step is not merely a 'housekeeping measure' to the citizens.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kathy Mitchell". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

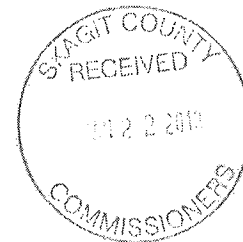
Kathy Mitchell

1155 Chuckanut Ridge Drive  
Bow, WA 98232  
360-766-8914

## Claire Eberle

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**From:** Bob Eberle <bobeberle@Eberle1.com>  
**Sent:** Monday, January 21, 2013 11:46 AM  
**To:** 'lindah@co.skagit.wa.us'  
**Subject:** Comments on Planning Commission proposed change



Linda Hammons,  
Clerk of the Board of Skagit County Commissioners:

LINDA

Please register my opposition to the proposed change in responsibilities of the Planning Commission.

I am concerned about three points:

1. This seems to be an overreaching change simply to solve a simple problem. It would be quite simple for the Commissioners to adjust the terms of the various commission members, since the planning commission serves totally at the pleasure of the County Commission.
2. It appears obvious that this proposed change would transfer major influence from the Planning Commission to the Planning Department. I am strongly opposed to this transfer of influence. The Planning Commission seems to have quite well, so far, represented the views of the citizens. I believe the "citizen view" should be paramount, and not at the whim of hired staff. I believe the Board of Commissioners will be better served by having this "citizen view" input.
3. I am opposed to requiring "continuing education", or other indoctrination of existing or proposed Planning Commission members.

I believe the most significant requirement is "common sense", which it appears common citizens have much more than the usual County hired staff. Abiding by existing ordinances is not really a problem. This is something that the hired staff can ensure quite easily under the existing rules.

Thank you very much for this opportunity to express my view on this proposed change.

BOB EBERLE  
9570 McGlinn Dr.  
LaConner, WA 98257

466-5527

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**To: SKAGIT COUNTY COMMISSIONERS**

**Re: Memorandum and Comments Related To Draft Ordinance Repealing Resolutions 3078 and R20090532**

**Date: January 22, 2013**

**Executive Summary:** Since the passage of the Growth Management Act ("GMA") citizens of Skagit County have seen the passage of hundreds of pages of new ordinances and revisions to the County Code all promulgated under the guise of complying with the GMA but which the end effect has been to overwhelmingly restrict what landowners can do with their property. The Planning Department has been the focal point for these draconian restrictions along with their partners in the Department of Ecology. Now in total violation of existing ordinances and past Board of Commissioner resolutions, the Planning Department is now attempting to significantly reduce or eliminate the public's input in the planning and development process by changing the powers and authority of the Skagit County Planning Commission under the guise of efficiency. This Memorandum with comments summarizes the history and authority of the Planning Commission in Skagit County and discusses how the "draft" ordinance will change what has worked effectively over the past fifty years. You, as elected officials, should do everything in your power to protect the rights of citizens against overzealous and agenda-driven regulators. The current bylaws which you approved less than four years ago should not be abandoned just because the Planning Department and its allies feel that with a less powerful Planning Commission, without effective public notice and input, will be able to push through more restrictive regulations.

## **I. History of Skagit County's Planning Commission**

### **A. Resolution 3078: Adopted July 24, 1961**

#### **Resolution Highlights:**

1. Created Planning Department and Planning Commission under RCW 36.70.
2. The Planning Commission consists of nine members, three from each County Commissioner District. The four year terms of the Planning Commissioners shall be staggered.
3. The Planning Commission shall conduct such hearings as required by RCW 36.70.010 et seq to and including RCW 36.70.960 and shall make such findings of fact and conclusions therefrom which shall be transmitted to the Planning Department which shall transmit the same on to the Board of Commissioners with such recommendations and comments as it deems necessary.
4. Planning Commission members attend not less than one meeting per month.
5. Planning Director is responsible for providing secretarial and technical assistance to the Planning Commission.

6. The Planning Commission shall adopt its own rules and regulations governing the conducting of its own internal affairs provided such rules and regulations shall not be in conflict with State Law or County Resolutions.

## **B. Resolution R20090532: Adopted December 22, 2009**

### **Resolution Highlights:**

1. Bylaws of the Planning Commission are authorized by RCW 36.70 and SCC 14.02.080(5).

2. Authorization and Purpose of Planning Commission per RCW 36.70.040:

**... shall assist the planning department in carrying out its duties, including assistance in the preparation and execution of the comprehensive plan and recommendations to the department for the adoption of official controls and/or amendments thereto. To this end, the planning commission shall conduct such hearing as are required by this chapter and shall make findings and conclusions therefrom which shall be transmitted to the department which shall transmit the same to the board with such comments and recommendations as it deems necessary.**

3. General Rules of Planning Commission regarding membership, term of office, vacancies, removal, organization, meetings, powers and duties. See SCC 14.02.080 and SCC 14.08.080.

4. Planning Commission members should strive to attend every meeting and notify the planning department as soon as possible if not able to attend.

5. Director of Planning and Development Services or designee shall serve as Secretary. Among eleven (11) specified duties, (f) the Secretary shall provide to the Planning Commission proposed legislation, staff reports (with findings, conclusions and recommendations), prehearing correspondence, draft recorded motions, and all documentation necessary for an adequate record and an informed decision or recommendation. Such materials shall be transmitted to the Planning Commission at the same time as they are made available to the public; and (k) provide Planning Commission members copies of Board of Commissioners recorded motions, ordinances and resolutions on matters previously before or relating to the Planning Commission.

6. Article VII provides for Ethics and Rules of Conduct of Planning Commission members.

Basically, the Planning Commission works with the Planning and Development Services Department as the Planning Agency and advises the Board of County Commissioners on the direction of future growth and development in unincorporated Skagit County. The Board of County Commissioners make appointments to the Planning Commission.

The Board of County Commissioners seek to ensure that the Planning Commission is a balanced committee representing many different viewpoints, including real estate, agriculture, business, education, environmental planning, and others.

On average, members attend one meeting per month. Meetings are in the evenings and last approximately three hours. Planning Commission terms last for four years. Service on the Planning Commission service is unpaid; however, members may obtain reimbursement for travel expenses to and from meetings.

## **II. Draft Ordinance Repealing Resolutions 3078 and R20090532:**

**A. Draft presented without advance notice at Planning Commission meeting on January 10, 2013 for consideration an adoption by Board of County Commissioners on January 22, 2013. The Draft Ordinance violates current Bylaws of the Planning Commission.**

**Comment:** The fact that this draft Ordinance was presented to the Planning Commission without advance notice to either the public or the Planning Commission makes it suspect. On its face, this procedure violates the current Bylaws of the Planning Commission, to wit: **Article IV, subsection f.** which requires "the Secretary to provide to the Planning Commission proposed legislation, staff reports (with findings, conclusions and recommendations), prehearing correspondence, draft recorded motions, and all documentation necessary for an adequate record and an informed decision or recommendation. Such materials shall be transmitted to the Planning Commission at the same time as they are made available to the public; and (k) provide Planning Commission members copies of Board of Commissioners recorded motions, ordinances and resolutions on matters previously before or relating to the Planning Commission"; and **Article VIII - Amendment of Bylaws** requiring "Any changes to bylaws require a majority vote of the Planning Commission members and approval by the Board of County Commissioners (SCC 14.02.080(6))."

**B. The draft Ordinance purports to refer to statutory and case law as authorization for the changes; specifically the State Constitution arising from the case of Buell v. Bremerton which allegedly was used to support the City of Bellingham and King County ordinances; and RCW Chapter 35.63, which purportedly used to support Clark and Thurston Counties land use planning.**

**Comment:** Article XI, Washington State Constitution Section 11 - POLICE AND SANITARY REGULATIONS states: "Any county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws." Although the differences in the language of the prior resolutions and bylaws appears to be subtle, the differences arguably create a great impact. Changing the basis for the creation of the planning commission changes from RCW 36.70.040 to Article XL, Section 11 of the Washington State Constitution actually changes the process.

**Comment:** In defining the planning commission purpose the draft ordinance adopts RCW 36.70.040 states "the Planning Commission's mission is "to assist the planning department in carrying out its duties, including assistance in the preparation and execution of the comprehensive plan and recommendations to the department for the adoption of official controls and/or amendments thereto. To this end, the planning commission shall conduct such hearing as are required by this chapter and shall make findings and conclusions therefrom which shall be

transmitted to the department which shall transmit the same to the board with such comments and recommendations as it deems necessary."

However, these broad powers are limited by the next provision which defines the Planning Commission's authority as follows: "The Planning Commission is authorized and required to assist the Department and make recommendations on land use plans, policies, regulations, and amendments, and conduct public hearings as specified in this title and assigned by the board of County Commissioners. The Planning Commission may also perform such other duties as are assigned by the Board and not inconsistent with this Title." (draft Ordinance 14.02.100(3)). Please note that this language limits the Planning Commission to recommendations, although it may make its own findings and conclusions under the draft SCC 14.08.080, the emphasis is clearly on recommendations. I submit findings and conclusions are a critical part of the process and an essential part of their duty under RCW 36.70.040. It has been my experience in over thirty years as a trial attorney, whoever prepares the findings and conclusions controls the appeal.

Additionally, where do we find what is specified "under this Title"? If you examine what is deleted under the draft Ordinance SCC 14.08.050, you will note that the Shoreline Master Program Amendment is deleted and review is limited to Comprehensive Plan Amendments. Is it the intent of the drafter to eliminate amendments to the Shoreline Master Program from review by the Planning Commission? If that is the case, then we now know why this ordinance is being so rapidly pushed through without notice and in contravention of existing law and procedure. The controversial draft amendments to the Shoreline Master Program proposed by the Planning Department personnel which has been stalled in the Planning Commission could sail forth without further input from the Planning Commission if this ordinance is passed unless otherwise is specifically directed by the Board of Commissioners.

**Comment: Buell v. Bremerton:** This case does not stand for the proposition alleged in the Whereas clause as "validating the City of Bremerton's authority to plan directly under the state Constitution without reliance on state planning enabling legislation, but rather addressed issues conflict of interest by a planning commission member, unreasonable delay by opponent of zoning action in filing a cause of action, and spot zoning. Buell v. City of Bremerton states this about Bremerton's planning under the constitution "On March 30, 1966, Bremerton created a planning commission and planning ordinances were passed. The city, at that time, elected to exercise their zoning power under article 11, sections 10 and 11 of the Washington State Constitution." The case provides no basis for what is alleged. The appellant's did not challenge the city's authority to do it and the court did not approve the city's authority to plan under that authority. Not exactly what I would call great research by the drafter.

**Comment.** The draft Ordinance also states that "City of Bellingham (BMC 2.21.010) and King County (KCC 21A.01.020) conduct their land use planning under the Constitution." Many jurisdictions adopt their development regulations under the police power authorization in the Constitution and either an authorizing law or their charter. King County, for example, cites to both the constitution and their charter as authority for its development regulations. Bellingham, pursuant to BMC 2.21.010, specifically states that the Planning and Economic "Department functions are authorized pursuant to Article XI, Section 10 and 11 of the State Constitution and not enabling legislation of the State of Washington." But like King County, Bellingham operates under a charter. Bremerton is also a charter city although it does not establish its planning commission in its charter and they only cite to the constitution for their authority for their planning commission. Without any judicial approval, one has to question the wisdom of proceeding solely on the Constitution, especially if you are not a charter county.

**Comment: RCW Chapter 35.63:** Why this statute was cited as authority to revise the authority and procedures affecting the planning commission system is a mystery. The relevant portion in this chapter is **RCW 35.63.130** which provides for a **hearing examiner system** as an alternative to the planning commission system and provides for certain specified functions and procedures including but not limited to : (a) Applications for conditional uses, variances, subdivisions, shoreline permits, or any other class of applications for or pertaining to development of land or land use; (b) Appeals of administrative decisions or determinations; and (c) Appeals of administrative decisions or determinations pursuant to chapter 43.21C RCW. This statute hardly provides a sound basis for reducing the powers of the planning commission under an ordinance and statute that has existed for over fifty years.

Under the hearing examiner alternative, the legislative body shall prescribe procedures to be followed by the hearing examiner. Each city or county legislative body electing to use a hearing examiner pursuant to this section shall by ordinance specify the legal effect of the decisions made by the examiner. The legal effect of such decisions may vary for the different classes of applications decided by the examiner but shall include one of the following: (a) The decision may be given the effect of a recommendation to the legislative body; (b) The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative body; or (c) Except in the case of a rezone, the decision may be given the effect of a final decision of the legislative body.

Each final decision of a hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the city's or county's comprehensive plan and the city's or county's development regulations. Each final decision of a hearing examiner, unless a longer period is mutually agreed to in writing by the applicant and the hearing examiner, shall be rendered within ten working days following conclusion of all testimony and hearings.

So why is this statute cited? Perhaps it was cited to make the County Commissioners believe that this is nothing but a routine change and give them the confidence to approve the draft ordinance without giving it the careful scrutiny it deserves. Or perhaps it is just another example of poor legal work, citing *non sequitur* legal authority.

**Comment:** Just because there may be general Constitutional authority or possibly statutory authority that would allow a County to plan and to possibly implement new rules and regulations does not mean that it is prudent or even appropriate to do so. Skagit County has been operating under the planning commission system for over fifty years. To my knowledge it has worked. If it is not broken, why significantly change it under the guise of efficiency? Citing that jurisdictions have adopted different processes and procedures that have not been challenged or approved judicially does not provide any confidence in their legality. The terms of the planning commissioners are currently required to be staggered, so the real reason for the revocation of the current resolutions must be under the guise of "other changes to the structure" which are not specified in any detail in the draft Ordinance and must be discerned by a careful reading of the draft language.

**C. The draft Ordinance purports to "update public notice requirements for the 21st Century" without any detail or summary in the draft Ordinance itself as to what these alleged changes are.**

**Comment.** With respect to notice requirements in the draft Ordinance (SCC 14.08.070) the Planning Department intends to publicize matters involving comprehensive plans and developments regulations by making them available to a page on the county website. Under this procedure the Planning Department believes it will meet and exceed notice legal requirements which will provide for early and public participation. Although many people will benefit by such a process, it will not provide adequate notice to a majority of citizens. Nor will publication in the local newspaper reach those possibly affected by a draft regulation. How many Skagit County Citizens have access to the internet? How many citizens will check the website every week or every day? How long does a notice have to remain on the website? What must the notice state to provide sufficient factual notice so that a citizen will know that the proposed regulation may impact the citizen's property? What are the time limits for notice? What records are kept that notice was given? How many landowners or citizens read the Skagit Valley Herald? What information is contained in any notice?

This ordinance is so inadequate that it appears to be a not so transparent attempt to reduce public participation. I submit that the only effective notice when a legislative act or a regulation will directly affect a landowner's property is notice by mail to the landowner with sufficient time for reasonable response. The Planning Department has received criticism for years over its lack of notice. The language in this draft Ordinance is totally inadequate.

**D. The draft Ordinance purports to create a new Ordinance SCC 2.80 which prescribes the duties of the Planning Department.**

**Comment.** It changes the authority for creation of the planning department from RCW 36.70 to Article XI of the State Constitution. It cites the similar Bellingham ordinance language as authority. Why should Skagit County adopt the language of a municipality's ordinance? What do we know of Bellingham's system? I would view such reference with caution and certainly not rely on it as authority. The draft Ordinance does not detail what support the Planning Department must provide to the Planning Commission. This significantly reduces what it is currently required to do in support of the Planning Commission.

**E. The draft Ordinance purports to delete large portions of the existing language of SCC 14.02 and SCC 14.08 and amending those ordinances with significant changes actually reducing the power and authority of the Planning Commission and citizens in general under the guise of streamlining the process.**

**Comment:** Although the differences in the language of the prior resolutions and bylaws appears to be subtle, the differences arguably create a great impact.

**F. Specific Comments on the Deletions and Draft Amendments**

**1. SCC 14.02.080: Deleted** - Eliminates historical and legal basis for the Planning Commission; eliminates broad powers and duties of Planning Commission

**Comment.** Why delete?

**2. Draft SCC 14.02.100** - Creates new legal basis for Planning Commission; adopts Planning Commission purpose as RCW 36.70.040; Limits authority to that specified in Title;

Membership remains unchanged; Term is reduced to three year staggered terms; provides for filling of vacancies and at expiration of term; criteria for eligibility, and removal.

**Comment.** Why reduce terms? Experience on planning commission should be a plus. The terms are supposed to be staggered now but apparently someone in authority didn't pay attention. Is this new language going to be used to get off some current members earlier than would otherwise be allowed? Apparently filling vacancies is not critical as I am aware the a recent vacancy took over a year to fill despite having qualified candidates apply. If there is a vacancy, there should be a time limit to nominate or appoint a replacement. With respect to the criteria for eligibility, item d appears to be redundant with item e. How do you determine incompatibility? What criteria do you use? With respect for removal why have any criteria? A Planning Commission member is a political appointment and serves at the pleasure of the appointing officials and can be terminated for any reason. Of course, if a member is terminated for an improper reason, there may be political ramifications to the Board of Commissioners.

**3. Draft SCC 14.02.120:** Provides for election and duties of Planning Commission Chair and Vice-Chair; Specifies duties of Secretary for Planning Commission (Planning Director or Designee) but limits to four limited duties.

**Comment.** Significantly reduces Planning Directors duties to the Planning Commission. Compare these limited duties to those outlined in Article IV, Section 4 of the bylaws of the Planning Commission which specifies 11 separate duties. Under the draft duties all that the Secretary must do is maintain the calendar, publish notices, and maintain records, prepare the agenda, notify member of meetings and scheduling changes, and take minutes. Note no time limit is required to provide materials to Planning Commission members. So if I interpret this correctly, the planning director can provide materials on the day of the meeting and place a great deal of pressure on voluntary members, who must attend every possible meeting. What is missing here? The Planning Director, who is paid by the taxpayers, has no responsibility to timely provide volunteer citizens who are supposed to represent large segments of the community with information they need to their duty on the Planning Commission. How can anyone make a knowing and intelligent decision without sufficient time to process and educate themselves on the issues? Am I missing something? And the drafter believes this process will improve efficiency! This new ordinance represents what the Planning Department will do in the future: ram proposals through with little or no notice.

**4. Draft SCC 14.02.130:** Adopts Robert's Rules of Order or allows Planning Commission to adopt special rules; establishes quorum as a majority and provides for public voting. Allows planning staff to raise points of order and interject points of information.

**Comment:** Planning Commission Chairman should be the ultimate authority over imposition and interpretation of the Rules. **DO NOT** allow the planning staff to raise points of order or interject points of information. The planning staff has control over the agenda; it controls what is submitted to the Planning Commission, it can prepare its presentation in advance of the meeting; it has access to all information in advance, and can consult experts and other authority in advance, so why should the planning staff have more rights than those of the Commission or of the public. This is a very bad provision!

**5. Draft SCC 14.02.140:** Details duties and requirements of members of the Planning Commission; Requires Planning Commission to comply with ethics and conflicts of interest policies, Public Records Act, and Open Meetings law and the Appearance of Fairness Doctrine for quasi-judicial action. Defines Conflict of Interest.

**Comment.** If volunteer members of the public must comply with these policies and laws, then why doesn't the Planning Director and his staff also have to comply with such policies and Laws? if they do why isn't there a reference to their requirement for compliance. There is a growing and continuing perception among the public that members of the planning staff have personal agenda and interests which affects what they present and their position. Why not have the staff and planning director have the same accountability to the public as we require of volunteer members?

**6. Draft SCC 14.08.050:** Provides for docketing exceptions to Comprehensive Plan Amendments.

**Comment.** Deletes adoption of community plans, Shoreline Management Amendments with no explanation. Does this mean the Shoreline Management Program amendments cannot be considered by the Planning Commission? This must be clarified.

**7. Draft SCC 14.08.060:** Deletes entire ordinance and provides for Board process for adopting or amending development regulations by resolution. Allows for any interested person to suggest a development regulation amendment consistent with a comprehensive plan amendment without fee for Board consideration.

**Comment.** None.

**8. Draft SCC 14.08.070: Public Participation Requirements.** Deletes prior ordinance in its entirety. Draft Ordinance defines participation purpose consistent with RCW 36.70A.140; provide for early notice on County website; provides for planning commission consultation; planning staff must prepare draft proposal and may take into account options and alternatives proposed by planning commission; staff must prepare a staff report that contains certain specified elements; formal public notice with written comment period is required.

**Comment.** The Planning Commission is restricted to only consultation and to provide recommendations of options and alternatives without any provision for public comments or public hearing before the Planning Commission. I don't consider this to be "early and public participation". In fact, it is the opposite. Under this procedure there is no real participation until after the staff report is completed and certain decisions already made by the staff. By this point the staff is entrenched, so to now open the process to the public lessens efficiency and creates more potential controversy. We have witnessed this over and over again. What I have seen happen, is that the staff gives lip service to the public comments but does not change anything substantive and the Board of Commissioners approves what is placed before them. This process does **not** constitute public participation. It is minimal participation controlled by the planning department. If inadequate notice is given, then the process really lacks public participation.

**8. Draft SCC 14.08.080: Review by Planning Commission -** Deletes prior ordinance in its entirety. Provided for at least one public hearing prior to the Planning Commission making its recommendations on the proposal; authorization to continue public hearing; can request Planning Department schedule an additional hearing if proposal evolves; sets forth what Planning Commission may consider when making its recommendations; authority to continue deliberations; outlines how recommendations are made to Planning Department including timing, voting, content of recommendation; and procedure to transport recommendations to Board including timing and content of recommendation.



**Comment.** With respect to items that the Planning Commission must consider in making its recommendation item (iv) requires they consider legal advice. Requiring the planning commission to consider legal advice by the county's attorneys gives too much power to the planning department and might well provide too much credibility to the county attorney. Based upon my over thirty-two as an attorney, I have been dismayed too many times by the inaccurate legal advice offered by the county attorney. Remember if the planning staff is presenting its draft proposal, presumably they have had the opportunity to obtain a legal review prior to the proposal's submission to the Planning Commission. I have no problem with the staff providing a copy of a written legal opinion of a proposal along with the staff's proposal signed by the County attorney who reviewed and as such being a part of the public record and provided ahead of time. What I most strenuously object to is having a county attorney speak before the Planning Commission and give advice and recommendations as to a proposal. The County attorney does not represent the planning commission or any member of the planning staff. Legal advice given in such a manner is highly likely to be given more consideration than other testimony of evidence. The county attorney has a duty to provide legal advice to the Board of Commissioners and they should be able to take that legal advice under consideration. The Planning Commission should not be so required.

If a county attorney is present at a public hearing, then he or she should be able to respond to any questions by the Planning Commission but the attorney's view should not be given any greater credibility than that of any other staff person. Also any County attorney present should be required to be bound by the same ethics rules and conflict laws and policies of all other members and staff.

**9. Draft SCC 14.08.090: Review and Decision by Board** - This draft ordinance deletes much of the prior ordinance and specifies when the Board can consider and take final action and when it must allow additional public comment, either in a public hearing or in written form; it specifies what the Board must do if it adopts a substantial change in the proposal without remand; it outlines final disposition on the annual Docket; and finally it specifies other conditions necessary for the Board to defer action on any specific plan or amendment to the future docket.

**Comment.** This draft ordinance is very difficult to read in its present form with all the deletions and additions. What is most perplexing and very difficult to understand are the terms "conforms substantially" and "substantial change". With any definition or criteria, the terms can be interpreted pretty much in any way the Board or the staff determines. Given that to legally overturn a land use decision, the standard is "arbitrary and capricious", it is my opinion that whatever the Board or staff determines the definition to be, all appeals will fail. The effect is whatever the Planning Commission recommends even if supported by a mass majority of the public, the Board may decide to do whatever it wants. If this is the case, then the entire ordinance is merely surplusage and the ordinance should be stated as follows: "The Board has a number of options with respect to any proposal including conducting more public hearings, allowing additional written public comment, remanding the proposal back to planning commission for further hearing or public comment, making its own findings and conclusions; approving or rejecting the proposal in whole or in part." This in essence is what the draft ordinance really says and the references to "conforms substantially" and "substantial change" are placed there only to make the public feel good, when in fact, its input may not even be considered.

**10. Draft SCC 14.08.090: Appeal.** Deletes several provisions of current ordinance. The draft ordinance states there is no appeal process for legislative decisions. The appeal process for plans, development regulations and amendments is set for in the reference to RCW 36.70A.

**Comment.** To better aid the public and Planning Commission, all legislative actions/proposal should be clearly specified as such from the outset. This will avoid confusion over what can be appealed and what cannot be appealed. With respect to the appeals process in RCW 36.70A, would it be too much to ask to include that process as an addendum to the draft ordinance? The appellate process is confusing to the layman and must be reviewed from a statute that is not readily available to the public. How can the public, on short notice, make any effective comment on a statute that is just referred to in a draft regulation. Again poor drafting unless the intent of the drafter was to avoid public scrutiny.

**11. Draft SCC 14.08.210 and 220: Public Notice and Public Comment.** These are new sections prescribing what constitutes public notice and defining written public comment periods and rules for public hearings.

**Comment.** I would recommend that the Planning Department be required to keep detailed records of what form and extent of notice was given for relevant proposals; including the addresses to whom notice was provided, if not in a general publication or over the internet, and such detailed records should be part of the record. And I don't mean, "notice was given per the Skagit County ordinance", which tells us nothing. Then anyone reviewing whether adequate notice was given will have the evidence to review and determine whether such notice was proper. Overall, when you are discussing land use regulations and proposals that could impact both the value and use of a person's property, the demands of fundamental due process require every effort should be made to let those affected or possibly affected know that a land use proposal may affect their property rights is being considered by governmental authorities.

Respectfully submitted,

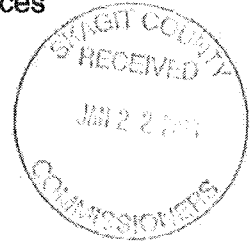
  
Paul W. Taylor

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20388 Eric Street  
Mount Vernon, WA 98274

ptlaw@cnw.com  
360-416-6900

Comment on Draft Ordinance Repealing Resolutions No. 3078 and R20090532  
and Reestablishing the Skagit County Planning & Development Services  
Department and Planning Commission

Board of County Commissioner – Public Hearing  
Tuesday, January 22, 2013



After review of the aforementioned draft ordinance orally presented to the Planning Commission on January 8, 2013 and publicized on January 11, 2013, I offer these comments based on my interpretation of the document, as well as observations I've made about the conduct of the Planning Commission and also the Planning Development & Services (PD&S) staff. The opinions below are my own.

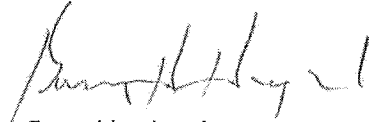
The new ordinance is of concern because it alters the nature of the relationship between the Planning Commission, PD&S Department and the county commissioners. Not only does it place the Planning Commission in an inferior position to PD&S Department, but it opens it up to intrusion, interference and actual cooption by that department.

In the draft, the PD&S Department seeks to dictate how the Planning Commission will operate, removing the commission's ability to set its own rules for conduct of its meetings and also inject itself into Planning Commission deliberations by claiming the right to raise points of order and input information into the process, appears to reduce Planning Commission authority by only designating the county's Comprehensive Plan as a specified responsibility and reduces PD&S Department duties vis-à-vis the Planning Commission. In addition, the draft does not levy a requirement for timely transmission of PD&S Department materials to the Planning Commission prior to consideration of a matter brought before the commission. That is a frequent complaint heard at Planning Commission sessions. Lastly, one can not help but wonder why no Planning Commission input was solicited in the creation of an ordinance that governs how it conducts its business.

All of this serves to diminish and compromise the integrity and independence of the Planning Commission. The Planning Commission is one of the few entities in the county whose members seem genuinely concerned with protecting and preserving property rights. I have attended several of the Planning Commission meetings and was impressed by the depth and breath of the commissioners' knowledge of all aspects, including the history, of land use policy in the county, as well as their sincere respect for the needs and desires of individual citizens. The commissioners have not only shown due diligence in the performance of their duties, but they regularly demonstrate practical wisdom in their recommendations. At a time, when hidden agendas within departments, boards

and commissions at all levels of government (federal, state, county/municipality) are common place and citizen involvement in the processes is a matter of lip service, the Skagit County Planning Commission stands out as a notable exception.

I urge rejection of the proposal. There is no need for it, and, in the long run, it will be counterproductive to the interests of the citizens of Skagit County.

A handwritten signature in black ink, appearing to read "Gary Hagland". The signature is written in a cursive style with a large initial "G" and "H".

Gary Hagland  
2211 37<sup>th</sup> Court  
Anacortes  
360 899-5656

**ROGER H. MITCHELL**  
1155 Chuckanut Ridge Drive  
Bow, Washington 98232  
phone 360.766.8914

submitted by email to Linda Hammons, Clerk of the Board [lindah@co.skagit.wa.us](mailto:lindah@co.skagit.wa.us)

The Board of County Commissioners  
1800 Continental Place  
Mount Vernon, Washington 98273

21 January 2013

re: "A proposal to amend Skagit County Code Titles 2 and 14 to amend the code establishing the Planning Commission and amend procedures for adopting land use regulations"

Dear Commissioner Dahlstedt, Commissioner Dillon, and Commissioner Wesen,

Thank you for the opportunity to share my opinion as written below.

I suspect that some have tried to position this proposal as merely "housekeeping". It is not. This proposal does several detrimental things:

- It weakens the function and operation of the Planning Commission
- It dilutes citizens' inputs into the planning process
- It further reduces citizens' belief that County government is transparent
- It further demonstrates the County's serious procedural issues in planning activities
- It unwisely strengthens the power and control of the Planning *Department*

This proposal is yet another example of how Skagit County government has its processes backwards. What citizen, or citizens' group, or citizen referendum suggested we needed a change in the Planning Commission? Per usual, there was no such citizen origination to yet another controversial proposal.

Why do we continually get proposals that have been brewing in the Planning *Department* for quite a while before anyone else ever knows of their existence? No one knew about this proposal until exactly 14 days before the Public Hearing. The draft proposal document was not available until just 11 days prior to the Public Hearing. County government offices were closed 7 of the intervening 11 days, thereby reducing the time for citizens to get additional information to just 4 days! The official County website-linked "Notice for Public Hearing" for this proposal states, "*Your views for or against this proposal are invited either by attendance, representation, or letter.*", however that official Notice fails to explain to whom, how, and any deadline to submit letters. Presumably, the intent was to submit letters to Ms. Hammons, Clerk of the Board of County Commissioners. Notably, Ms. Hammons email recently sent an auto-reply stating she was out of the office 18-23 January, ie. until a day *after* the 22 January Public Hearing, with no alternate email address for submitting letters prior to the Public Hearing. Skagit County continually has procedural problems with Planning *Department* activities.

My point is that citizens' input should occur at the *origin* of most of government actions. Certainly, proposals should not be conjured up and developed in the shadows, out of sight of public scrutiny, and then wait until the 11<sup>th</sup> hour to get citizens' input. Citizens' input should be part of the *very first step* for any government proposal. Period.

In the big picture, what's at stake is public perception of the County's transparency, fairness, and competence in it's planning processes. In recent years the Planning Commission has been the

primary and only trustworthy conduit for citizens' input into the myriad schemes coming out of the Planning *Department*. Skagit citizens and our elected officials should be able to rely on independent advice and recommendations from the Planning Commission - unfettered, unfiltered, and uninterpreted by the Planning *Department*. The proposed ordinance effectively reduces the Planning Commission to being the handmaiden of the Planning *Department*, even more subservient to the Planning *Department* than it already is. That is not a healthy situation, it is not the intent of the Planning Commission enabling legislation, and it is not an effective way to conduct the peoples' business.

The current, proposed ordinance, repealing and re-establishing the Planning Commission, should be rejected outright and I respectfully request that you do exactly that.

I am not against change but I do oppose the changes in the proposed ordinance. There are, however, changes that I believe would make for better Planning Commission function and operation than we currently have. I would welcome the following suggestions to be incorporated into any new resolution that reconfigures the Planning Commission:

- The planning Commission should be *completely* independent from the Planning *Department*.
- The Planning Commission should have the authority to set its own rules; set its own agenda; set its own schedule; set time and place for its public hearings and public comment periods; and request additional public hearings, comment periods, and staff testimony as the Planning Commission sees fit. Although the enabling statutes intended what I just described, the evolution of the Planning *Department's* control over Skagit County, and the Planning *Department's* relationship to the Planning Commission, are quite the opposite.
- The Planning *Department* should not be in a position to interpret the Planning Commission's decisions to the Board. The Planning Commission should provide their decisions and recommendations directly to the Board without any biased filter from the Planning *Department*.
- The Planning *Department* should be required to adhere to the same stringent conflict of interest and ethics policies that the proposed ordinance requires for the Planning Commission's *volunteer, unpaid* members.

Respectfully, I strongly urge the Board of County Commissioners to appoint a Citizens Action Committee to thoroughly and conscientiously audit the planning function in Skagit County. We desperately need citizen-oriented recommendations for how the planning function should be configured and operate in conducting the business of Skagit County citizens. I would be more than happy to chair or be a member of such a citizens action committee.

Thank you



Roger H. Mitchell

22 Jan 13 Public Hearing

*Robert S. Mitchell*  
p1 of 2

I thank the Commissioners for the opportunity to share my opinion.

1. The proposed ordinance repealing and reestablishing the Planning Commission is detrimental for many reasons:

- It weakens the function and operation of the Planning Commission
- It dilutes citizens' inputs into the planning process
- It further reduces citizens' belief that County government is transparent
- It further demonstrates the County's serious procedural issues in planning activities
- It unwisely strengthens the power and control of the Planning *Department*

2. What citizen, citizens' group, or citizens' referendum requested these wholesale changes to the Planning Commission? Per usual, the answer is - NONE.

Citizens's input should be a primary part of almost all planning activities from the outset, not as an afterthought as is now the common practice.

3. I don't understand why schemes like this proposed ordinance ferment in the Planning DEPARTMENT and then are sprung on everyone else at the last minute.

- No one knew about this proposal until 14 days ago.
- The actual draft proposal **document** was not available until 11 days ago.
- In the intervening 11 days, County offices were closed for 7 days leaving only 4 days for interested citizens to get additional information from the County.
- The official "Notice of Public Hearing", linked from the County website, does not say to whom, how, or by what deadline written statements are to be submitted.
- Anyone who surmised that statements could be submitted to Ms. Hammons by email received an autoreply of "out of office" until January 23rd, one day AFTER this Public Hearing.
- Skagit County continually has significant procedural problems with Planning DEPARTMENT activities.

**For many reasons, I respectfully request that you reject the proposed ordinance.**

If you choose to remand this proposal for additional public hearings and input, please remove the fox from guarding the henhouse – do not have the Planning DEPARTMENT involved in any way. Begin at square one and produce a proposal intended to meet the needs of Skagit citizens rather than to increase the Planning DEPARTMENT's control of our county.

22 Jan 13 Public Hearing

Robert S. Mitchell  
p2 of 2

*Some suggested improvements:*

1. The Planning Commission should be completely independent from the Planning DEPARTMENT, not subservient to it as it is now.
2. The Planning Commission should make its own rules, set its own agenda, set its own schedule, set its own public hearings and comment periods, request county staff input, and seek outside counsel as the Planning Commission sees fit.
3. The Planning Commission should gather, process, and control the timing of its information intake, not have information dumped on them with insufficient time for thorough review and understanding.
4. Planning Commission should make its decisions and recommendations directly to County Commissioners, unfettered, unfiltered, and uninterpreted by the Planning DEPARTMENT.

The best solution would be for you to form a Citizens Action Committee to thoroughly and conscientiously audit the entire planning function in Skagit County and make recommendations for how the planning function should be configured to conduct the business of Skagit County citizens. I would be happy to chair or be a member of such a citizens action committee.

Thank you



January 22, 2013

To: Board of County Commissioners  
Re: Planning Commission Restructuring Proposal  
From: Gene Derig, President, on behalf of the Board of Friends of Skagit County  
110 North First Street, Suite C, Mount Vernon, WA 98273.  
Mailing address: P.O. Box 2632, Mount Vernon, WA 98273-2632.



The **Draft Proposal “An Ordinance Repealing Resolutions and Reestablishing the Planning Commission and Land Use Planning”** was a bit of a shocker when first announced and many questions came to mind. After review of the **Memorandum** of January 9, 2013 from Ryan Walters regarding restructuring the Planning Commission that requires the Board of County Commissioners (BOCC) to re-appoint Planning Commissioners to new terms and amend land use regulations, we make the following observations.

The memorandum outlines 9 points of proposals, states the issue involved and the procedure on how it is to be managed; re-appointment of all Planning Commissioners, required ongoing education, procedure rules, initiating legislative land use proposals that require the BOCC to amend the **Annual Work Plan** of the Planning Department, adding a **new chapter** to the Skagit County Code (2.80) Planning Commission and **amending chapter 14.02 and 14.08 (Legislative Actions)**.

The “**Whereas**” page further introduces the **Planning Enabling Act** as not the only authority for planning. However, Skagit County did chose one method listed under the Planning Enabling Act and adopted it by Resolution in 1961. While the **Washington State Constitution – RCW 35.63** may authorize the County to develop planning regulations, we are concerned that the proposed reasons for changing the fundamental structure of the Planning Commission. We understand that the **Growth Management Act (GMA)** ensures public participation and understand that this emphasis in GMA was added long after the Planning Commission had been in place in Skagit County. We understand the County’s concern that the Enabling Act has conflicting issues with GMA; however the conflicts were not listed in the proposed Ordinance or code changes and we could find no reference to instances where counties had large enough concerns about the legal functioning of respective Planning Commisisions to warrant changes like those proposed.

The County is proposing to adopt the proposed code changes and rules using the authority of the State Constitution and cites both case law and instances where other counties have made changes in this manner. However, it is unclear whether the case law sets a precedent for counties to use this method. For example, there is no information to assure the Constitutional choice made by Bremerton stands only because there was no law against it.

The proposed **new Chapter 14.02** deletes old language, creates language pursuant to the State Constitution and states the purpose and mission of the Planning Commission with membership and terms. Procedures for appointment, eligibility and removal are included, as well as election of officers and duties, meeting requirements. Ethics and conflict of interest is covered and replaces the current bylaws. We are concerned that the language changes the powers and authorities of the Planning Commission. In an era where more open government is a priority of the voting public, we are concerned that the changes are unwarranted. Many of the reasons for the proposed change can be addressed under

the current operating structure, for example, creating a roster of qualified members for appointment to the Planning Commission and appointing those members immediately after a vacancy occurs.

The proposed amended **Chapter 14.08 – Legislative Actions** has established language for roles and responsibilities of the Planning Department, Planning Commission and the Board of County Commissioners pursuant to RCW 36.70A, GMA, related to adoption and amendments to the Comprehensive Plans and development regulations.

**The proposed** docketing Exceptions that are made for some pl considered with other amendments in the same calendar year are of large removing the Shorelines Management Plan from Planning Commission review by manipulating the review schedule or any other means is warranted or desired. Such a proposal coming in advance of the upcoming Shoreline Plan update appears highly manipulative. The Planning Commission's review of the SMP is another assurance that the county's planning activities have continuity, reflect the public's desire for transparency and reduce the opportunity for undue influence by parties with vested interests.

We respectfully request that the BOCC seek additional legal counsel from attorneys with expertise in Constitutional law and land use as to the effects of any proposed restructuring. We further request the BOCC not adopt the proposed changes without fully understanding what the proposed changes actually do to the Planning Commission's function within County government. We further suggest the BOCC hold enough public meetings to determine what, if any changes to the Planning Commission, the public may want. An important change such as this should be clearly desired by the majority of citizens before implementation.

Thank you for the opportunity to comment.

*Ellen Bynum*  
Exec. Director, FOSC

**Debra L. Nicholson**

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**Subject:** FW: Revision to SCC Titles 2 and 14

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**From:** Mike Newman [mailto:mikepudcom@yahoo.com]

**Sent:** Wednesday, January 23, 2013 1:20 PM

**To:** LindaHammons

**Cc:** Commissioners

**Subject:** Revision to SCC Titles 2 and 14

Submitted by email to Linda Hammons, Clerk of the Board, [lindah@co.skagit.wa.us](mailto:lindah@co.skagit.wa.us)

The Board of County Commissioners  
1800 Continental Place  
Mount Vernon, Washington 98273

January 23, 2013

Re: "A proposal to amend Skagit County Code Titles 2 and 14 to amend the code establishing the Planning Commission and amend procedures for adopting land use regulations"

Dear Commissioner Dahlstedt, Commissioner Dillon, and Commissioner Wesen,

Thank you for giving me the opportunity to testify on this matter. Like most that testified at the January 22 Public Hearing on these proposed changes I also would urge you to reject them in their entirety. The proposal is a very thinly veiled attempt by the Planning Department to increase their influence, and lessen that of the citizens, over the Planning Commission, and matters of property use in Skagit County. This proposal, in my opinion, is an attempt to counter the increased awareness of Skagit County citizens with regards to the issues surrounding their property rights. It would increase the Department's participation in the public process by allowing them to participate more actively in the public hearings. It would reduce requirements for public notice that may already be inadequate.

Another concern is the shortening of the terms for the Planning Commission members. Experienced planning commissioners are a huge benefit to the public, the department and to the Board of Commissioners. The main reason that was presented for shortening terms was to prevent a large turnover in a short period as terms expire in a group. It is my opinion that this problem is at least partially created by a lack of urgency by the Board of Commissioners in filling vacancies. Some change in this process, mandating time frames to fill vacancies and altering the process so that new appointees are appointed for the remainder of the term they are fulfilling and not a new 4 year term will alleviate this problem. "Department sponsored", "mandatory" training for Planning Commission members is also a concern. Whereas, some additional training might be beneficial, the Planning Department should not be involved. The Commission members already have varied backgrounds and experiences. The Commission represents the public and should be as independent from the Department as possible.

Nobody at the January 22 hearing was able to put forward any compelling reasons for making this change; however several people, including both Planning Commission members that testified, did suggest that some change was necessary. I would urge you to consider a citizens advisory committee to review the current process and take recommendations from the Planning Department, the Planning Commission, the Board of County Commissioners, and private citizens regarding changes to this process. This process is designed to serve the citizens and citizens need to be involved upfront in the formulation of changes to the process.

From both the testimony and my personal observations it seems that timely and effective notice is one issue that the Planning Department continually struggles with. This issue needs to be dealt with in any changes to the current process.

Thank you for taking the time to read my concerns. If you have additional questions or would like clarification please feel free to call or E-mail me.

Mike Newman  
1000 So. 21<sup>st</sup> Pl.  
Mount Vernon, WA 98274  
360-708-1419  
[mikepudcom@yahoo.com](mailto:mikepudcom@yahoo.com)

# SCARP

*Skagit Citizens Alliance  
for Rural Preservation*

PO Box 762, Sedro-Woolley WA 98284 | 360-856-2290

## — M E M O —

To: Board of Skagit County  
Commissioners  
From: Diane Freethy, President

Date: January 27, 2013  
Topic: Re-establishment of the  
Planning Commission

SCARP concurs with the citizens of Skagit County who unanimously rejected the proposal presented to you by Ryan Walters on January 22nd. We believe our rejection is justified for all the reasons expressed at the hearing, including but not limited to the County's:

- \* failure to advertise the hearing in a timely manner;
- \* poor judgment regarding the amount of time required for the event;
- \* decision to limit comments to only three minutes;
- \* reluctance to extend the comment period;
- \* obfuscation of the proposal's impact on existing planning practices;
- \* plan to further diminish public input related to planning policies and procedures;
- \* apparent lack of understanding of State statutes; and
- \* failure to fill vacant seats on the Planning Commission.

Mr. Walters' attempt to describe the proposal as mere "housekeeping" did not fool anybody ... least of all Planning Commissioners Lohman and Ehlers. Their outrage is indicative of mounting public frustration throughout the community. Many citizens are troubled by the decline of honesty and openness in Skagit County government, and trust in their elected officials is wearing thin.

We, the people of Skagit County, deserve an extended period of time in which to analyze, discuss and evaluate the advantages and/or pitfalls of "re-establishing" any form of our government. Moreover, state law strongly supports our position in this regard:

### **RCW 42.30.010 | Legislative declaration [1971 ex.s. c 250 § 1.]**

The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

Given the controversial nature of the above-noted proposal, we hereby request its immediate and complete retraction until such time as the people decide to revisit it. The ultimate decision belongs to us and, if we conclude that a public vote is necessary, then so be it.

CC: SKAGIT COUNTY: R.Weyrich, W.Honea, J.Youngquist, D.Pernula, G.Christensen, T.Holloran, T.Logue, P.Browning, C.Story, H.Hash, A.Lohman, C.Ehlers, D.Hughes, J.Easton, K.Greenwood, J.Axthelm, M.Mahaffie, E.Nakis.

CITIZENS WHO TESTIFIED AT HEARING: E.Bynum, B.Eberle, R.Good, K.Mitchell, R.Mitchell, E.Stauffer, P.Taylor.

PRESS: Skagit Valley Herald, La Conner Weekly News, Anacortes American, Concrete Herald, Seattle Times, The Olympian, Joel Connelly (P-I).

OTHERS INTERESTED PARTIES: Cities of Mt Vernon, Anacortes, Burlington, Sedro-Woolley, Lyman, Concrete; SCOG, Skagit Conservation District, Friends of Skagit County, Evergreen Islands, Western Washington Ag Assn, Cattlemens Assn, Farm Bureau, The Nature Conservancy.

~ SKAGIT CITIZENS ALLIANCE FOR RURAL PRESERVATION ~

*A Nonprofit Corporation Dedicated to Preserving the  
Country Way of Life in Rural Skagit County*