**BEFORE THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD**

| | |
|---|---|
| CITY OF SEDROW-WOOLLEY, FRIENDS OF SKAGIT COUNTY, et al.,<br><br>Petitioners,<br><br>v.<br><br>SKAGIT COUNTY,<br><br>Respondent, | NO. 03-02-0013c<br><br>**ORDER DISMISSING ISSUES RAISED IN 2003 PETITION FOR REVIEW** |

This case is a consolidation of three earlier compliance cases *FOSC v. Skagit County*, WWGMHB Case No. 00-2-0050c; *Evergreen Islands v. Skagit County*, WWGMHB Case No. 00-2-0046c; and *City of Anacortes v. Skagit County*, WWGMHB Case No. 00-2-0049c with a 2003 Petition for Review filed by the City of Sedro Woolley ("the City"). The 2003 Petition for Review was originally given the case number of WWGMHB Case No. 03-2-0013. The 2003 Petition for Review challenges Skagit County's ("the County") adoption of Resolution R20030160.

The County argues that this Board does not have jurisdiction over the issues raised in the challenge to the adoption of Resolution R20030160. We agree.

## I. DISCUSSION

In their Petition for Review filed in WWGMHB Case No. 03-2-0013c, Petitioners challenge Skagit County Resolution R20030160. Skagit County Resolution R20030160 was adopted on May 12, 2003. It sets forth the reasons that the Skagit County Board of County Commissioners decided not to adopt the City's development regulations pertaining to sewer infrastructure in the unincorporated Sedro Woolley urban growth area. Index No. 1059.

The County responds that Resolution R20030160 is not a comprehensive plan amendment, nor a development regulation, so this Board does not have jurisdiction over it. Sedro-Woolley responds that even if the Board finds that Resolution R20030160 is not a development regulation, it is clearly a part of a "comprehensive plan, as it purports to be a generalized coordinated land-use policy statement of the governing body of a county" that is adopted pursuant to RCW Ch. 36.70A. It recites policy criteria of the Skagit Board of County Commissioners for application on development regulations proposed by Sedro-Woolley for its unincorporated urban growth area. Sedro-Woolley reasons that, prior to passage of Resolution R20030160, Skagit County had not stated its new policy in such formal, precise terms. After passage of the Resolution, the County's policy was clearly stated for the Board to review and approve or disapprove and find invalid.

While we believe that the Resolution is pertinent to the question of compliance and the request for invalidity in *Friends of Skagit County v. Skagit County,* WWGMHB Case No. 00-2-0050c, we agree with the County that it does not form the basis for a new Petition for Review.

The Board's jurisdiction is strictly limited by statute to challenges to compliance with the Growth Management Act, Shoreline Management Act, or State Environmental Policy Act arising out of "an adopted comprehensive plan, development regulation, or permanent amendment thereto". RCW 36.70.290(2); RCW 36.70A.280(1). On its face, the Resolution does not amend the comprehensive plan, adopt a development regulation, or amend a development regulation. It states:

> Now, Therefore, Be It Resolved that, based on the testimony provided in the public hearing and on its own independently held concerns, the BCC objects to Ordinance No. 1428-02 for the following reasons
>
> Index No. 1059 at 2 (in pertinent part).

The Resolution then goes on to list the County's reasons, and ends with the final statement:

> Now, Therefore, Be it Further Resolved that the Board of County Commissioners, finding that it is not in the best interest of Skagit County residents living within the Sedro-Woolley UGA to be subject to Sedro-Woolley Ordinance No. 1428-02, rejects that Ordinance.

Ibid at 4.

Nothing in the language of this Resolution thus adopts a legislative enactment upon which this Board's jurisdiction can be based. This does not mean that the issue of compliance with the Board's orders in WWGMHB Case No. 00-2-0050c *Evergreen Islands v. Skagit County*, WWGMHB Case No. 00-2-0046c, and *City of Anacortes v. Skagit County*, WWGMHB Case No. 00-2-0049c is not before the Board or that the Resolution is not a significant piece of evidence with respect to the compliance issues. However, it does mean that the Board lacks jurisdiction to resolve the new issues raised by Sedro-Woolley in WWGMHB Case No. 03-2-0013c.

## II. ORDER

Based on the foregoing, the issues raised in the 2003 Petition for Review (Issues Nos.1-7) are hereby DISMISSED. An Order on the compliance issues in the above-named cases will be issued shortly.

SO ORDERED this 17th day of May 2004.

This is a Final Order under RCW 36.70A.300(5) for purposes of appeal

Pursuant to WAC 242-02-832(1), a motion for reconsideration may be filed within ten days of issuance of this final decision.

_____
Nan Henriksen, Board Member

_____
Holly Gadbaw, Board Member

_____
Margery Hite, Board Member