

RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS

Monday, April 30, 1990

10:00 a.m. Public Works Department - Mark Spahr, Director:

- 1) Bid Award Recommendation - Two New Pick-Up Trucks for Parks Department.
- 2) Resolution - Call for Public Hearing - Speed Limit Reduction on Portion of South Skagit Highway.
- 3) Discussion - Incinerator Operations.
- 4) Miscellaneous.

CONSENT AGENDA.

MISCELLANEOUS ITEMS.

1:30 p.m. Parks and Recreation Department - Jon Aarstad, Director:

- 1) Introduction of New Employees.
- 2) Discussion - IAC Grant.
- 3) Summer Playground Proposal Update.
- 4) Washington Wildlife and Recreation Coalition Update.
- 5) Miscellaneous.

2:30 p.m. Skagit County Meltdown Program Award Presentations.

MISCELLANEOUS ITEMS.

The Skagit County Board of Commissioners met in regular session on Monday, April 30, 1990, with Commissioners Ruth Wylie, W. W. Vaux and Dave Rohrer present.

PUBLIC WORKS DEPARTMENT - MARK SPAHR, DIRECTOR:

3) Discussion - Incinerator Operations.

This item was taken at this time for the convenience of the audience.

Mr. Spahr provided for the Board the unabridged audit of the Skagit County Resource Recovery Facility by the R.W. Beck Company. Also presented was Mr. Spahr's written summary of the audit.

Mr. Spahr then presented for the Board's consideration Change Order #9, with a final settlement for construction claims and incinerator operation as an attachment. Mr. Spahr stated that he had been expecting the attendance of a representative from Wright Schuchart Harbor (WSH), the incinerator contractor, to discuss an unresolved issue contained within the settlement. Mr. Spahr explained that issue. He stated that on May 1, 1990, at 12:01 a.m., the County, according to the settlement, will take over the operation of the incinerator and release WSH from further responsibility, provided that all debts are paid by WSH prior to that time. However, staff has received information that because of a dispute between WSH's subcontractor, SRR and the plant operator, ERR, SRR's subcontractor, a total of \$47,000 in operating bills is still owing. Mr. Spahr stated that until he receives assurances that these debts have been paid, he cannot recommend that the Board sign the document.

Mr. Spahr then summarized the Change Order. The following points were highlighted:

- The preamble states the parties' mutual desires to settle their claims.

- Transfers titles to large equipment rolling stock.
- Requires ERR to top off the consumables and turn over small tools and supplies at no cost to Skagit County.
- Makes references to the R.W. Beck plant audit.
- Requires corrections to problems with the roll up doors and crane operation.
- Releases WSH from operation and construction related claims.
- Releases WSH from responsibility for performance guarantees.
- Establishes the new monthly operating payment from December 1, 1989 to the present.
- Makes recommendations for Renewals and Replacements Fund expenditures and releases WSH's interest in the fund.
- Sets forth the conditions of the contract termination.
- Indemnifies WSH and holds them harmless.
- Indemnifies the County except for improper handling of materials during WSH's operation of the plant, claims by employees during WSH's operation of the plant, and all other claims prior to May 1, 1990.

Jeff Monsen, Assistant Public Works Director, then summarized the audit results. He stated that the audit was performed as a joint understanding with WSH by R.W. Beck. The audit gives a general assessment of plant conditions, advises the County of issues regarding the ongoing operation of the plant, and provides an inventory of small tools, consumables and supplies. Mr. Monsen stated that the audit points out three issues of concern regarding the refractor within the kilns, the ash conveyance system and the bag house door assembly, all of which the audit states can be taken care of under the ongoing maintenance program, and require no special attention. The audit recommends expenditures from the Renewals and Replacements Fund, which have been incorporated in Change Order #9. A small tools list is included in the audit report. Regarding incidental or work order items, none were recommended of a magnitude to cause concern for the overall operation of the plant, and should not deter the County from assuming plant operation. In summary, Mr. Monsen stated that no major deficiencies exist at the plant, and all minor deficiencies are being taken care of appropriately.

Commissioner Vaux questioned whether anything is included in the agreement that would preclude the county from legally challenging a supplier. Mr. Spahr replied that there was not, and that specifically, the metal separator supplier may be approached for reparations.

Chairman Wylie questioned whether the County will assume WSH's contracts with the present suppliers. Mr. Monsen replied that the County may utilize the present contracts on a short-term, emergency basis, but will have to post and negotiate new contracts immediately.

Mr. Spahr, who had left the room for a short period to telephone WSH, stated that during his telephone conversation with Fred Wessinger, Senior Vice-President of WSH, he learned that it is the position of WSH that the agreement the Board is considering is binding and requires WSH to pay all outstanding debts, including

those to suppliers totaling \$47,000 or more. WSH is concerned that some of the bills claimed by SRR and ERR are for another plant operated by ERR.

Commissioner Vaux stated that he did not want to sign the document until the County is assured of a date when the small contractors will be paid.

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Mr. Spahr stated that WSH had indicated that they were willing to put up a bond in Skagit County's name for any bills the County must pay in WSH's name, but the Board was not satisfied with this arrangement, and directed Mr. Spahr to inform WSH that the agreement will be signed when all bills are paid.

Lacinda Etherington, an audience member, stated that during the initial discussions regarding the hiring of a contractor the public was assured that WSH would be the best choice for a 20-year contract. She asked why the contract was now being dissolved.

Chairman Wylie answered that WSH has changed ownership to a firm from New Zealand that is not interested in the operations of the plants it constructs, and is clearly not the company that the original WSH was. She also stated that it appears, in light of the metal separation and ash disposal problems experienced by the incinerator, that the County should assume the operation of the plant to attempt to correct them.

Commissioner Vaux agreed that access to the facility in the past has been difficult while it has been operated by a private contractor. Additionally, problems between ERR and SRR exist. He stated that the goal of a private operator is to profit from its operations contract, while a public operation's goal is plant efficiency. The County would like to be able to control the waste stream more closely to decrease metal content.

Ms. Etherington then asked why the County will incur an additional \$200,000 in operating costs when they take over the plant, as was reported in the newspaper.

Commissioner Vaux informed her that the increase will be mainly due to labor costs, as the County offers a better benefit package than that currently in place through ERR, although wages will not increase appreciably. Additionally, a maintenance worker will need to be hired to staff the plant.

Mr. Spahr agreed that the benefit package will account for most of the increase, and also confirmed that both a maintenance worker and an accounting technician will be hired. But, he stated, the opportunity for savings also exists.

Don Bockelman, also an audience member, made his statement. He related that WSH had never built a municipal garbage incinerator when they were chosen to construct the County's facility, and their proposed equipment had never been tested, which was a requirement of the RFP. He accused the Public Works Department of making changes to the RFP so that WSH could bid competitively for the job of contractor. He accused the County of allowing WSH to walk away from their 20 year contract and its liabilities, and felt that this action was "ridiculous and appalling". He asked what the County would gain by doing this.

Commissioner Vaux replied that in the opinion of the County's legal advisor, we have the same risk as WSH whether we operate the plant or they do.

Mr. Bockelman argued that the settlement agreement protects the interest of WSH and not of the ratepayers.

Commissioner Vaux stated that this is not true, according the County's attorneys.

Mayor Reep, who was in attendance, stated that a guarantee is never without faults, and WSH could escape their responsibilities if they so desired, whether they are the County's partner or not.

Ms. Etherington pointed out that since R.W. Beck recommended WSH, whom we are now dismissing, the County should not utilize the services of R.W. Beck again.

Mayor Reep pointed out that if the County could have continued their relationship with WSH as it was at first negotiated, the 20-year agreement may have been consummated.

Commissioner Vaux explained the circumstances of the WSH bankruptcy and sale.

Mr. Spahr explained that the County has a performance based contract with WSH, as opposed to an owner directed contract. He stated that so long as the plant guarantees were met, the County was unable to insist on or request any changes. The County also did not have the opportunity to approve of subcontractors. Mr. Spahr speculated that any future lawsuits will revolve around the waste stream.

Chairman Wylie then summarized the comments made by the participants in the discussion, and stated that the discussion will be continued to later in the afternoon, when a reply from WSH has been received.

1) Bid Award Recommendation - Two New Pick-Up Trucks for Parks Department.

Commissioner Vaux motioned to adopt the resolution awarding the bid for a new 1990 GMC TC10903 pick up truck to Greg Hinton Olds-Cadillac-GMC for the bid price of \$11,171.14, and the bid for one new 1991 Chevrolet CS10603 pick up truck to Blade Chevrolet for the bid price of \$10,659.70. Commissioner Rohrer seconded the motion, which passed unanimously. (Resolution #12477)

2) Resolution - Call for Public Hearing - Speed Limit Reduction on Portion of South Skagit Highway.

Commissioner Vaux motioned to adopt the resolution calling for a public hearing on May 14, 1990, at 10:00 a.m., to consider a speed limit reduction from 50 m.p.h. to 35 m.p.h. on South Skagit Highway between milepoint 0.00 and milepoint 2.10. Commissioner Rohrer seconded the motion, which passed unanimously. (Resolution #12478)

4) Miscellaneous.

A. Mr. Spahr provided for the Board's information a list of firms who submitted proposals for consulting services for a bridge load rating study.

CONSENT AGENDA.

Commissioner Vaux motioned to adopt the Consent Agenda for April 30, 1990, as submitted. Commissioner Rohrer seconded the motion, which passed unanimously.

* Public Works Department:

1. Gardner Road Railroad Crossing:

- a) County Railway Agreement with Burlington Northern for placement of crossing signals. Project is begun as a result of approval of 1988 project submittals to WSDOT. (Standard agreement)

- b) Petition to Utilities and Transportation Commission for approval of signalization of crossing without a public hearing. (Standard document)
- 2. Blanchard Road Railroad Crossing:
 - a) County Railway Agreement with Burlington Northern for placement of crossing signals. Project is begun as a result of approval of 1988 project submittals to WSDOT. (Standard agreement)
 - b) Petition to Utilities and Transportation Commission for approval of signalization of crossing without a public hearing. (Standard document)
- 3. Resolution establishing CRP on Martin Ranch Road. Authorizes \$85,000 in construction funds for shaping, crushing and placing two lifts of BST. Included in Annual Road Program under minor construction, and will be accomplished by County forces. (Resolution #12479)
- 4. Signature - Professional Services Agreement - Grove's City Electric - wiring of advanced railroad warning sign at Grip Road railroad crossing - \$3115.76. Project is funded through Federation Railroad Crossing Protection funds, and was begun last year.
- 5. Signature - Contract with Olson and Taylor for aggregate crushing project at Upper Samish and Butler gravel pits.
- * Petitions for Property Tax Refunds:
 - 6. Shirley Mae Capaan, 705 Marshall Ave., Sedro Woolley, WA 98284, in the amount of \$337.75, due to the inadvertent payment of taxes. (003290)
 - 7. Vic P. Duncan, 307 Laird Place, Burlington, WA 98233, in the amount of \$71.84, due to a senior citizen exemption. (003090)
 - 8. Myron Thomas, et al, 5515 257th St. N.E., Arlington, WA 98223, in the amount of \$16.03, due to the inadvertent misconveyance of property. (002890)
- Skagit County Fair Contracts:
 - 9. Professional Services Contracts:
 - a) All-Alaskan Racing Pigs - perform 3-4 shows per day, August 9, 10, 11, and 12, 1990, - \$3,325.00 all shows.
 - b) The Shoppe - one engagement on August 11, 1990 - \$2,000.
 - 10. Commercial Displays and Vendors Contracts: (all contracts run from August 8, 1990 to August 12, 1990)
 - a) Ideal Sales - for space in the Commercial Building, - at cost of \$220. (Sale of auto polish, welding rod, self-igniting propane torches, roll-o-rulers)
 - b) Staples Sales - for space in the Commercial Building, - at cost of \$220. (Vendor - packaged heat sales)

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- c) Dr. H Jewelry - for space in the Commercial Building, - at cost of \$220. (Vendor - fine and custom jewelry)
- d) Oxyfresh - for space in the Commercial Tent - at cost of \$200. (Vendor - personal, dental and environmental hygiene products)
- e) Sunrider Distributors - for space in the Commercial Building - at cost of \$220. (Vendor - whole food herb concentrates)
- f) The Ladder Man - for space in the Commercial Building - at cost of \$220. (Vendor - ladders and related equipment)
- g) Portal Industries - for space in the Commercial Building - at cost of \$440. (Vendor - transfer and screen print t-shirts, sweatshirts, mugs, etc.)
- h) Skagit County Sheriff's office (D.A.R.E.) - for space in the Grange Building at no charge to organization. (D.A.R.E./McGruff exhibit)
- i) Rita & Marvin's Embroidery - for space in the Commercial Tent - at cost of \$200. (Vendor - easy punch embroidery)
- j) Skagit County Auditor - for space in the Ball Park at no charge.
- k) Multi-Pure - for space in the Commercial Building - at cost of \$220.
- l) Cascade Home Furnishings - for space in the Commercial Building - at cost of \$220.

11. Fair Concessionaires: (All contracts run from August 8, 1990 through August 12, 1990)

- a) C C BBQ - Concessionaires charge of \$50.00 plus a guarantee of \$100 or 15% of total gross receipts, whichever is greater.
- b) Hazelgrove Confections - Concessionaires charge of \$50.00 plus a guarantee of \$100 or 15% of total gross receipts, whichever is greater.
- c) Royal Concessions - Concessionaires charge of \$50.00 plus a guarantee of \$100 or 15% of total gross receipts, whichever is greater.
- d) Donuts by the Dunkins - Concessionaires charge of \$50.00 plus a guarantee of \$100 or 15% of total gross receipts, whichever is greater.

* Parks and Recreation Department:

12. Signature - Contract with Skagit Softball Umpires Association to officiate at league games for 1990 league season. Compensation - Mushball Co-ed \$14.00; Youth \$12.00; Women's \$13.50; Hardball Co-ed \$14.50; Tuesday men's \$15.00; Thursday Mens \$17.50 (1-man) \$23.00 (2-man), plus travel expenses of \$7.00 for trips to Concrete, Anacortes and Stanwood.

* Human Services Department:

13. Signature - Professional Services Contract with Sharon Robinson to provide up to 78 hours of contract monitoring services for mental health and drug/alcohol programs, as required by DSHS. Compensation - \$25.00 per hour. Contract expiration - June 30, 1990.

* Board of County Commissioners:

14. Signature - Contract for County Legal Printing with Skagit Argus for period from July 1, 1990, through June 30, 1991. Compensation - \$3.60 per column inch, 8 point century textbook type.
15. Record of the Proceedings of April 23, 1990.

MISCELLANEOUS ITEMS.

- A. Vouchers audited and certified by the auditing officer as required by R.C.W. 42.24.080, and those expense reimbursement claims certified as required by R.C.W. 42.24.090, have been recorded on a listing which has been made available to the Board.

As of this date, April 30, 1990, the Board, by a majority vote, did approve for payment those vouchers included in the above-mentioned list and further described as follows:

- 1) Warrant #MW012-55056 in the amount of \$750.00 (C-18-90).
- 2) Warrants #79612 through #79751 (Vouchers #79612 through #79751) in the amount of \$273,971.19 (PR-8-90).
- 3) Warrants #3152 through #3662 (Vouchers #1917 through #2336B) in the amount of \$784,685.28 (PR-08-90).

- B. Mr. Spahr reported that Skagit County's operations payment for the month of April to WSH will be approximately \$90,000. He stated that in his most recent conversation with WSH, he broached the subject of the deduction of \$47,000 from the April operations payment for the payment of WSH's debts. He stated that Mr. Wessinger was not opposed to this, but that it would preclude WSH from approaching SRR about any bills not related to the Skagit County facility. He suggested that a Board member phone WSH to discuss this option, and Commissioner Vaux agreed to do so.

PARKS AND RECREATION DEPARTMENT - JON AARSTAD, DIRECTOR:

- 1) Introduction of New Employee.

Mr. Aarstad reported that his new employee was unavailable today to meet with the Board.

- 2) Discussion - IAC Grant.

Mr. Aarstad provided a brochure on Interagency Committee for Outdoor Recreation (IAC) 1990 grant programs for local government, which include Land and Water Conservation Fund, Washington Wildlife and Recreation Coalition, Non-highway and Off-Road Vehicle Activities (NOVA) and Firearm Range Grants. He stated that all grants require local matching funds. Mr. Aarstad suggested that if the County wished to pursue any of these grant funds, that real estate excise tax or urban growth funds be channeled to the Parks Department to satisfy matching requirements. He stated that possible eligible projects could be Youngs Park, Howard Miller Steelhead Park, or parks in the Sedro Woolley area. He requested

suggestions from the Board, and received suggestions for small parks and individual ball fields in the Avon, Rockport and Concrete areas.

Mr. Aarstad indicated that if smaller, remote parks are planned, maintenance costs in his department will increase.

The Board directed Mr. Aarstad to explore plans for small baseball fields in the areas identified.

3) Summer Playground Proposal Update.

Dennis Lind, Recreation Supervisor, presented an updated proposal, in concurrence to direction by the Board to create a pilot project for summer playground activities, using a budget of \$10,000. He stated that his proposal calls for two recreation leaders and two assistants to put on a program at four sites two days per week. The sites chosen were Lucille Umbarger School and Burlington Grade School, Mary Purcell in Sedro Woolley, and Concrete Grade School.

Chairman Wylie stated that she would like Conway and Big Lake to be considered for this program. Following discussion, it was agreed to substitute Conway School for Burlington.

4) Washington Wildlife and Recreation Coalition Update.

Mr. Aarstad provided literature from the Washington Wildlife and Recreation Coalition (WWRC). He discussed the fund distribution, and his hopes for obtaining funding for projects in Skagit County.

5) Miscellaneous.

- A. Mr. Aarstad provided a list of this year's Concessionaires and Vendor fees for the Skagit County Fair.
- B. Mr. Aarstad discussed expenditures that will be required to take ownership of the Northern State Hospital properties. The Board was unable to provide a timeline for which they wished a facility study to be completed for the property.
- C. A lumber quote for fair projects was provided to the Board.

SKAGIT COUNTY MELTDOWN PROGRAM AWARDS PRESENTATION.

Kathy Logan, Skagit County Wellness Committee Chairman, presented the winners of the Skagit County Meltdown Program.

- The Public Works Department lost the most weight, and received a fruit basket.
- The Treasurer's Office had the greatest staff participation and received a plant.
- District Court had the highest per person weight loss, at 10.6 pounds per participant.
- Cooperative Extension reached 73% of its weight loss goal.
- Betty Murphy, Clerks Office; Charlie Tewalt, Public Works; and John Fishbourne, Public Works, lost the most weight and each received a six month membership to the YMCA.

MISCELLANEOUS ITEMS.

- A. Mr. Spahr reported that he spoke with Fred Wessinger of WSH to suggest that in lieu of part of the April payment of approximately \$90,000, Skagit County could pay payment to the subcontractors who are owed money by SRR/ERR. Mr. Spahr also spoke with Don Cameron of ERR, who indicates that if any bills are applicable to the other plant ERR is operating, it would be bills of no more than \$200.00. Mr. Wessinger has agreed to post a bond in the County's name to assure payment of the debts, although payment in this manner will preclude WSH from the ability to recoup any charges it later discovers are not applicable to Skagit County's facility. Mr. Spahr, in light of his conversation with Mr. Wessinger, then suggested that the Board approve the change order, with the understanding that if any bills are not paid within 10 days, the amount of the outstanding bills will be deducted from the April monthly operating payment to WSH and used to pay ERR's creditors.

Commissioner Vaux pointed out that the monthly payment would normally be used to pay for April operations. The outstanding debts are for November, 1989, through February, 1990, operations. If the April payment is used to pay old debts, then April creditors will go unpaid.

Mr. Monsen noted that ERR has been conducting most of its April business on a cash basis.

Mr. Spahr then suggested that the outstanding portion retained from the April operations payment be held as retainage until the County receives proof that the outstanding bills have been paid.

Discussion ensued, and Chairman Wylie agreed with Mr. Spahr's suggestions, stating that if action is not taken now, the payment of these bills could be drawn on for an extended period.

At this point, Commissioner Vaux left the room on receiving a telephone call from Mr. Wessinger. On his return, he reported that Mr. Wessinger is considering Mr. Spahr's suggestion that a retainage from the April operations payment be held in an escrow account with interest payable to WSH until such time as the outstanding debts of the current operator have been paid.

At 5:20 p.m., a facsimile message was received from an attorney representing WSH agreeing to the above plan and submitting agreeable language to be added to the Change Order. On approval by Skagit County's attorney, Commissioner Vaux then motioned to approve Change Order #9,

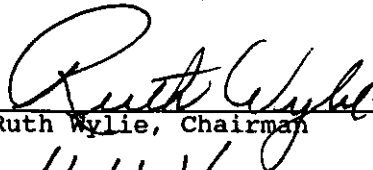
including the final settlement agreement and the addendum detailing the establishment of the escrow account. Commissioner Rohrer seconded the motion, which passed unanimously.

ADJOURNMENT:

Commissioner Vaux motioned to adjourn the proceedings. Commissioner Rohrer seconded the motion. The motion was carried unanimously.

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON





Ruth Wylie, Chairman

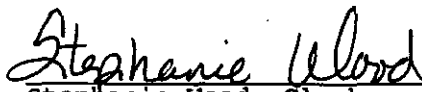


W. W. Vaux, Commissioner



Dave Rohrer, Commissioner

ATTEST:



Stephanie Wood, Clerk
Skagit County Board of Commissioners