

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
TUESDAY, MAY 17, 2011**

The Skagit County Board of Commissioners met in regular session on Tuesday, May 17, 2011, with Commissioners Ron Wesen, Kenneth A. Dahlstedt, and Sharon D. Dillon present.

I. CALL TO ORDER:

Chairman Wesen called the proceedings to order at 8:30 a.m.

II. PLEDGE OF ALLEGIANCE:

Chairman Wesen led the gallery in the salute to the flag.

III. AGENDA:

a) 8:30 a.m. - 9:30 a.m. Public Works - Henry Hash, Director:

1. Public Hearing: Consider Testimony Regarding a Franchise Agreement with Cascade Natural Gas Corporation

Henry Hash introduced Engineering Technician Tory Nelson who informed the Commissioners that Cascade Natural Gas has requested to update the Franchise Agreement with Skagit County for the purposes of distributing and selling natural gas. Mr. Nelson informed the Board that the application was complete and that all fees have been paid. He also stated that Cascade Natural Gas will comply with all Skagit County and Washington State laws and regulations if granted the franchise. The term of the Agreement is 15 years. Mr. Nelson stated that the Public Works Department recommends the authorization of the Franchise Agreement.

Commissioner Dillon said that she understood that the agreement was non-exclusive. Mr. Nelson confirmed that it was non-exclusive.

Commissioner Dahlstedt asked if there was any consideration for the Agreement.

Civil Division Deputy Prosecuting Attorney Stephen Fallquist stated that there was no monetary consideration for the Agreement. Mr. Fallquist pointed out that Cascade Natural Gas agreed to provide \$35 million dollars of insurance coverage in case there was pipeline failure and that they paid a fee of \$892.12 for processing the application for the Agreement. Mr. Fallquist stated that Cascade Natural Gas provides a valuable service to the community and that they would like to renew the Agreement that recently expired. The previous Agreement was for 25 years.

Seeing no public testimony forthcoming, a motion was made by Commissioner Dillon, which passed unanimously, to approve the Franchise Agreement with Cascade Natural Gas, however it was immediately rescinded so that the public hearing could be officially opened and closed before approving the Agreement. Chairman Wesen opened the public hearing at 8:40 a.m. Seeing no one present for testimony, Commissioner Dahlstedt made a motion to close the public hearing, which was seconded by Commissioner Dillon. The motion passed unanimously.

A motion was made by Commissioner Dillon to approve the resolution

authorizing the execution of the Franchise Agreement with Cascade Natural Gas Corporation. **(Resolution No. R20110173)** Commissioner Dahlstedt seconded the motion.

The vote passed unanimously.

A motion was made by Commissioner Dillon to approve and execute the Franchise Agreement with Cascade Natural Gas Corporation, a Washington corporation, to construct and operate facilities for the purposes of distribution and sale of natural gas and other reasonably related purposes within the franchise area. **(Contract No. C20110232)** Commissioner Dahlstedt seconded the motion.

The vote passed unanimously.

There was discussion regarding the application fee paid by Cascade Natural Gas and whether it covered the cost for Public Works staff to process the Franchise Agreement.

2. **Decision: Request to Vacate a Portion of Unopened County Right-of-way known as Hermway Heights Road, No.87450**

Mr. Nelson reminded the Commissioners of the past action taken on this matter and that they were now present to discuss and make a decision regarding vacation of the right-of-way.

Mr. Nelson stated that the Public Works Department have considered the appraisal that the petitioner submitted. The appraisal was received on May 5, 2011, and it valued the right-of-way at \$9,500. The appraisal discounted portions of the right-of-way which ran through a wetland and steep slope. Mr. Nelson stated that Public Works staff does not agree with the methodology used for the appraisal and that they recommend the originally appraised amount of \$28,224 for the right-of-way.

The petitioners appraisal and the right-of-way were discussed.

A motion was made by Commissioner Dahlstedt to approve and execute the Order to Vacation a portion of unopened County right-of-way known as Hermway Heights Road #84750 for the amount of \$28,224 **(Resolution No. R20110174)** Commissioner Dillon seconded the motion.

The vote passed unanimously.

3. **Proclamation: May 16 - 21, 2011 as National Public Works Week**

Henry Hash stated that it was National Public Works Week and he introduced Senior Project Engineer Paul Randall-Grutter who stated that Public Works touches our lives every day in Skagit County. Mr. Randall-Grutter stated that Skagit County: maintains 800 miles of road and over 100 bridges; designs safe railway, drainage, and highway projects; transfer 86,000 tons of solid waste a year; maintains the County vehicle fleet and radios; monitors water quality and resolves drainage issues; and takes care of accounting. Mr. Randall-Grutter then showed the Commissioners a video which depicted what would happen in a day without Public Works.

The Commissioners thanked Public Works employees. Mr. Hash stated that the Public Works department provides many services which directly impact the public's safety. Commissioner Dillon read the proclamation for National Public Works Week, May 15 – 21, 2011.

4. Miscellaneous

There were no miscellaneous items to discuss.

- b) 9:30 a.m. - 10:00 a.m. Public Hearing: To Consider Testimony Regarding Authorization of Use of Eminent Domain Powers and Determination Declaring the Acquisition of Land or Property Associated with the Anderson/La Venture Road Extension Cedardale to Blodgett Project No. STPUS-7337 (005) and Anderson/La Venture Road Extension Blodgett to Blackburn Project No. STPUS-7337 (004) to be a Public Use and Necessary for County Purposes

Chairman Wesen reconvened the proceedings at 9:30 a.m.

Henry Hash introduced Project Manager Mike Farthing who gave a brief overview of the Anderson-La Venture Road Extension Project. Mr. Farthing stated that the project was initiated in 2004 and that there were three phases. The first phase of the project from South LaVenture to Blackburn has been completed. Mr. Farthing stated that the second phase of the project is from Interstate 5, the interchange at Anderson, to Cedardale to Blodgett, and the third phase is from Blodgett Road to the intersection of Blackburn and LaVenture. Mr. Farthing stated that there has not been a north to south arterial road that has been able to effectively manage traffic in this section of Mount Vernon and that this project has been on and off again over last seven years. Only within the last two years has work begun to bring the project towards completion.

Mr. Farthing said that in January 2010 the Washington State Department of Transportation authorized the use of funds to begin purchasing right-of-way for the completion of the project. Mr. Farthing said that negotiations were started via the contractors Universal Field Services and Otak, Inc. in order to obtain the necessary right-of-ways.

Mr. Farthing reported that there are sixteen right-of-ways to obtain: eight within the city limits of Mount Vernon and eight in Skagit County. Mr. Farthing informed the Board that one parcel has been eliminated through a design change, and that the parcels within city limits are in the final stages of negotiation. Mr. Farthing stated that three parcels within Skagit County have been successfully negotiated and that the remaining five parcels are still being worked on: two of the five are making good progress towards completing negotiations, but negotiations on the remaining parcels has ended and the negotiator has recommended condemnation.

Mr. Farthing indicated that pursuant to R.C.W. 8.08, Skagit County has taken the necessary steps to exercise eminent domain and that the last step was now the open public hearing (as required by R.C.W. 8.25.290).

Chairman Wesen asked Mr. Farthing to show the urban growth area between the City of Mount Vernon and Skagit County and a discussion was held regarding the type of road.

Mr. Hash clarified that this step of authorizing the use of eminent domain was a procedure that Public Works needed to go through, but that they would continue negotiation efforts with the property owners in order to reach mutual agreements by all parties. However, if mutual agreements cannot be reached, then the use of eminent domain powers can be exercised if the Commissioners sign the resolution before them today.

Chairman Wesen asked if Public Works would be coming back before the Commissioners before exercising the use of eminent domain powers.

Mr. Hash stated that Public Works would come back before the Commissioners. Mr. Hash then corrected himself and stated that Public Works was not required to come back before the Commissioners before exercising the use of eminent domain powers. He said that if the Commissioners signed today's resolution, they would essentially be authorizing Public Works staff to use eminent domain powers if necessary.

Commissioner Dillon requested that Public Works come back before the Commissioners before exercising the use of eminent domain powers.

Mr. Hash agreed to keep the Commissioners informed.

The Public Hearing was opened at 9:40 a.m.

John Yaeger of Blodgett Road in Mount Vernon stated that he came to listen to today's proceedings and he stated that he thought the road would be a nice idea except he has been uncertain of the proceedings. He stated that his property has been undervalued and that he cannot accept the current offer since the assessment came in at one-tenth of comparable takings. Mr. Yaeger stated that a difference of 32 cents to \$3.00 a square foot would need to be resolved. He shared with the Commissioners that individuals had been drilling holes on his property without his permission and he was confused and upset with the process.

Bruce Lisser of Mount Vernon stated that he was asked by the a Cedarhills Development Group to come and discuss their issues with the Board. Mr. Lisser stated that the development group had been working with a consultant on the land valuations and that it was a frustrating process. The group does not feel that they have been treated in an equitable manner and they are frustrated with the valuation of the property because it seemed inconsistent. Mr. Lisser discussed valuation scenarios from the standpoint of being in Skagit County or the City of Mount Vernon. Valuations are from \$2.80 a square foot to 22 cents a square foot. Mr. Lisser stated that if Public Works exercises the use of eminent domain powers then Cedarhills would seek legal representation in order to take the case to court. Mr. Lisser questioned if all landowners were being treated fairly and stated that property comparable valuations were not close to what was being offered. He warned that this could become an expensive endeavor. He stated that he hoped that the process could continue and that it could be fair.

Donald Kirkpatrick, Attorney at Law, was present on behalf of the owners of P28761. Mr. Kirkpatrick stated that his clients have similar comments and concerns as Mr. Lisser. Mr. Kirkpatrick suggested that the right-of-way be eliminated from his clients property and be moved all way onto the parcel across the street from them, which he indicated was owned by the City of Mount Vernon. Mr. Kirkpatrick stated that the property that the City of Mount Vernon owns was acquired in 2006 to be used as a park, but that nothing had yet happened for its development. He also pointed out that the price it was assessed at was different than what had been paid for it. He also pointed out the property owned by the City of Mount Vernon would not be suitable for future development, but his clients property would be suitable for future development, and so they were frustrated that they would have to give up their private property when public property was available for the use. Mr. Kirkpatrick requested that the road be redesigned.

Mr. Lisser spoke again and asked if sewer was going to be extended through the road, since if that was the case, then he believed the property should be valued as city property instead of county property.

Seeing no further public testimony forthcoming, Commissioner Dahlstedt made a motion to close the public hearing at 9:55 a.m., which was seconded by Commissioner Dillon. The motion passed unanimously.

Commissioner Dillon confirmed that the sewer lines being put in would be dry lines for possible future growth.

Commissioner Dahlstedt stated that he would like to be fair to everyone and that it was necessary to acquire the right-of-ways soon and that they try to fairly impact all property owners, which is why the right-of-way runs down the middle of parcels to evenly share the burden. He stated that the County and City are working on this project together and have been trying to get funding for quite some time. Funding came in for the project and he stated that without these funds, this project would not move forward any other way. Commissioner Dahlstedt pointed out that the road would also probably increase the value

of their properties. He stated that if the money was lost, then the county would not continue with the project. He said that Skagit County will try to be fair, but that if project was stalled and killed, then it would not be considered again. He ended by saying that Skagit County would prefer not to condemn any properties, but he stressed the importance of timing for this project, and that if all of the pieces were not in place in time, funding would be lost, so if the only way to move forward is to condemn properties, then that option they may be necessary.

Commissioner Dillon pointed out that this project would relieve some of the pressures on I-5. She stated that this was a step needed to move things forward since they have funds for the road.

Chairman Wesen said that this project has been ongoing for a long time and that it goes through many different areas and municipalities. He stated that it was important to look at who would benefit from the road since the list is long. He shared his concerns over the differences in property valuations and wanted those to be looked at. Chairman Wesen also cautioned the landowners that if the properties cannot be acquired and the funds are lost, then the road would not be built.

Commissioner Dahlstedt stated that the Washington State Transportation Improvement Board awarded this one-time allotment. He stated that Skagit County wants to be fair and pointed out that their properties would also gain value when the project was complete.

A motion was made by Commissioner Dahlstedt to approve the resolution for the authorization for use of eminent domain powers and declaring the acquisition of land for property associated with the Anderson/LaVenture Road Extension, Cedardale to Blodgett Project No. STPUS-7337 (005) and Anderson/LaVenture Road Extension, Blodgett to Blackburn Project No. STPUS-7337 (004) to be a public use and necessary for county purposes. (**Resolution No. R20110175**) Commissioner Dillon seconded the motion.

The vote passed unanimously.

Chairman Wesen recessed the proceedings for few minutes and stated that the would return at 10:10 a.m. for the next agenda item.

- c) 10:00 a.m. - 10:30 a.m. Recognition: Governor's Volunteer Service Awards - Skagit County Recipients

Chairman Wesen reconvened the proceedings at 10:11 a.m.

Deputy Fire Marshal Kevin Noyes was present to help recognize Janice Watson and David Wilder for their dedication for life saving and educational opportunities to the citizens of Skagit County. He stated that they were both recipients of the Governor's Volunteer Service Awards and he gave a brief biography of each recipient. The Commissioners also congratulated Ms. Watson and Mr. Wilder and stated that Skagit County would not be as successful if it was not for volunteers like them. Mr. Noyes stated that if others were interested in volunteer opportunities, they could call 360-428-3250.

Chairman Wesen recessed the proceedings at 10:18 a.m.

- d) 10:30 a.m. - 11:30 a.m. Work Session: Public Works Ferry, Solid Waste, Operations, and Equipment Division Updates

Chairman Wesen reconvened the proceedings at 10:30 a.m.

Mr. Hash introduced Solid Waste Division Manager Kevin Renz who updated the Board on the transfer station project. He stated that construction was underway and shared the details with the Commissioners. He said that it should be completed in 2012. Mr. Renz reminded everyone that they will remain open during construction.

Equipment Division Manager Mike Elde stated that their primary function was to purchase and maintain over 300 county vehicles. He said that his division also maintains three fuel depots and tracks inventory at gravel pits and in the shop. He informed the Commissioners of some of the changes which will be made to the vehicle fleet and said that some of the older vehicles were being prepared for the James Murphy Auction in Kenmore – and that this auction company is able to get the best prices available for their vehicles. Mr. Elde informed the Commissioners that the sand and salt storage bunker project was complete, as well as the roof which needed to be installed over the washing rack at the county shop.

Road Operations Division Manager Cliff Butler stated that there are three road districts in Skagit County that maintain Skagit County roads and ditches. He said that they will occasionally provide support to other divisions and to other Skagit County departments and agencies on a reimbursable basis. Mr. Butler stated that there are 795 miles of road and adjacent right-of-way to maintain which include: 27 miles of gravel surface, 8 miles of concrete, 122 miles of asphalt surface, and 637 miles of chip sealed pavement. Mr. Butler listed a portion of inventory that they maintain which includes 14,000 signs, 480 miles of ditches, 8,000 drainage culverts, 107 bridges, 500 miles of centerline striping, 680 miles of edge line striping, and 1,600 miles of roadside vegetation to mow or brush cut, and to maintain these inventories, and the ones that he did not list, takes 57 separate activities. Mr. Butler discussed storm damage and repairs, as well as their preparation for summer construction, chip sealing, sod and brush cutting.

Commissioner Dillon asked Mr. Butler to explain why the road crew cuts brush alongside the road in January. She asked him to explain this for better public informational purposes.

Mr. Butler said that the mowing program starts in May and ends in October for grasses and brush alongside the road, however, a lot of brush cutting takes place in winter since it is a dormant time of year for cutting and since the brush is dormant, the work crews have better visibility in the ditches.

Ferry Operations Division Manager Rachel Beck discussed the reconstruction of the docks at Anacortes and Guemes Island. Ms. Beck reported that the aluminum gangways belong to Skagit County and that they will be stored appropriately once construction is complete. She said that the floating docks belong to the contractor and that they would be taking them once the ferry is back in operation. She stated that the Mystic Sea has provided excellent passenger service and has performed 650 round trips for passengers. She said that the ridership helped make the transition a success and that the ridership has been patient and happy. Ms. Beck showed the Commissioners a slideshow of the progress of the dock replacement project and estimated that the ferry would be returning to service on May 23, 2011. Ms. Beck said that information would be posted on-line.

The Commissioners said they appreciated Public Works working with the Guemes Islanders and for completing this project on time and on budget.

Chairman Wesen recessed the proceedings at 11:27 a.m.

e) 11:30 a.m. - 11:45 a.m. Public Comment Period

Chairman Wesen reconvened the proceedings at 11:30 a.m.

Tom Westergreen of 4800 South Pass Road in Whatcom County discussed his concerns regarding forestry issues in Whatcom County. He stated that there is a strong environmental group working against logging and he shared information with the Commissioners regarding their work regarding trying to reconvey lands for park purposes. He said that the Department of Natural Resources is taking comment until the end of May. Mr. Westergreen said he was a strong proponent of a working forest and he is not sure if 8,000 acres of land being reconveyed would be legal or considerate to tax payers.

Commissioner Dillon asked where the 8,000 was located.
Mr. Westergreen said it is in the Lake Whatcom watershed in the Sudden Valley area.

IV. ADJOURNMENT:

Chairman Wesen adjourned the proceedings at 11:39 a.m.

BOARD OF COMMISSIONERS

SKAGIT COUNTY, WASHINGTON

Ron Wesen, Chairman

Kenneth A. Dahlstedt, Commissioner

Sharon D. Dillon, Commissioner

ATTEST:

Linda Hammons, Clerk of the Board