

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
MONDAY, SEPTEMBER 12, 2011**

The Skagit County Board of Commissioners met in regular session on Monday, September 12, 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 1:30 p.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. Briefing - County Commissioners/County Administrator
- b) 1:30 p.m. - 2:00 p.m. Consent Agenda and Miscellaneous Items

A motion was made by Commissioner Dillon to approve the Consent Agenda Items 1 through 7, Ratification Items 8 through 11, vouchers and warrants for Monday, September 12, 2011. Commissioner Dahlstedt seconded the motion. The vote passed unanimously.

Chairman Wesen recessed the proceedings at 1:32 p.m.

- c) 2:00 p.m. - 2:30 p.m. Public Works - Henry Hash, Director:
 - 1. Update: Federal Energy Regulatory Commission (FERC) Relicensing Regarding License Article 107 (c) Imminent Drawdown of Baker River During Flood Events

Chairman Wesen reconvened the proceedings at 2:00 p.m.

Henry Hash introduced Natural Resources Division Manager Dan Berentson. Mr. Berentson stated that he wanted to update the Commissioners on the conversations that Public Works has had with Puget Sound Energy and the Federal Energy Regulatory Commission (FERC). Mr. Berentson read Article 107(c) to the Commissioners and stated that one of the main concerns that Public Works staff had regarding this article was whether Puget Sound Energy (PSE) was adequately consulting with Skagit County and the U.S. Army Corps of Engineers regarding their plan for drawing down the Baker River during a flood event. Mr. Berentson briefed the Commissioners on the meetings which had taken place with representatives from various stakeholders since last coming before the Board, and he went into more detail regarding the recent Aquatic Resources Group telephone conference meeting that was held on September 8, 2011. Mr.

Berentson said that at this meeting, members asked questions of Steve Hocking of FERC and that they now better understand FERC's approach regarding drawing down the Baker River, and that their definition of an emergency is anything that relates to the safety of the dam. Commissioner Dahlstedt asked Mr. Berentson what steps Skagit County should take next.

Mr. Berentson stated that he would like to set up some additional meetings and invite one of the Commissioners. Mr. Berentson also said that Skagit County should take a position on the matter soon and formalize it in a letter, or present an amendment to the current license.

Project Coordinator Lorna Ellestad added that Skagit County better understands that each agency's definition on an emergency is different. Ms. Ellestad ended by stating that Skagit County may want to execute an amendment to the license until more of the issues have been resolved.

Commissioner Dillon stated that she appreciated hearing about the meeting with FERC and getting clarification on their definition of an emergency. Commissioner Dillon stated that she would like everything in place before the deadline and that she would support an amendment if one was needed.

Commissioner Dahlstedt stated that he was disappointed that FERC was more concerned about the safety of the dam over the safety of the communities downstream.

Chairman Wesen thanked Public Works for the update and for finding out that the main difference between each agency was their definition of an emergency.

Lorna Ellestad added that PSE has been supportive in this process and that the process has opened up a healthy dialog with the stakeholders.

- d) *2:30 p.m. - 3:30 p.m. Executive Session (Potential Litigation)
- e) *3:30 p.m. - 4:30 p.m. Executive Session (None Scheduled as of the Date of this Notice)
- f) *6:00 p.m. Public Hearing To Consider Testimony Regarding Views about the General Concepts of Pipeline Safety Standards

Chairman Wesen reconvened the proceedings at 6:03 p.m.

Chairman Wesen stated that the purpose of the public hearing was to receive public testimony and written correspondence on the general concepts of pipeline safety that may or may not be included in a future proposal. He said that these concepts include, but are not limited to; the use of a sensitive utility corridor overly; public education; communication; emergency response coordination, title notice; a consultation zone; development mitigation; dimensional standards; setbacks for

new high consequence land uses and essential public facilities.

He said that this is an opportunity to speak directly to the elected County Commissioners on a matter that is important. He indicated that the Commissioners want feedback on these concepts and other concepts related to pipeline safety policy.

Chairman Wesen stated that due to the number of people that signed up to testify, comments would be limited to three minutes for each person in order to allow time for everyone to get the opportunity to speak. He said that there would be an opportunity at the end of the hearing for those who wish to testify, but did not sign up to speak. He suggested that if anyone had written comments, they could place them in the box located next to the Clerk.

Chairman Wesen said that the Board of County Commissioners would consider public testimony and written correspondence, and comments from County staff on pipeline safety concepts before proceeding further until Monday, September 19, 2011, at 4:30 p.m. He indicated that written comments could be mailed to Linda Hammons, Clerk of Board, at 1800 Continental Place, Suite 100, Mount Vernon, WA 98273; and e-mail correspondence could be sent to commissioners@co.skagit.wa.us.

He indicated that the County Commissioners had tentatively scheduled, Tuesday, October 4, 2011, at 8:30 a.m., or soon thereafter, for discussion and possible action on pipeline safety concepts, which could be incorporated into a draft proposal. He said that any proposal brought forward would be scheduled for a public hearing before the Board.

Commissioner Dillon thanked everyone in the audience for attending the public hearing and said she looked forward to hearing any ideas that the public may have about pipeline safety.

Commissioner Dahlstedt indicated that he would not support any efforts that would require the County to take any property rights from property owners. He also indicated that public safety, and that being informed of where the pipelines were located was very important.

Mark Wade of 17416 Turtle Lane in Bow, stated that under the current proposal, the beneficiary would be the pipeline company and said that there was no guarantee that the pipeline companies would maintain their pipelines at a higher standard. He also commented on his belief that many who live along the pipeline would be responsible for any damages or injuries that occur on their property.

Tom Stowe of 15780 Quiet Cove Drive in Anacortes, stated that pipeline transmission lines are privately owned pipelines. He said the ordinance would not make the pipelines safer. He said that any ordinance would put undue liability on the property owners. He urged the County to be very careful in proposing any new regulation.

Chuck Manning of 513 39th Avenue in Anacortes, thanked the Commissioners for having the hearing. He said he had great concern about additional limitations on

future property use. He stated that it costs a phenomenal amount to comply with state and federal regulations. He said he was not in favor of an increased property set back.

Roger Mitchell of 1155 Chuckanut Ridge Drive in Bow, addressed the idea that the County was starting with a clean sheet and that no proposal was before the Board. He requested that the County Board of Commissioners reject any prior proposals. He said that based on federal statistics there are no pipeline safety issues, and that no new regulations were necessary. He suggested that any development project confirm that they have complied with RCW 19.122 the "call be before you dig law". He also commented on optimizing emergency preparedness. He said no setbacks should be included, or land use restrictions. He stated that unconstitutional regulatory takings do not transfer liability from the pipeline companies to the property owners.

Maggie Sullivan of 740 Shaw Road in Alger said she had 340 feet of pipeline access on her property and she provided an outline of ideas which included holding a public workshop and appointing a work committee. Ms. Sullivan believes that public input would be important before any further action was taken on the matter.

Del Resner of 303 - 7th Street in Anacortes, said he was not in favor of increasing setbacks on property owners.

Bill Knutzen of 11790 Avon Allen Road in Burlington addressed his concerns that property owners bear the burden of damages caused by pipelines.

Chuck Nafziger of 17383 Peace Lane in Burlington presented a document "Information for Residents with Property Adjacent to a Pipeline". He said that he was not in favor of increasing setbacks on his property. Mr. Nafziger urged the Commissioners to write and publish a pipeline safety fact sheet and to reject any proposed ordinances.

Sarah Spence of 1922 Barrel Springs addressed her concerns about easements, the failure of the Planning Department to grant compliance, and the need to increase public outreach. She recommended the county mail information to all pipeline property owners, work with Patti Chambers to work with the citizens, and conduct an evening informational meeting, followed by a Saturday workshop. Ms. Spence also suggested providing a voluntary information database to the pipeline companies.

Bill Wallace of 16273 Par Far Lane in Burlington was present and stated that he was speaking on behalf of the Burlington/Edison School District. He suggested that the County needed to provide more public outreach. He suggested that the pipeline operators and state and federal regulators participate in any further discussion.

Alan Callery of 16969 Canterbury Road in Bellingham spoke in opposition to any setback regulation. He urged the Commissioners to provide more notification to property owners.

Seth Woolson of 1500 Railroad Avenue in Bellingham, was present to represent John Bouslog and Bouslog Properties. He said that his client was against shifting

the cost, risk and potential liability of owning and operating pipelines from pipeline operators to the adjacent property owners. He spoke in opposition to any setbacks and other regulation placed upon adjacent properties. He spoke in favor of consultation zones and urged the Commissioners to review the draft ordinance which was drafted on behalf on behalf of John Bouslog and Bouslog Properties.

George Wolner of 1644 Highway 9 in Sedro-Woolley said that there was a need for better communication with the public.

Tim Meyer of 3339 Deer Trails Lane in Bow spoke about the lack of notification to property owners adjacent to the pipeline.

Carl Weimer of 1055 W. Laurel Road in Ferndale, a member of the Whatcom County Council Executive Director of the Pipeline Safety Trust, local representative of the Pipelines and Informed Planning Alliance (PIPA). Commented on the PIPA Report and that there was no mention in the report of setbacks in the report. He also commented on the importance of consultation zones, public education, and communication.

Gary McKinney of 8568 Southridge Place in Anacortes commented on his experience as a former natural gas pipeline employee. Mr. McKinney said that the federal and state governments should be involved before any proposals were drafted.

John Ravnik of PO Box 361 in Burlington asked the Board of County Commissioners to read all the public comments submitted to the Planning Department regarding pipeline safety. He commented on the effects of the Potential Impact Radius.

Ed Stauffer of PO Box 1144 in Bow spoke about the timeline of the Pipeline Safety Grant that was awarded to Skagit County. Mr. Stauffer commented on the lack of public outreach. He suggested that if there were any resources left, the County have engineers perform a risk assessment.

Sondra Stauffer of 17160 Barrel Springs Road said she supported the Planning Commissions' recommendation to not adopt the Planning and Development Services Department's recommendation. Ms. Stauffer spoke about the Community Pipeline Safety Meeting held on August 24, 2011, in the Burlington Public Library and submitted data gathered at that meeting. Ms. Stauffer suggested that if any funds remained from the grant, that engineers from Skagit County Public Works Department should be involved in performing a risk assessment.

Paul Taylor of 20388 Eric Street in Mount Vernon addressed the amount of time and effort that the public has spent on this issue. He suggested the County return the funds from the grant. He suggested that pipeline operators notify the County and property owners when any maintenance is done on the pipelines.

Carol Ehlers of 3988 Wind Crest Lane in Anacortes spoke about the need to consider the impact of petroleum pipelines. Ms. Ehlers suggested that the County get a copy of the Washington State Pipeline Atlas to aid in emergency planning. She went on to say that the County should provide reference footnotes in any documents that are produced.

Helen Cooley of 16430 Lookout Lane in Bow agreed with the previous comments about the need for more public education regarding the pipeline safety issue. Ms. Cooley urged the Commissioners to reject any proposals.

Jason Easton, Chair of the Skagit County Planning Commission, said that in his experience on the Planning Commission, it was unusual for them to reject the recommendation of the Planning Department. He stated that the Planning Commission voted 8-0 to reject the recommendation of the Planning Department.

Commissioner Dillon thanked everyone for attending the hearing.

Commissioner Dahlstedt said he would not support any mandatory setbacks.

Chairman Wesen agreed that he did not support setback areas and thanked everyone for attending.

IV. CONSENT AGENDA (items 1 through 7):

a) COMMISSIONERS' OFFICE:

1. Record of the Proceedings for Monday, September 6, 2011. **(Approved)**

b) ADMINISTRATIVE SERVICES:

2. Resolution to receive National Forest Related Safety-Net Payments under P.L. 106-393 for Fiscal Year 2011/2012. **(Resolution No. R20110285)**
3. Personal Services Agreement with Timothy Kiehl LLC, principal TRKLLC, to provide strategic planning support and facilitation services to Skagit County Emergency Management Services. The Agreement shall commence on the date of execution and continue until March 31, 2012. Compensation shall not exceed \$64,490. **(Contract No. C20110400)**

c) BUDGET AND FINANCE:

4. Resolution authorizing a call for a public hearing to amend the 2011 Skagit County Budget. The public hearing is scheduled to take place on Tuesday, September 27, 2011, at 9:30 a.m. **(Resolution No. R20110286)**

d) PUBLIC WORKS:

5. Construction Contract Agreement with Lakeside Industries, Inc. in the amount of \$918,638.75 for the 2011 Asphalt Overlay Project #ESAO11-1. **(Contract No. C20110401)**
6. Temporary Construction Easement with The United States of America in Trust for the Upper Skagit Indian Tribe, and Letitia J. Brown for a portion of Skagit County Assessor Tax Parcel Number P49441. The purpose of this Easement is for bank stability work including relocation of existing channel spanning structure, installation of large woody debris, bank slope-back and

installation of coir lifts. The Easement shall commence on the date of execution, and continue for one year. Compensation for work associated with this Easement is 75% funded by the Washington State Department of Ecology Grant G0900062, Natural Resource Stewardship Program, Skagit County Contract No. C20080607, and 25% funded by the Clean Water Fund, Fund 120. **(Contract No. C20110402)**

7. Amendment No. 1 to Vendor Services Agreement No. C20110119 with McAsphalt Industries Limited. This Amendment adds hauling rates for the contractor to transport liquid asphalt out to job sites other than the Burlington Shop holding tanks. All other terms and conditions of the original Agreement shall remain in effect. **(Amendment No. A20110125)**

V. RATIFICATION AGENDA (Items 8 through 11):

e) HEALTH:

8. Resolution authorizing the execution of a Personal Services Agreement with Health Jurisdiction Agreement with Washington State Health Care Authority, Agreement No. 1163-33999, (a/k/a Department of Social and Health Services) for the Access to Baby and Child Dentistry (ABCD) Local Activities program. The Agreement was received from Washington State Health Care Authority after the start date of the contract, and it was of mutual benefit to both parties to allow work to commence before the Agreement was fully executed. **(Resolution No. R20110287)**
9. Health Jurisdiction Agreement with Washington State Health Care Authority, Agreement No. 1163-33999, (a/k/a Department of Social and Health Services) for the Access to Baby and Child Dentistry (ABCD) Local Activities program. This Agreement provides public health nurses to perform outreach and recruitment of Medicaid-eligible children ages birth to six, in collaboration with other organizations. The Agreement commenced on July 1, 2011 and shall continue until June 30, 2013. Compensation from Washington State Health Care Authority shall not exceed \$60,000. **(Contract No. C20110403)**

f) PUBLIC WORKS:

10. Resolution authorizing the execution of a Personal Services Agreement with Christine Betchley to perform Task 7: Young Beach Stewards, one of seven tasks identified in the Washington State Department of Ecology Grant Agreement #G1200005. Due to the time required to fully execute the Department of Ecology Grant and the Personal Services Agreement, and the need to begin work as soon as possible, it was necessary to obtain authorization from Skagit County Public Works staff for work to start effective September 6, 2011. **(Resolution No. R20110288)**
11. Personal Services Agreement with Christine Betchley to perform Task 7: Young Beach Stewards, one of seven tasks identified in the Washington State Department of Ecology Grant Agreement #G1200005. The Agreement commenced on September 6, 2011, and shall continue until December 31, 2011. Compensation shall not exceed \$3,600. **(Contract No. C20110404)**

VI. VOUCHERS AND WARRANTS:

1. 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, the Board by majority vote, did approve for payment those vouchers included in the above-mentioned list and further described as follows:
 - a) Warrants numbered 347637 through 347961 from Clearing Fund 696 in the total dollar amount of \$2,634,659.56 (Transmittal No. C-95-11); and
 - b) ACH Transfer Request Form and Certification to Trusteed Plans Service Corporation from Clearing Fund 696 in the total dollar amount of \$202,046.13 (Transmittal No. C-96-11); and
 - c) Payroll warrants numbered 286600 through 287329 in the total dollar amount of \$1,155,882.27 (Transmittal No. P-33-11); and
 - d) Junior District Payroll warrants number 993928 through 994092 in the total dollar amount of \$261,256.50 (Transmittal No. P-34-11).

VII. ADJOURNMENT:

Chairman Wesen adjourned the proceedings at 8:08 p.m.

The Commissioners attended an executive session from 3:36 p.m. to 4:19 p.m. The purpose of the executive session was Potential Litigation - RCW 42.30.110(1)(i). (Matters relating to County enforcement actions, actual litigation, or potential litigation.) The following attorneys were present at the executive session and gave legal advice to the Board of County Commissioners: Rich Weyrich, Will Honea, and Ryan Walters. Commissioners Ron Wesen, Ken Dahlstedt, and Sharon Dillon, County Administrator Tim Holloran, Planning and Development Director Gary Christensen, Building Official Tim DeVries, and Senior Planner Betsy Stevenson attended the executive session as well.

**BOARD OF COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

Ron Wesen, Chairman

Kenneth A. Dahlstedt, Commissioner

Sharon D. Dillon, Commissioner

ATTEST:

Linda Hammons, Clerk of the Board