

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS
MONDAY, OCTOBER 24, 2011**

The Skagit County Board of Commissioners met in regular session on Monday, October 24, 2011, with Commissioners Sharon D. Dillon, Kenneth A. Dahlstedt, and Ron Wesen 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. - 10:30 a.m. Briefing - County Commissioners/County Administrator
- b) 1:30 p.m. - 2:00 p.m. Consent Agenda, Vouchers, Warrants, and Miscellaneous Items

A motion was made by Commissioner Dillon to approve the Consent Agenda Items 1 through 18, Ratification Items 19 and 26, vouchers and warrants for Monday, October 24, 2011. Commissioner Dahlstedt seconded the motion. The vote passed unanimously.

1. CONSENT AGENDA (items 1 through 18):

a) COMMISSIONERS' OFFICE:

- 1. Record of the Proceedings for Tuesday, October 18, 2011.
(Approved)
- 2. Resolution changing the deadline for taxpayer property tax petition to the Skagit County Board of Equalization.
(Resolution No. R20110331)

b) ASSESSOR:

- 3. Personal Services Agreement with The Masters Touch to provide printing and mailing Change of Value notices. The Agreement shall commence on October 24, 2011, and continue until December 31, 2012. Compensation shall not exceed \$9,000. **(Contract No. C20110456)**

c) BUDGET AND FINANCE:

- 4. Interlocal Cooperative Agreement with the City of Sedro-

Woolley to award Economic Development Public Facility grant funds. The Agreement commenced on September 20, 2011, per Resolution No. R20110298, and continues until March 19, 2013. Compensation shall not exceed \$300,000. **(Contract No. C20110457)**

d) CLERK'S OFFICE:

5. Interlocal Agreement with Washington State Office of the Attorney General to establish terms and conditions under which Skagit County agrees to allow electronic access to adult criminal non-confidential documents on a subscription basis. The Agreement shall commence on the date of execution, and shall continue through June 30, 2012. Skagit County will bill Washington State Office of the Attorney General \$125 each quarter. **(Contract No. C20110458)**

e) COMMUNITY SERVICES:

6. Personal Services Agreement with NAMI Skagit to provide education and outreach services to individuals living with mental illness. The Agreement shall commence on January 1, 2012, and continue until December 31, 2012. Compensation shall not exceed \$12,000 and is funded by the 0.1% sales tax. **(Contract No. C20110459)**
7. Personal Services Agreement with Marianne Shapiro to provide mental health services through the Community Wellness Program. The contract shall commence on the date of execution, and continue until December 31, 2012. Compensation shall not exceed \$20,000 and is funded by the 0.1% sales tax. **(Contract No. C20110460)**
8. Amendment No. 1 to Personal Services Agreement No. C20110379 with Catholic Community Services. This Amendment extends the contract four months, ending June 30, 2012, and increases compensation by \$175,000, for a new total compensation amount not to exceed \$450,000. All other terms and conditions of the original Agreement shall remain in effect. **(Amendment No. A20110146)**

f) FACILITY MANAGEMENT:

9. Resolution awarding the Skagit Miscellaneous Tenant Improvement Projects at 700 S. Second Street and 1700 East College Way, Mount Vernon to IMAC, Inc. in the amount of \$81,950.13 plus applicable sales tax. IMAC, Inc. was the lowest bidder to meet the specifications for these projects. **(Resolution No. R20110332)**
10. Vendor Services Agreement with Northwest Moving and Storage, Inc. to provide labor and materials necessary to move

and relocate a County department to 1700 East College Way and various County offices to 700 South 2nd Street, Room 202 in Mount Vernon. The Agreement shall commence on the date of execution, and continue for one year. Compensation shall not exceed \$2,755.75 plus applicable sales tax. **(Contract No. C20110461)**

11. Personal Services Agreement with Howard Consulting, LLC, Contractor, to provide on-call Capital Project Management services to Skagit County by telephone, email, or in-person, as requested by the County Administrator, and to assist other project managers as needed. The Agreement shall commence on the date of execution, and continue until December 31, 2013. Compensation shall not exceed \$150,000. **(Contract No. C20110462)**

g) PARKS, RECREATION, AND FAIRGROUNDS:

12. Amendment No. 1 to Vendor Services Agreement No. C20110086 with Mimnaugh Excavation, LLC. This Amendment increases compensation by \$1,000 so that a Whitewater DF 150 Air Compressor can be installed for the septic system at the Swinomish Boat Launch. The new total compensation amount shall not exceed \$2,500. All other terms and conditions of the original Agreement shall remain in effect. **(Amendment No. A20110147)**

h) PUBLIC WORKS:

13. Interlocal Cooperative Agreement with Skagit County Drainage and Irrigation Improvement District No. 14 to construct stormwater capital improvement projects within the district. The Agreement shall commence on the date of execution, and continue for twenty years. Compensation shall not exceed \$885,000. **(Contract No. C20110463)**
14. Interlocal Cooperative Agreement with Skagit County Dike, Drainage and Irrigation Improvement District No. 12 to construct stormwater capital improvement projects within the district. The Agreement shall commence on the date of execution, and continue for twenty years. Compensation shall not exceed \$225,000. **(Contract No. C20110464)**
15. Temporary Easement with Steven Kramer and Sharilyn Kramer for a portion of Skagit County Assessor Tax Parcel No. P36693. The purpose for the Temporary Easement is to allow for riparian restoration work and weed control. The Temporary Easement shall commence on the date of execution and continue for ten years. All work associated with this temporary conservation easement is 75% funded by the Washington State Department of Ecology Grant No. G0900062, Natural Resource Stewardship Program, Skagit County Grant Funding Agreement

No. C20080607, and is 25% funded by the Clean Water Fund 120. **(Contract No. C20110465)**

i) RISK MANAGEMENT:

16. Personal Services Agreement with End Results Training, LLC to provide specialized training for the Sheriff's Department and Juvenile Corrections. The Agreement shall commence on October 31, 2011, and continue until October 31, 2012. Compensation shall not exceed \$10,000. **(Contract No. C20110466)**

j) SHERIFF:

17. Amendment No. 2 to Agreement No. C20110414 with Safe Boats International, LLC. The purpose of this Amendment reduces the price of the boat by \$11,173.07, for a new total compensation amount not exceed \$528,468.27. All other terms and conditions of the original Agreement shall remain in effect. **(Amendment No. A20110148)**

k) TREASURER:

18. Memorandum of Understanding with Washington State Department of Revenue for the alternate transmittal of Real Estate Excise Tax Affidavits in the form of electronic data. The Memorandum of Understanding shall become effective from the date all parties have signed and continue until either party formally withdraws. **(Contract No. C20110467)**

2. RATIFICATION AGENDA (Items 19 through 26):

l) COMMUNITY SERVICES:

19. Resolution authorizing the ratification of Program Agreement No. 1163-38470 with the Department of Social and Health Services, Division of Behavioral Health and Recovery (DSHS-DBHR) to provide funds to implement the Residential Substance Abuse Treatment Program for the provision of chemical dependency treatment services to offenders incarcerated in the Skagit County Jail. Negotiation of the Agreement terms between DSHS-DBHR and Community Services delayed the finalization of the Agreement before the commencement date. **(Resolution No. R20110333)**
20. Program Agreement No. 1163-38470 with the Department of Social and Health Services, Division of Behavioral Health and Recovery (DSHS-DBHR) to provide funds to implement the Residential Substance Abuse Treatment Program for the provision of chemical dependency treatment services to offenders incarcerated in the Skagit County Jail. The Agreement commenced on October 1, 2011, and continues until

September 30, 2012. DSHS-DBHR shall compensate Skagit County \$98,456. **(Contract No. C20110468)**

21. Resolution authorizing the ratification of a Personal Services Agreement with Skagit Recovery Center to provide recovery support services to enrolled WA-CARES eligible clients. Development of the Agreement terms and Scope of Work delayed the finalization of the Agreement before the commencement date. **(Resolution No. R20110334)**
22. Personal Services Agreement with Skagit Recovery Center to provide recovery support services to enrolled WA-CARES eligible clients. The Agreement commenced on October 1, 2011, and shall continue until September 30, 2012. Compensation shall not exceed \$46,585 and is funded by DSHS-DBHR. **(Contract No. C20110469)**
23. Resolution authorizing the ratification of Amendment No. 2 to Program Agreement No. C20110203 with the State of Washington Department of Social and Health Services (DSHS No. 1163-24773) through the Division of Behavioral Health and Recovery which provides funding to Skagit County to implement the WA-CARES program for substance abuse treatment and support services to Drug Court clients. Receipt of the Amendment delayed its finalization before the commencement date. **(Resolution No. R20110335)**
24. Amendment No. 2 to Program Agreement No. C20110203 with the State of Washington Department of Social and Health Services (DSHS No. 1163-24773) through the Division of Behavioral Health and Recovery which provides funding to Skagit County to implement the WA-CARES program for substance abuse treatment and support services to Drug Court clients. This Amendment commenced on October 1, 2011, and extends the Agreement to September 30, 2012. This Amendment also increases compensation by \$46,585, for a new compensation amount not to exceed \$112,170. All other terms and conditions of the original Agreement shall remain in effect. **(Amendment No. A20110149)**

m) INFORMATION SERVICES:

25. Resolution authorizing the ratification of Interlocal Agreement with the Port of Anacortes to place pre-recorded Port of Anacortes meetings onto Skagit-21 and upload the meetings to the Internet for on-demand access, known as the Video Streaming Service. The signed Agreement was only recently received from the Port of Anacortes due to the negotiations regarding the date of termination of the Agreement. **(Resolution No. R20110336)**
26. Interlocal Agreement with the Port of Anacortes to place pre-

recorded Port of Anacortes meetings onto Skagit-21 and upload the meetings to the Internet for on-demand access, known as the Video Streaming Service. The Agreement commenced on January 1, 2011, and shall continue through December 31, 2012. Compensation from the Port of Anacortes is estimated in the amount of \$3,500. **(Contract No. C20110470)**

3. **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) ACH Transfer Request Form and Certification to Trusteed Plans Service Corporation from Clearing Fund 696 in the total dollar amount of \$123,365.09 (Transmittal No. C-109-11); and
 - b) Warrants numbered 349683 through 350033 from Clearing Fund 696 in the total dollar amount of \$1,567,338.73 (Transmittal No. C-110-11); and
 - c) Warrants numbered 350034 through 350099 from Clearing Fund 696 in the total dollar amount of \$135,936.56 (Transmittal No. C-111-11); and
 - d) Payroll warrants numbered 288768 through 289481 in the total dollar amount of \$1,101,092.50 (Transmittal No. P-39-11); and
 - e) Junior District Payroll warrants number 994429 through 994601 in the total dollar amount of \$244,721.22 (Transmittal No. P-40-11).

4. **MISCELLANEOUS:**

Civil Deputy Prosecuting Attorney Steve Fallquist presented two Real Estate Excise Tax Affidavits for the Commissioners consideration. He stated that these documents had not been received from Mr. and Mrs. Lennox's attorney when the Commissioners signed the Right-of-Way Easements on October 11, 2011.

1. **Real Estate Excise Tax Affidavit between W. M. Lennox Revocable Trust and Skagit County**

A motion was made by Commissioner Dillon to approve each Real Estate Excise Tax Affidavit between W. M. Lennox Revocable Trust and Skagit County and Joanne Williams Lennox and Skagit County regarding Right-of-Way Easement No. C20110441 and C20110442 for road purposes pursuant to Settlement Agreement C20100319, executed July 12, 2010.

Commissioner Dahlstedt seconded the motion.
The vote passed unanimously.

2. Real Estate Excise Tax Affidavit between Joanne Williams Lennox Revocable Trust and Skagit County

A motion was made by Commissioner Dillon to approve each Real Estate Excise Tax Affidavit between W. M. Lennox Revocable Trust and Skagit County and Joanne Williams Lennox and Skagit County regarding Right-of-Way Easement No. C20110441 and C20110442 for road purposes pursuant to Settlement Agreement C20100319, executed July 12, 2010. Commissioner Dahlstedt seconded the motion.
The vote passed unanimously.

Chairman Wesen recessed the proceedings at 1:33 p.m.

- c) *2:00 p.m. - 4:30 p.m. Executive Session (None Scheduled as of the Date of this Notice)
- d) 6:00 p.m. - 7:30 p.m. Public Hearing: To Consider Testimony Regarding Pipeline Safety Standards

Chairman Wesen reconvened the proceedings at 6:01 p.m.

Civil Deputy Prosecuting Attorney Ryan Walters stated that the notice for the public hearing was published on October 7, 2011, after the Commissioners requested the legal department draft a new Ordinance on October 4, 2011. Mr. Walters said that the Commissioners asked that the Ordinance include consulting with pipeline operators at 660 feet from transmission pipelines, protect pipeline easements during any kind of construction, give title notice to future property owners, clarify setback requirements, exclude dimensional standards or mitigation requirements, and exclude jargon language. Mr. Walters further explained the draft one-page proposed Ordinance with the Commissioners and said that a decision on the matter had been scheduled for Tuesday, November 8, 2011, at 10:30 a.m.

There was a brief discussion with audience member who did not identify himself regarding past minutes. Chairman Wesen opened the public hearing, explaining that each speaker would have three minutes each to testify on the pipeline safety standards.

Roger Mitchell of Bow thanked the Commissioners for continuing to work on refining the Ordinance. He also gave his appreciation to the work performed by the citizens, and commended the work of the Planning Commission. Mr. Mitchell stated that he believed no new pipeline safety regulations were necessary at the local level, as he would be concerned that local regulations would shift liability to the County. He also believed that pipelines should be treated differently depending on

what they transported. Mr. Mitchell then shared that R.C.W. 19.122 was a Washington State Law which outlined pipeline safety regulations and that if Skagit County were to implement codes in relation to pipeline safety, they should simply refer to R.C.W. 19.122. Kathy Mitchell of Bow agreed with Mr. Mitchell's comments and stated that a 660 foot setback was too large and that the draft ordinance brought forward by the legal department which Mr. Walters explained should not move forward as it was written.

Interim Director of Skagit County Department of Emergency Management Mark Watkinson stated that his department was ready to produce public education materials about pipeline safety and plan for emergency response coordination, as directed by the Board.

Mike Newman of Mount Vernon stated that the proposed Ordinance was unnecessary and he questioned the choice of spending time and money on this issue when time and money should instead be spent on other things such as the issue of letting criminals out of jail sooner due to overcrowding. He urged the Commissioners to stop any Ordinance.

Ed Stauffer of Bow asked if the pledge of allegiance should have been said. Chairman Wesen answered that it was said in the morning in session.

Mr. Stauffer expressed his displeasure that no minutes were taken at a May 9, 2011 community meeting that the Commissioners attended. He discussed the pipeline explosion in Bellingham approximately 10 years ago, a Pipeline Safety Plan for Skagit County, the PIPA report, and that a risk assessment had not been performed. He pointed out that the Commissioners were proposing an Ordinance for the entire County but that highly populated areas should actually be treated differently than sparsely populated areas which have less risk. Mr. Stauffer believed the Ordinance and work performed was wrong and that it challenged his constitutional rights as well as limited his use of his own property. He did agree that a SEPA checklist was a good idea.

Ed Little of Anacortes said he had property that a pipeline traversed. He briefed the Commissioners on the limitations already in place on his parcel. Mr. Little said he was not aware of the pipeline meetings or proposed Ordinance until recently as he and many others in the county do not receive the Skagit Valley Herald. Mr. Little stated that his property rights were being infringed upon and that state laws in place adequately addressed pipeline safety issues. He described what happens when he needs to dig or move a lot of material within 100 feet of the pipeline: representatives of the pipeline come watch and advise them while they work in order to protect the integrity of the pipeline. Mr. Little did not understand why Skagit County was proposing such an Ordinance and questioned if it provided a source of revenue, or if it was a matter of control, or if it was because the state gave the county money to perform the project. He stated a 660 foot setback was too much and that 100 feet would please him. He ended by saying that permits should not be required for work near pipelines, that instead owners should contact the pipeline company directly.

John Ravnik of Burlington stated that the new draft Ordinance was almost ready.

Mr. Ravnik discussed the proposed the Ordinance from the point of view as a contractor working near a pipeline and pointed out that people who write code need to be aware of how well a written law is implemented in the field. He described his work with pipeline companies, said that a 100 foot consultation zone with the pipeline companies was sufficient, and agreed that a SEPA checklist made sense. He asked that the Commissioners rely on the pipeline companies instead of Planning and Development Services. He ended by saying that the Ordinance could be simplified and he offered his help.

Paul Taylor thanked the Commissioners for the hearing and said that he believed the new proposed Ordinance was poorly written, vague, and unnecessary. He said that too much within the Ordinance was subject to interpretation. Mr. Taylor was concerned that some portions of the Ordinance may constitute a taking of private property. Mr. Taylor questioned why a 660 foot setback was proposed and that there was nothing to support such a large distance. He shared that it was difficult as a property owner to work with Planning and Development Services and he would not support increased regulations. Mr. Taylor questioned the findings of the third party independent review of the County's compliance with the grant. Mr. Taylor asked the Commissioner to read his submittal as he has offered solutions on the matter.

Seth Woolson was present on behalf of Bouslog Properties, he stated that his client believed further revisions to the draft Ordinance were needed as language was vague. Mr. Woolson suggested that if Planning and Development Services (PDS) was going to communicate with the pipeline company in lieu of the property owner, then the Ordinance should outline deadlines for contact made with companies for PDS. Mr. Woolson stated that his firm and client believed that direct contact between the property owner and Pipeline Company would be better.

Maggie Sullivan of Alger agreed with Roger Mitchell's proposal to follow existing laws as well as Mr. Ravnik's suggestion that consultation zones for residences be reasonable and make sense for the type of pipeline nearby. She questioned who would be responsible if people were injured, and she shared that she found out that pipelines do not move around unless they have not been properly embedded or if there is erosion.

John Lovric stated that a 660 foot setback would make his 2 acre parcel unusable. He stated that he agreed with the other speakers and briefed the Commissioners on his experience with pipeline companies when he needs to dig or move materials near the pipeline.

Sondra Stauffer of Bow questioned why the Ordinance was necessary and did not believe that PDS needed to go between the property owner and the pipeline company. Ms. Stauffer questioned why the many respected professionals who have offered their services to Skagit County have not been contacted for help. She ended by saying that the proposed Ordinance was unnecessary and that the State law was sufficient.

Tim Meyer of Bow did not approve of the way PDS formed the draft ordinance and asked how many citizens were notified of the proposal. Mr. Meyer believed the

grant was applied for and used in order to keep an employee employed within PDS. Mr. Meyer ended by saying that further regulations were unnecessary.

Sarah Spence of Barrel Springs Lane discussed a conference she attended and pointed out that after the pipeline explosion in Bellingham, pipeline companies have improved their services and attitude with property owners. She ended by saying that a risk assessment should be performed.

Carol Ehlers of Anacortes believed an Ordinance was necessary and she wanted more discussion on what should be done instead of what should not be done. Ms. Ehlers discussed the need for an emergency management process and policy. She discussed policies from 1997 and 2000. She said communication channels were needed between the County, First Responders, and Cities and she said that she agreed with John Ravnik's practical approach. Ms. Ehlers thanked the GIS Department for mapping out the pipelines in Skagit County. Ms. Ehlers wished that there was more public outcry when Skagit County Code 14.38 was written as it infringes on her property rights.

David Wallace of Anacortes stated that he owns a small farmhouse with a well and septic system within 50 feet of a pipeline and above ground safety valve. Mr. Wallace said that as the current proposed Ordinance is written, he could not shovel or till his garden or do much in the way of home improvements without breaking Skagit County Code. He stated he was worried about the cooperation from the pipeline companies and is now worried he could lose everything. Mr. Wallace stated that he would have to fight the current proposed Ordinance with an attorney as it takes away all of his rights to his property.

Mr. Walters reiterated what was in the proposed one-page Ordinance.

Commissioner Dillon appreciated Mr. Ravnik's comments and also liked the idea of having a timeframe in place for PDS. She stated that if the Commissioners were going to move forward with the current draft Ordinance, she would want to insert timeframes and deadlines as proposed by Mr. Woolson.

Commissioner Dahlstedt reassured the audience that the Commissioners were listening and he pointed out that in his eleven years as a County Commissioner there have not been evening public hearings on previous matters. He stated that the intent of the Ordinance was not to take away property rights. He appreciated Mr. Mitchell and Mr. Ravnik's comments and suggestions and he stated that he would like to explore those avenues and come forward with an Ordinance that makes sense.

Chairman Wesen thanked everyone for being present and giving testimony. He announced that a possible decision was scheduled for Tuesday, November 8, 2011 at 10:30 a.m. He stated that he understands everyone's comments as he has property that is traversed by a pipeline.

Sufficient notification by mail or newspaper on important matters were discussed as well as a request for more back and forth dialog between the Commissioners and public.

Chairman Wesen thanked everyone for attending and the public hearing ended.

VIII. ADJOURNMENT:

Chairman Wesen adjourned the proceedings at 7:34 p.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