

Approved on September 20, 2018



**Washington State Conservation Commission Special Business Meeting
Lacey, Washington
August 29, 2018**

The Washington State Conservation Commission (Commission/SCC) met in special session on August 29, 2018, in Lacey Washington. Chairman Kropf called the meeting to order at 8:37 a.m.

COMMISSIONERS PRESENT

Jim Kropf, Chairman
Dean Longrie, Vice-chairman, West Region
Harold Crose, Central Region
Daryl Williams, Governor Appointed Member
Sarah Spaeth, Governor Appointed Member
Perry Beale, Dept. of Agriculture
Carol Smith, Dept. of Ecology
Thomas Miller, WA Association of Conservation
Districts (WACD) attended via teleconference

COMMISSION STAFF PRESENT

Mark Clark, Executive Director
Ron Shultz, Policy Director
Eleanor Dovey, Fiscal Manager
Lori Gonzalez, Executive Assistant
Alicia McClendon, Administrative Assistant

Guest attendance in person: Please see **Attachment A: August 29 Meeting Sign-in Sheet**.

Webinar Participants: Mike Baden, Kristen Balko, Karen Bishop, John Bolender, Bill Eller, Keith Folkerts, Karla Heinitz, Laura Johnson, Monte Marti, Susan Ritter, Robert Schroeter, Sandi Gray, and Diana Moore.

Chairman welcomed everyone for joining today in person and via Webinar. Director Clark walked through the agenda for the morning before turning back over to Chairman. Mr. Kropf announced the meeting was being recorded for administrative purposes. All lines were muted except for Commissioner Thomas to allow him to participate in discussions and needed action items. Participants online were unmuted during the public comment period.

Public comment: Everyone who had signed in at the front entrance to provide public comment was called forward to speak on Item 1 on the agenda, Thurston Conservation District Investigation. Each person was allowed three minutes and was asked to remain respectful to each commenter. See **Attachment B public comment sign-in sheet**. Please note: recording is available online at the SCC [meetings webpage](#).

Public comment via online: none

After public comment, Mr. Kropf called an executive session per [RCW 42.30.110 \(f\)](#) Receiving & evaluating complaints or charges at 9:40 a.m. and asked all participants to exit the room except

for all commission members, Mark Clark, executive director, Ron Shultz, policy director, Phyllis Barney, ATGO, and Ann Essko from the ATGO. Everyone was to return at 10:55 a.m.

10:55 a.m., the 2nd executive session began per [RCW 42.30.110 \(i\)](#) to discuss with legal counsel representing the agency, matters relating to agency enforcement actions or potential litigation. All members and staff were asked stay outside while all members and legal counsel were to remain present during this session. All participants returned at 11:10 a.m.

Commissioner Cochran thanked everyone and was in support of an administrative hearing. Director Clark asked members to be thoughtful of the time, costs and staff work that lies ahead. Commissioner Crose thanked everyone for coming to the meeting. He stated it was disheartening to see a conservation district go through this and agrees with his counterparts to have a fair hearing. Commissioner Williams also thanked everyone for their comments and wants to see a fully functioning entity serving the public and also favored a hearing to hear both sides.

Commissioner Crose asked members of the public to send additional comments to the Conservation Commission prior to hearing for review by members.

Costs associated with the hearing was asked. Phyllis Barney replied costs would come out of the SCC budget. Director Clark also commented the SCC will be submitting a supplemental budget request to aid in the costs.

The following motions were made:

Motion by Commissioner Longrie for the SCC to hold a public hearing on the Thurston Conservation District investigation. Seconded by Commissioner Williams. Motion passed. Commissioner Smith recused herself from this motion.

Motion by Commissioner Cochran to conduct an Open Public Meeting Act (OPMA) hearing on the possible removal of Thurston Conservation District supervisors. Second by Commissioner Miller. Motion passed. Commissioner Smith recused herself from this motion.

Motion by Commissioner Beale to hold the Thurston Conservation District investigation hearing sometime between October 1 and October 31, 2018. The executive director to work with the executive committee of the Commission shall determine the date, time and location of the hearing. Seconded by Commissioner Crose. Motion passed. Commissioner Smith recused herself from this motion.

Motion by Commissioner Williams to authorize the SCC to hire a hearings examiner to conduct the Thurston Conservation District investigation hearing. Seconded by Commissioner Crose. Motion passed. Commissioner Smith recused herself from this motion.

Motion by Commissioner Williams to authorize the SCC AAG's to engage with attorney's representing the Thurston Conservation District supervisors subject to proposed removal regarding potential settlement of Thurston Conservation District supervisor investigation. Settlement discussions to be completed two days (Sept. 18) prior to the September Commission meeting. Second by Commissioner Spaeth. Motion passed. Commissioner Smith recused herself from this motion.

Item 2 Operating Budget

At the July Commission meeting, members authorized staff to proceed with the development of the budget packages presented. Staff continued development and provided members with the descriptions and amounts for each package. Members reviewed packages and discussed which packages were to go in priority order for submittal to the Office of Financial Management by the September 12 deadline.

Descriptions of the packages presented can be found on the SCC website titled: [2019-21 budget review and approval memo](#).

Motion by Commissioner Williams that the 2019-21 WSCC operating budget funding proposals as presented at the August 29, 2018 Commission special meeting are approved for submittal to the Office of Financial Management in the following priority order and funding amount (see below). Seconded by Commissioner Crose. Motion passed.

1	Conservation Technical Assistance	\$ 17,134,000	
2	Working Lands	\$1,648,000	
3	Voluntary Stewardship Program	\$ 9,925,000	
4	Fire Adapted Communities, Forest & Rangeland Health, Wildfire Recovery	\$ 9,950,000	
5	Conservation Education	\$ 1,395,000	
6	Natural Disaster Resiliency	\$ 400,000	
7	Cultivating Stewardship through Targeted Outreach	\$1,028,000	
8	Agricultural Conservation Science Program	\$3,975,000	
	Total Biennium Request		\$45,455,000

Capital Budget

Motion by Commissioner Williams that the 2019-21 WSCC capital budget funding proposals as presented at the August 29, 2018 Commission special meeting are approved for submittal to the Office of Financial Management in the following priority order and funding amount (see below). Seconded by Commissioner Longrie. Motion passed.

1	Natural Resource Investments	\$ 8,000,000	
2	Shellfish Funding	\$ 8,000,000	
3	CREP Riparian Funding	\$ 7,500,000	
4	Match for RCPP	\$ 11,800,000	
5	Irrigation Efficiencies	\$ 8,906,000	
6	Engineering Project Design and Implementation	\$ 2,700,000	
7	CREP PIP Loan	\$ 499,000	
8	Farmland Preservation	\$ 12,031,000	
	Total Biennium Request		\$ 59,436,000

Item 3 Proposed Legislation re: Engineering Services at conservation districts

Recently, staff at the Washington State Auditor's Office (SAO) informed the State Conservation Commission and conservation districts that the employment and use of engineers by conservation districts violates state statutes relating to the contracting for services by local governments.

The SAO position is based upon a 2011 Attorney General Opinion (AGO), which states that a state or local agency or special district may not contract directly with another agency for architectural or engineering services, without first complying with the procurement procedures specified in statute. AGO 2011 no. 2.

The AGO further states a state or local agency or special district must first comply with the procurement procedures under RCW 39.80 when acquiring "professional services" as defined in RCW 39.80.020. The Interlocal Cooperation Act, RCW 39.34, does not excuse compliance with those requirements, but does allow public agencies to join together in acquiring such services. The AGO recognized that other specific statutes may independently authorize an agency or special district to contract directly with another agency or special district for architectural or engineering services.

The SAO position is a conservation district does not have specific authority in statute to enter into a contract with other conservation districts for engineering services.

Mr. Shultz further noted the SAO is prepared to issue audit findings against conservation districts who obtain engineering services through the conservation district "engineering clusters". It is the SAO position that conservation districts must procure engineering services in a manner consistent with state statutes relating to procurement of services by local governmental entities.

Conservation Commission staff have communicated with the SAO and argued there are provisions in RCW 89.08 which authorize the Commission and conservation districts to enter into agreements for the procurement of engineering services. In members meeting packets is a memo from Mark Clark to the State Auditor's Office dated June 6, 2018. The SAO disagrees with this interpretation, and suggests the best corrective measure would be to put specific authority in RCW 89.08 for procuring engineering services.

Mr. Shultz included and presented the draft legislation to address this situation. You may visit the SCC's [meetings webpage](#) for documents referenced in the minutes.

Motion by Commissioner Cochran, the Commission staff is authorized to develop agency request legislation for the 2019 Legislative Session to address concerns raised by the State Auditor's Office regarding conservation district use of engineers and engineering clusters. Commission staff shall keep the Commission informed as to the proposed bill language and discussions on this topic proceed. Seconded by Commissioner Crose. Motion passed.

Chairman Kropf adjourned at 12:38 p.m.