

WASHINGTON STATE CONSERVATION COMMISSION

IN THE MATTER OF THE )  
REMOVAL OF **ERIC JOHNSON** AND ) FINDINGS OF FACT  
**RICHARD MANKAMYER** )  
FROM THEIR POSITIONS AS THURSTON )  
CONSERVATION DISTRICT SUPERVISORS )

**INTRODUCTION**

In response to a complaint, the Washington State Conservation Commission (Commission) directed Commission staff to conduct an investigation into actions of the five-member Board of Supervisors of the Thurston Conservation District (TCD), pursuant to the Commission’s authority under RCW 89.08.200 and WAC 135-110-960. Staff completed an investigation, and issued an investigative report containing staff’s conclusions on eleven enumerated allegations (“complaints” or “charges”).<sup>1</sup> The staff report included seven recommended options for Commission action, two of which were the removal of two of the five TCD supervisors, Eric Johnson and Richard Mankamyer, for malfeasance and neglect of duty.

Eric Johnson was appointed as a Supervisor of TCD by Commission to a term of office beginning May 2016 through May 2019. Richard Mankamyer was elected as a Supervisor of TCD to a term of office beginning May 2017 ending May 2020.

The two supervisors submitted a written response to the staff findings. At a special Commission meeting August 29, 2018, the Commission voted to hold a public hearing on the Thurston Conservation District Investigation.

<sup>1</sup> The numbers assigned to each complaint or charge herein are as designated in the investigative report.

The public hearing was held in Olympia, Washington on February 20, 2019. The question presented for hearing was:

Whether either or both of the named conservation district supervisors [Supervisor Johnson and Supervisor Mankamyler] should be removed from office by the Conservation Commission as provided in RCW 89.08.200, which reads in relevant part: “A [conservation district] supervisor may be removed by the state conservation commission upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.”

During the hearing, the Commission received evidence in the form of witness testimony and admitted exhibits from the Commission’s investigative staff and the supervisors.

Public comment was not taken. Following the hearing and deliberation, the Commission found:

Neglect of duty on the part of Mr. Johnson and Mr. Mankamyler on Charge 2 and Charge 4;

Malfeasance on the part of Mr. Johnson and Mr. Mankamyler on Charge 5;

Malfeasance on the part of Mr. Johnson on Charge 7.

The Commission voted for the removal of Mr. Johnson and Mr. Mankamyler.<sup>2</sup>

### **Definitions – WAC 135-110-110**

**Malfeasance** means wrongful conduct that affects, interrupts, or interferes with the performance of a supervisor's official duty.

<sup>2</sup> Commissioner Carol Smith recused from the hearing, was not present during the hearing after her recusal, and did not vote. Commissioner Larry Cochran was unable to attend the hearing, and did not vote.

**Neglect of duty** means failure by a supervisor or supervisors to perform mandatory duties. Such duties include, but are not limited to:

- (a) Compliance with laws and rules imposed by local, state, and federal government entities;
- (b) Attendance at a sufficient number of board meetings so as to not impede the work of the conservation district;
- (c) Maintaining a full and accurate record of district business;
- (d) Securing of surety bonds for board officers and employees;
- (e) Carrying out an annual financial audit;
- (f) Providing for keeping current a comprehensive long-range program;
- (g) Providing for preparation of an annual work plan;
- (h) Providing for informing the general public, agencies, and occupiers of lands within the conservation district of conservation district plans and programs;
- (i) Providing for including affected community members in regard to current and proposed plans and programs; and
- (j) Providing for the submission of the conservation district's proposed long-range program and annual work plan to the conservation commission.

## **RECORD**

In making these findings, the Commission considered the following record:

- Thurston Conservation District Investigation Report and Exhibits contained in the Appendices (Investigation Report), submitted by Ron Shultz and Kirk Robinson, WSCC Staff (July 16, 2018);
- Response to SCC Investigation Report and Exhibits by Supervisors Johnson & Mankamyer (Response), submitted by Shawn Timothy Newman (August 14, 2018);

- Hearing Brief – In the Matter of Removal of Eric Johnson, Supervisor, Thurston Conservation District, submitted by Ron Shultz and Kirk Robinson (November 26, 2018);
- Hearing Brief – In the Matter of Removal of Richard Mankamyer, Supervisor, Thurston Conservation District, submitted by Ron Shultz and Kirk Robinson (November 26, 2018);
- Supervisors’ Brief & Supplemental Response; Continuing Objections; and Motions to Recuse, submitted by Shawn Timothy Newman (November 26, 2018);
- Prehearing Order (December 5, 2018);
- Second Prehearing Order (December 6, 2018);
- Third Prehearing Order (February 13, 2019);
- Preliminary Motions: Motion to dismiss complaint vs. Supervisory Richard Makamyer, Motion to disqualify Commissioners, Motion to disqualify Mr. McLean submitted by email by Mr. Newman (February 4, 2019 12:12pm);
- Washington State Conservation Commission Staff Response to Supervisors’ Motions (February 15, 2019);
- Supervisors’ Reply to Staff Response to Supervisors’ Motions (submitted by email February 16, 2019, but dated 1/16/19);
- Conservation Commission Staff’s Final List of Witnesses and Exhibits (February 15, 2019);
- Supervisors’ Continuing Objections; Pretrial Order Issues; and Final Witness List (submitted by email February 15, 2019, but dated 1/15/19);

- Supervisors' Exhibits 3, 6-10, and 12-17 entered at hearing; and
- The full transcript of the public hearing held February 20, 2019. Witnesses testifying under oath were:

Kirk Robinson  
Diretha Hollenbaugh  
Sarah Moorehead  
James Goche  
Linda Powell  
Paul Mikoloski  
Joe Hanna  
Richard Mankamyer  
Eric Johnson  
Mark Clark

### **FINDINGS OF FACT RELATED TO CHARGES**

The Commission makes the following findings on the four complaints for which it found either Neglect of Duty or Malfeasance by the Supervisors. The Commission makes no findings on other complaints. The Commission makes these findings based on the preponderance of the evidence.

#### **Complaint #2: Supervisor Johnson and Supervisor Mankamyer failed to provide a timely and accurate record of District Business**

Commission Finding: Neglect of Duty

The Commission finds that Supervisor Johnson and Supervisor Mankamyer failed to maintain a full and accurate record of district business by failing to regularly review, finalize and sign district Board meeting minutes. Finalizing the minutes of district Board meetings took an unacceptably long time. Commission Regional Manager Shana Joy had notified the supervisors of problems regarding the minutes. The lack of ratified minutes impacted performance of all supervisors because they were left unsure what actions had

been taken. The lack of a clear record of district action items also negatively impacted the work of district staff, who were left without proper direction. While the supervisors testified that staff shortcomings were the cause of delays, the keeping of minutes and maintaining full and accurate records of district business is the responsibility of the supervisors.

**Complaint #4: Supervisor Johnson and Supervisor Mankamyer delayed approval of timesheets and signing of checks**

Commission Finding: Neglect of Duty

The Commission finds that Supervisor Johnson and Supervisor Mankamyer failed to maintain a full and accurate record of district business by failing to timely sign checks and approve timesheets. The district incurred late fees on overdue bills because checks were not properly signed and bills were not timely paid. Failure to properly update bank account signing authorities put the district at risk. While review of expenditures is an appropriate role for supervisors, the district had an approved budget, and routine expenses should have been able to be met in an orderly way. Supervisor Mankamyer received training regarding financial operations, but failed to implement proper procedures. District financial policies were inadequate. Delays in approving timesheets negatively impacted the districts ability to be reimbursed for work performed.

**Complaint #5: Supervisor Johnson and Supervisor Mankamyer engaged in inappropriate conduct and making inappropriate comments when working with District staff and failed to respond to the District's insurance carrier's risk-management recommendations**

Commission Finding: Malfeasance

The Commission finds that Supervisor Johnson and Supervisor Mankamyer failed to maintain a workplace free from perceived harassment, which affected, interfered with and interrupted the performance of the duties of supervisors, of staff and of the district. The Commission finds that the Supervisor Johnson and Supervisor Mankamyer also failed to implement the recommendations provided to the supervisors by Enduris, the risk sharing pool and risk management specialists for special purpose districts. This wrongful conduct added increased costs to the district in the form of a rate increase for coverage, and an increase in the district's deductible coverage. The district is at risk of losing coverage completely because of this conduct.

**Complaint #7: Supervisor Johnson failed to attend a District public hearing to consider future county funding for the District**

Commission Finding: Malfeasance

The Commission found that Supervisor Johnson failed in his duty, as district Board chair, to ensure proper funding for district activities. The Commission found that Supervisor Johnson acted wrongfully in a way that affected the financial future of the district by not attending a District public hearing on rates and charges by phone when that option was available.

**APPEAL**

The Commission's decision on removal is appealable to Thurston County Superior Court under RCW 34.05.570(4) – Review of other agency action.