

**Chehalis River Basin Flood Authority  
Special Meeting  
Conference Call  
December 3, 2010  
Meeting Notes**

**Board Members Present:** Terry Willis, Grays Harbor County Commissioner; Ron Averill, Lewis County Commissioner; Karen Valenzuela, Thurston County Commissioner; Mark White, Chehalis Tribe; Jim Cook, City of Aberdeen; Edna Fund, City of Centralia; Julie Powe, City of Chehalis; Ron Schillinger, City of Montesano; Dan Thompson, City of Oakville; Dolores Lee, Town of Pe Ell.

Commissioner Terry Willis brought the meeting to order. Bruce Mackey asked which Flood Authority members were present and determined that a quorum was reached.

Mr. Mackey said Flood Authority members asked to have this conference call in order to make a decision on whether to support the basin-wide flood control zone district legislation prepared by FCS Group. The legislation would provide an option for you if you want to use it in the future and it provides options for other entities in the state whose issues fall across jurisdictional lines.

Mr. Mackey said most of the cost of the legislation is a sunk cost, the cost of putting it together. It was made clear at the last meeting that Commissioner Willis would move this forward and support the Authority's position. Mr. Mackey said he would help her do that. Commissioner Averill said he would talk to Senator Swecker about sponsoring the legislation. Mr. Mackey said the cost would involve his time in helping Commissioner Willis. He will also work with the lobbyist for the Puget Sound Partnership to garner other support for the legislation. In putting together the testimony, he would share it with all the Flood Authority members so that there is a unified voice and everyone has the same set of notes if they are called and asked or want to testify individually.

Commissioner Willis asked Mr. Mackey if he came up with a dollar amount for what that support would cost. Mr. Mackey said no, but in his current contract there's a task for supporting the process. It's not a whole pile of time, but there would be some time for making sure Authority members have background information and can answer questions. Commissioner Willis asked if this would pull funding from another place. Mr. Mackey said it's in his current budget. Commissioner Willis asked if FCS would have any additional time to move the legislation forward. Pam Bissonnette said there would probably be some amendment to the bill. As it goes forward there will be others who look at it and want to offer amendments. You'll probably want to have FCS Group review those amendments to make sure you're not losing what you want to gain out of the legislation. If they put in amendments that don't affect you there's no problem, but if they undermine what you're doing you need to know.

Commissioner Willis opened the discussion to Flood Authority members for discussion and questions. Commissioner Valenzuela said she hasn't changed her point of view from the Flood Authority meeting. What Ms. Bissonnette and Mr. Mackey have described is pretty extensive when you start adding up the hours. Given that the three counties can do this without the bill it's an additional expense on ESA Adolphson or FCS' contracts that isn't a good use of our resources.

Commissioner Averill asked Hugh Spitzer a question about the multi-county district legislation. The Flood Authority got the chart you provided on advantages and disadvantages. This legislation gives us the ability to operate as three separate districts tied together by an interlocal agreement or form one single district that has its own authority and supervisors. Mr. Spitzer said under existing legislation you can form a consortium using various legislation. You can also form a flood control district in the future across county lines if you choose. The important distinction is that a flood control district as opposed to a zone is a completely separate organization.

Commissioner Averill said we could either use the interlocal cooperation act or the new joint municipal services act for the interlocal formation. The reason the joint act came along is that there are some chinks in the current interlocal cooperation act. Mr. Spitzer said it's not so much a matter of authority from a practical standpoint, it's just there are a dozen hassles and minor problems doing it under the interlocal agreement act which build up. But you can do it, you can put it together under the current interlocal agreement act and it will work well enough.

Commissioner Averill said that one of the reasons that we need the multi-County Flood Control Zone District legislation is that it provides us more authorities on what we can do in terms of taxes, fees, and assessments. Mr. Spitzer said that's correct. It would enable you to have an entity that can directly impose taxes throughout the basin and directly impose fees and charge rates throughout rather than doing it on a section-by-section basis. Commissioner Averill said his concern is that we have limitations in the other direction, and this legislation opens up what we can do. But we're not tied to forming a district, we could still keep our individual districts and use this legislation to tie it together with an interlocal agreement.

Commissioner Valenzuela said we don't need the legislation to do that. Right now each of our three counties can form an individual flood control zone district with all of the existing powers granted. In addition to that at some point in the future we can tie those three flood control zone districts together through an interlocal agreement and we can do all of that without legislation.

Commissioner Averill said he disagrees and it has to do with the authorities for taxes, assessments, and charges. The interlocal agreements don't provide you the capability to do that in a single unit. They only let us do that county by county. Commissioner Valenzuela said that's right, but each district can do whatever they and their citizens would like to do but they could still be tied together in an interlocal agreement.

Mr. Spitzer said that's true. You could all agree to impose taxes or rates at a certain level, or raise a certain amount of money each, and leave it to each member entity to figure out how to finance that. You could bind yourself contractually to come up with the money, and the money might be raised differently in each jurisdiction.

Commissioner Willis asked if, in order to get something done by our deadline, we would have to use the existing interlocal agreement act to tie us together to move toward a new district. Mr. Spitzer said that's true unless the legislators happened to adopt it in January, but even then there's a process. Commissioner Averill said it would have to be an emergency declaration to have it go into affect before July. Commissioner Willis said we'll have to walk through the steps

Commissioner Valenzuela was thinking of just to get to the final result. We'll do parts of it anyhow.

Mr. Spitzer said this legislation gives you a tool for the future. Ms. Bissonnette said there are a couple other differences that may be important. The new legislation incorporates tribal involvement and it also gets us away from the 10% limitation, which would allow a district to do more nonstructural activities, and it doesn't limit the amount that can be spent on that to 10%. Mr. Spitzer said you can include a tribe in an entity under the interlocal agreement act. That's already under the law. Tribes can be involved in whatever way you all agree. Mark White said that the Chehalis Tribe can't approve this. The counties don't decide tribal matters whatsoever. So right now as far as we're concerned this bill doesn't address tribal involvement at all. Mr. Spitzer said that under the existing Interlocal Agreement Act and under the proposed legislation, the role of the Tribe is negotiated. Mr. White said it's negotiated by the counties. He keeps hearing the word Tribe, but this proposed legislation doesn't involve Tribes period. The counties decide whether Tribes are involved and that's unacceptable to us. Mr. Spitzer said the way it's drafted, Tribal involvement is entirely up to the Tribe. The other folks can invite them to join, but the Tribe would have to agree on the terms. Mr. White said if the Tribe doesn't agree, how do you deal with the hole in the basin? Commissioner Valenzuela asked Mr. Spitzer what would happen if a county seeking to form a district is silent on the issue and the Tribe insists on being involved. Mr. Spitzer said that's certainly not addressed. Let's say someone wants to form a sewer district in a particular area and they propose to include Tribal land. This gets fairly complicated pretty fast. They could purport to do that but then you have to worry about what's Tribal trust land, what's other trust land, if there's land that happens to be on a reservation, and whether or not that's in or out. From a practical standpoint any arrangement involving tribes or local governments has to be worked out with discussion and agreement.

Mr. Spitzer said the issue of 10% relates to some very strange language in the watershed management partnership portion of the interlocal agreement act, which might mean that the other governments are restricted in terms of how much money they can put into a watershed management partnership program. That would all get cleaned up in this legislation. You could still form a traditional interlocal agreement and you can work together and do a bunch of things. Commissioner Valenzuela said that's true without the new legislation. Mr. Spitzer said that's right. Commissioner Valenzuela asked about the 10%. It seems that there's a probably even larger interest than our own in cleaning that up. Somebody else with vastly more resources than us could and probably will carry that water. That is her third point about why she doesn't feel the Authority needs this legislation to move forward and why she's unwilling to spend limited resources on it.

Julie Balmelli-Powe said she had a question for Mr. Mackey. The only added expense is his time and any amendments FCS would have to address. Would the Puget Sound Partnership put any money in to put this legislation through? Mr. Mackey said they're interested in the legislation and they would cooperate with us. Their public relations person could help behind the scenes with getting other people interested and having them come forward and testify. Mr. Mackey's interests would just be representing the Flood Authority and their interests and involving the Puget Sound Partnership because of their lobbying expertise. He would let them do what they want. Ms. Balmelli-Powe said her comment is that we're not looking at huge sums, it would just be a few thousand. She hopes people will stay on the topic of supporting the legislation or not. Her drive is to pass the legislation. It's the only way rural citizens and cities have involvement.

Otherwise the Commissioners run everything. The only way to have elected officials support the full area is this legislation.

Dan Thompson said that Oakville supports this for the same reason. Ron Schillinger said Montesano has a lot of involvement with both the Partnership and Authority and we've talked about it quite a bit because it's important to us. We feel the same as what Ms. Balmelli-Powe and Mr. Thompson have said. We're in full support of the multi-county district legislation and think that as a practical matter this is the only way to go to get the job done.

Commissioner Averill said he also favors sponsoring the legislation. We've done a lot of work on it and there are others supporting it. There will be some cost in getting it through both houses of the legislature, but from our perspective those will be minimal. We're still in the process of talking about what we want our governing body to look like. This legislation was drafted with a wide array of different options we could use to organize. You can choose to form any of those and take what you like. But we're not talking about voting on forming a flood control zone district, but just whether to support legislation so we have the option in the future if we choose to do so.

Edna Fund said she wanted to put her two cents in. Having been a former bureaucrat, if there was legislation closely aligned to her department, she wanted to be part of it. You want to make it as much a positive for the entity as possible. We were given money to develop legislation and it clearly gives us a lot of options. We could do an interlocal agreement but there are issues there. For us to stop and not go forward when we were given money to do it is a problem. We had a contractor who put a lot of work into it and spent money on it, and to not go forward would be a slap to our citizens for the money we spent. We need to move forward. The closer we stay to the legislation the better so we can fill the options in. Things can change in the legislature. Ms. Fund said she is in favor of moving forward with the bill.

Ms. Lee said she concurs with Ms. Balmelli-Powe and Ms. Fund.

Jim Cook said as several other members have pointed out, we already spent a great deal of money to draft the legislation. There are costs we've already incurred and to stop at the very end because it will cost a few dollars more to finish it up doesn't make a great deal of sense. It was penned in a broad spectrum so other entities could use it in the future. We're not locked into anything here. It just gives us more flexibility overall and for that reason Aberdeen supports this as well.

Commissioner Willis asked for further comments from the Flood Authority. Mr. White said the Tribe opposes it adamantly. It doesn't take Tribes into consideration at all. It has verbiage that might lead counties think they have jurisdiction over reservations. There are 15 points here that just won't work for us.

Commissioner Willis said she asked Ms. Bissonnette if Grays Harbor County could move forward with making a flood control zone district knowing that we have no jurisdiction to demand that the Tribe be involved but also that they could be involved if they wanted to. She was told that it could happen. It's not a requirement to have to the Tribe involved. We could do it either way. If the legislation doesn't give the Tribe the ability to make that decision then she wouldn't support

that portion of it, but she'd be willing to work on it to get it to that point. That's necessary in our basin or any other County's basin. Is there a possibility to work on it to change verbiage?

Mr. White said as it's worded now today we oppose it and we'll oppose it in Olympia. The legislation says the Counties decide if the Tribe will be a voting member or not. Commissioner Willis said we know that won't happen. Mr. White said there are Counties out there that will use that. There are too many things that are unacceptable about it. Commissioner Willis asked if we can go back and look at those sections and see if the wording is correct. Is there a possibility to work on that but still move forward? Ms. Bissonnette said our intention was to make it completely voluntary for any tribe to be a part of this. It sounds like we need to make that clearer in the boundaries section (1.A) and we need to reflect it again in section 3, which talks about Tribes. And if there's specific language Mr. White would like, mark it up and send it to us.

Mr. Spitzer said the key thing, which is in subsection 3, is that the legislation requires that Tribes be given the option of joining and each Tribe that chooses to participate can appoint a supervisor. The reason it says the Tribal supervisor votes only if it says so in the agreement is so that there is negotiation. The concern was that because this entity can impose property taxes, you want to take into account the possibility of having the representative of a non-taxed governmental entity voting to impose property taxes on nontribal land. Some people felt if the Tribe is going to be voting they need to chip in their fair share financially. But that's a policy issue. Mr. White said Tribes do that all the time. Every election over school levies and things other issues, we vote on that. Mr. Spitzer said that's the members of the Tribe. In this situation, it's a representative of a government, the Tribal government, as opposed to the individual people. Mr. Spitzer said this is something we can work through and he can draft it however people want.

Commissioner Willis said once it gets in the legislature's hands, everyone and their uncle will tear it apart. What we put in here might change. Commissioner Valenzuela said this is a good example of what she's afraid of. Now we know we need new language before we even drop the bill. Drafting the bill is the least expensive part. The most expensive part is all the committee meetings and iterations of the bill. Then at the end you may not even have a passed, signed bill. Commissioner Valenzuela said she continues to have a concern about what additional resources we're committing ourselves to for a piece of legislation we don't really need when we need to focus ourselves on getting an interlocal agreement together in order to meet our deadline.

Ms. Balmelli-Powe made a motion that we support this legislation and work with the Tribe for additional language. She thinks the legislation is needed. Dan Thompson seconded the motion.

Commissioner Valenzuela said the only condition under which she could accept this motion is if the Authority determine an amount of money not to be exceeded for working this bill through the process. The Authority needs to discuss it and determine the amount. Commissioner Willis asked if we need to do that today, or could we discuss it at another meeting. Commissioner Valenzuela said that was acceptable, and that Mr. Mackey should bring the full budget to the meeting so we can put it in context.

Ms. Lee asked if it's possible to get this information at the next Flood Authority meeting. Mr. Mackey said yes. Ms. Lee said she has no objections.

Mr. White said until the verbiage is changed to include Tribes on an equal level, he objects. Commissioner Willis asked Mr. White if he would propose wording on the verbiage. Mr. White asked if we want to go through the Flood Authority or have the Tribe's public relations staff work with Mr. Spitzer. Ms. Bissonnette said she would call Mr. White on Monday, find out what is troublesome in this document, and then we can bring a revision to the Flood Authority on the 16<sup>th</sup>. Mr. White said that works for him and he would send his notes today. Commissioner Willis agreed that FCS should work directly with the Tribe.

Commissioner Valenzuela asked if the Flood Authority was agreeing to look at a revised version of this draft that takes into account the Tribe's concern as well as some hard figures about what Mr. Mackey thinks it would cost to move this through the legislative process. Commissioner Willis said yes, we have a motion on the floor but we have these two areas that need to be addressed.

Commissioner Willis asked if there was any more discussion. Upon hearing no further discussion, Commissioner Willis said she had approval from everyone except Commissioner Valenzuela and Mr. White. She asked them if with those caveats they can agree to move forward. Commissioner Valenzuela said yes. Mr. White said yes. Commissioner Willis said the motion passes and she thanked everyone for their consideration.

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