Board members present: Chairman Perry D. Huston, Vice-Chairman David Bowen & Commissioner Alan Crankovich.

Others: Julie Kjorsvik, Clerk of the Board; Scott Bradshaw, Public Works Director; James Hurson, Chief Civil Deputy Prosecutor and two members of the public.

PUBLIC HEARING       EASEMENT - SUNCADIA      PUBLIC WORKS

At approximately 4:00 p.m. CHAIRMAN HUSTON opened the public hearing to consider granting an easement to Suncadia on Bullfrog Road located within Section 21 & 29 of T20N, R15E.

CHAIRMAN HUSTON acknowledged that the Board had previously held a study session and had a discussion on they type of form of a document claiming a Franchise Agreement was appropriate but agreed to review an easement.

JAMES HURSON, CHIEF CIVIL DEPUTY PROSECUTOR said they had renamed a Franchise Agreement to an Easement and included a couple of changes (notary block, signature). He said it had been sent to Suncadia’s legal counsel. According to the Public Works Department, the key issues were that the franchise protection doesn’t address relocating roads and has an expiration date. The issues regarding the tunnel was that there is a bridge built by private party which is supporting a public road and said there were ways of dealing with those issues. He said it was not up to him to renegotiate but he would work with whatever policy decision the Board decides to make. SCOTT BRADSHAW, DIRECTOR OF PUBLIC WORKS testified that if the utilities were relocated the expenses would be very steep. STEVE LATHROP REPRESENTING SUNCADIA said they had submitted a draft document last April and noted the name had been changed from MountainStar to Suncadia. He reviewed the differences between franchises and easements. He said they had not received any comments back from the County with the exception of Jim Hurson’s input that he had given last week. They requested an easement because they are a private entity and the difference with a franchise is that it has a termination date with language referencing the relocation of utilities. In their draft easement they lifted all of the franchise language that does not convert from an easement back to a franchise.
He said they left in language that it’s non-exclusive and said it wouldn’t interfere with County uses in the right of way. He felt the termination date was the prime difference between easement and franchise and they could have a default date included within the terms of an easement. He said there would be certain obligations by Suncadia and if they did not comply, the County would have recourse. He referenced the maintenance agreement in which Suncadia maintains the tunnel and holds the County harmless. He mentioned that Bonneville Power is willing to grant a variance for the trace-cable that follows the gas line and either the cable is to be taken out or they must dig two holes with a 10 foot break on each end. He proposed having a study session with County staff to work out the outstanding issues and get a document in place as an easement for the Board’s consideration. He hoped to get a document finalized by October 18, 2005.

CHAIRMAN HUSTON referenced the relocation language within the draft document and asked how much more specific Mr. Lathrop would want it. He said there was a written process outlined including a termination clause so that if Suncadia doesn’t do what’s outlined, the agreement is terminated. He said an easement can be revocable under certain circumstances and if Suncadia violates it, the County could revoke it. MR. LATHROP said the language in a Franchise Agreement does not provide a lot of comfort for them. CHAIRMAN HUSTON said he would be reluctant to put every possible scenario into the document, but would be willing to look at it. He said language to be included would be grounds for termination; definition of enhancement language; define maintenance in an attachment to the document. MR. LATHROP said he would discuss it with his clients and Mr. Bradshaw. COMMISSIONER CRANKOVICH said the County was not imposing any unreasonable conditions to protect the road.

THERE BEING NO ONE REQUESTING TO TESTIFY, THE PUBLIC PORTION OF THE HEARING WAS CLOSED.

CHAIRMAN HUSTON moved to continue the hearing until Tuesday October 18, 2005 at 4:00 p.m. in the Heritage Center at the Kittitas County Fairgrounds, to review a draft easement and to solicit public testimony on the document at that time. COMMISSIONER BOWEN seconded. Motion carried 3-0.

It was noted that Mr. Lathrop would get a draft to the Board of County Commissioners so they could review it individually prior to the hearing, as well as providing a copy to Mr. Bradshaw and Mr. Hurson.

Meeting adjourned at 4:55 p.m.