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**2017 BOARD OF COMMISSIONERS**

*Paul D. Kenner, President*

*Jeffrey L. McClure, Vice President*

*Michael J. Murphy, Secretary*

**PUBLIC UTILITY DISTRICT No. 1**  
*of Whatcom County*

**Agenda for the**  
**Regular Meeting of May 9, 2017**  
**8:00 a.m. at the PUD Office**

1. Public Comment
2. Approval of Meeting Minutes held April 25, 2017
3. Approval of Claims for May 9, 2017
4. Executive Session – Potential Litigation
5. Adjourn

**Next Commission Meetings**

*May 23 and June 13, 2017 – Regular Meetings*

*All meetings begin at 8:00 a.m. at PUD Administration Office -  
1705 Trigg Road, Ferndale, WA unless other location announced.*

*PUD #1 of Whatcom County • (360) 384-4288*

**MINUTES OF THE MEETING OF THE COMMISSION**

**April 25, 2017**

The regular meeting of the Board of Commissioners of Public Utility District No. 1 of Whatcom County was called to order at 8:00 a.m. by Commissioner Paul Kenner. Said meeting was open to the public and notice thereof had been given as required by law. Those present included Commissioner Mike Murphy and Legal Counsel Jon Sitkin. Staff: Steve Jilk, General Manager; Ann Grimm, Administrative Assistant; Rebecca Schlotterback, Manager of Contracts and Regulatory Compliance; Brian Walters, Assistant General Manager; Duane Holden, Director of Utility Operations, Annette Smith, Director of Finance; Alec Strand, Project Manager; Aaron Peterson, IT/SCADA Tech; and Traci Irvine, Accountant I.

Public attending: Dave Olson, Citizen  
Rick Maricle, Citizen  
Carole and Max Perry, Citizens

◆ **Public Comment**

Carole Perry recalled a positive moment about PUD services. She grew up in Lewis County and remembered when the “good guys” of the Lewis County PUD strung power lines and brought electricity to the rural areas. She said today it is hard to tell the role of the PUD, especially with the *Hirst* case and noting people’s perception of things. For example, the County passing their Comprehensive Plan while upset farmers commenting at the last Planning Commission meeting, are now faced with potential water contamination issues such as impervious surfaces, fecal coliform, and required onsite septic tank/sewage inspections – indicating a septic repair costing someone almost \$1500. Perry also mentioned a flyer received from the Whatcom County Association of Realtors (WCAR) in regards to “Private Property Rights Week.” WCAR is scheduling a series of events designed to educate Whatcom County citizens on various property rights issues, including water, zoning, permitting, etc. Perry said that as citizens, we need to pay attention, and the PUD needs to pay attention. She hopes the PUD will continue to be the “good guy”. Commissioner Kenner thanked her for the comments and for naming us “good guys.”

◆ **Approval of the Meeting Minutes and Claims**

The Commissioners were presented with the Minutes of the Meeting April 11, 2017 and the following Claims of April 25, 2017:

<b>VENDOR NAME</b>	<b>AMOUNT</b>
APERTURE ELECTRICAL	4,181.24
APPLIED DIGITAL IMAGING	311.43
BONNEVILLE POWER ADMINISTRATION	418,681.00
BRIDGEVIEW AUTO PARTS	62.90
COMCAST	91.12
EDGE ANALYTICAL LABORATORIES	24.00
EES CONSULTING	935.00
ELECTRIC POWER SYSTEMS - EPS	1,215.00
FASTENAL	45.04
FERNDALE ACE HARDWARE	71.17
GATEWAY CONTROLS	19,932.32
INTERNAL REVENUE SERVICE	15,251.71
JOHN DEERE FINANCIAL	468.75
LAPLAUNT, DAVID	43.18
LAW SEMINARS INTERNATIONAL	530.00
LISTEN AUDIOLOGY SERVICES, INC	510.00

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LITHTEX NW LLC	223.51
MAUL FOSTER & ALONGI	1,690.00
MORTIMER, TOM	2,725.00
MOTOR TRUCKS, INC	38.33
ON SITE SEPTIC	350.00
PAYLOCITY	127.50
PAYROLL	168,646.63
PITNEY BOWES RESERVE ACCOUNT	500.00
PLATT ELECTRIC SUPPLY CO	326.32
PORTAL WAY FARM & GARDEN	77.45
PUD #1 OF WHATCOM COUNTY	14.30
PUGET SOUND ENERGY, INC	1,083.44
REISNER DISTRIBUTION, INC	122.19
RICOH USA FINANCIAL SVC	152.18
SOFTWIRED	1,000.00
SPECIALTY ENGINEERING, INC	7,171.50
SURETY PEST CONTROL	59.79
THE CELTIC CLEANER INC.	1,188.08
THRESHOLD DOCUMENTS	1,038.09
TYLER TECHNOLOGIES-INCODE	1,405.63
US BANK	3,459.38
WA FEDERAL VISA CARD MEMBER SERVICES	7,508.01
WA ST DEPT OF REVENUE	59,131.57
WA ST DEPT TRANSP-NW REGION	371.18
WATERHOUSE ENVIRONMENTAL SERVICES CORP	33,973.31
WESTERN CONFERENCE OF TEAMSTERS	6,858.50
WHATCOM FARMERS CO-OP	17.60
YEAGER'S SPORTING GOODS	247.82
<b>GRAND TOTAL</b>	<b>\$761,861.17</b>

**ACTION:** Commissioner Murphy motioned to APPROVE THE MINUTES OF THE MEETING HELD APRIL 11, 2017 and the CLAIMS OF APRIL 25, 2017. Commissioner Kenner second the motion. Motion passed unanimously.

◆ **Approve Resolution No. 724 – Cancellation of Warrant**

Background: On April 4, 2017, the District issued a warrant in the amount of \$32.59 to Carl's Mower and Saw. The invoice was paid and then product was returned to the vendor. An account credit did not seem appropriate for this vendor who is infrequently used. The vendor returned the untendered check to the District and now the District is requesting that the County cancel Warrant No. 1025398.

**ACTION:** Commissioner Murphy motioned to APPROVE RESOLUTION NO. 724 AUTHORIZING CANCELLATION OF WARRANT. Commissioner Kenner second the motion. Motion passed unanimously.

◆ **Approve 2016 District Financial Report**

Finance Director Smith provided an overview of the 2016 District Financial Report. The District's financial policies conform to the Generally Accepted Accounting Principles (GAAP) and the financial statements have been developed in compliance with the Governmental Standards Board (GASB) Statement 34 – Basic Financial Statements – and Management Discussion and Analysis – for State and Local Governments.

Smith explained that while the Annual Report provides extensive information, it does not provide a

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budget to actual comparison of results. The summary financial statement format has been changed from previous years to more closely resemble the budget layout. The new format also brings the capital costs into the picture. The Phillips 66 pass-through costs for power, transmission and related taxes have been removed. The resulting statement provides a more relevant comparison between 2016 and 2015 actual results and the 2016 actual results to the 2016 budget. Highlights of the presentation:

### 2016 FINANCIAL REPORT

	2016	2015	Variance 2016-2015	%	2016 Budget	Variance Actual-Budget	%	
<b>REVENUE</b>								
1	Service Revenues - Industrial Water	\$ 8,602,167	\$ 7,998,155	\$ 604,011	8%	\$ 8,558,882	\$ 43,285	1%
2	Service Revenues - Irrigation	72,790	84,581	(11,791)	-14%	66,983	5,807	9%
3	Service Revenues - Grandview Utility	198,414	187,006	11,408	6%	197,984	430	0%
4	Service Revenues - Electric Utility	2,031,636	1,971,624	60,012	3%	2,026,641	4,995	0%
5	Misc Revenue	157,304	97,542	59,761	61%	119,153	38,151	32%
	<b>TOTAL REVENUE</b>	<b>\$ 11,062,310</b>	<b>\$ 10,338,908</b>	<b>\$ 723,402</b>	<b>7%</b>	<b>\$ 10,969,643</b>	<b>\$ 92,667</b>	<b>1%</b>
<b>EXPENSES</b>								
6	Labor and Benefits	(2,687,314)	(2,581,384)	(105,930)	4%	(2,577,702)	(109,612)	4%
7	O&M Expenses	(1,145,099)	(1,205,877)	60,778	-5%	(1,863,355)	718,256	-39%
8	Administration Expenses	(1,426,414)	(1,500,546)	74,132	-5%	(1,409,191)	(17,223)	1%
	<b>TOTAL EXPENSES</b>	<b>\$ (5,258,827)</b>	<b>\$ (5,287,807)</b>	<b>\$ 28,980</b>	<b>-1%</b>	<b>\$ (5,850,248)</b>	<b>\$ 591,421</b>	<b>-10%</b>
<b>BUSINESS SERVICES/GRANTS</b>								
9	Business Service Revenue	31,868	191,082	(159,214)	-83%	130,000	(98,132)	-75%
10	Business Service Expenses	(31,406)	(133,289)	101,883	-76%	(130,000)	98,594	-76%
	<b>TOTAL BUSINESS SERVICES</b>	<b>\$ 462</b>	<b>\$ 57,793</b>	<b>\$ (57,331)</b>		<b>\$ -</b>	<b>\$ 462</b>	
11	<b>INCOME (LOSS) BUDGET</b>	<b>\$ 5,803,945</b>	<b>\$ 5,108,894</b>	<b>\$ 695,051</b>	<b>14%</b>	<b>\$ 5,119,395</b>	<b>\$ 684,550</b>	<b>13%</b>
<b>CAPITAL COSTS</b>								
12	Debt Service	(3,449,560)	(3,457,978)	8,418	0%	(3,449,560)	-	0%
13	Transfers for Capital Projects	(2,114,816)	(1,630,398)	(484,418)	30%	(1,291,653)	(823,163)	64%
	<b>TOTAL CAPITAL COSTS</b>	<b>\$ (5,564,376)</b>	<b>\$ (5,088,376)</b>	<b>\$ (476,001)</b>	<b>9%</b>	<b>\$ (4,741,213)</b>	<b>\$ (823,163)</b>	<b>17%</b>

The lines of the statement have been numbered and are discussed in more detail below:

#### Service Revenues:

SERVICE REVENUE	2016	2015	Variance 2016 – 2015	%	2016 Budget	Variance Actual-Budget	%
1 Industrial Water	\$8,602,167	\$7,998,155	\$604,011	8%	\$8,558,882	\$43,285	1%
2 Irrigation	72,790	84,581	(11,791)	-14%	66,983	\$5,807	9%
3 Grandview Utility	198,414	187,006	11,408	6%	197,984	\$430	0%
4 Electric Utility	2,031,636	1,971,627	60,012	3%	2,026,641	\$4,995	0%
5 Misc. Revenue	157,304	97,542	59,761	61%	119,153	\$38,151	32%
<b>TOTAL REVENUE</b>	<b>\$11,062,310</b>	<b>\$10,338,908</b>	<b>\$723,402</b>	<b>7%</b>	<b>\$10,969,643</b>	<b>\$92,667</b>	<b>1%</b>

- 1) *Service Revenues – Industrial Water* – Total water consumption for the Cherry Point area slightly decreased between 2015 and 2016 (4,648,180,178 gallons to 4,450,929,407 gallons respectively, a 4% decrease). The 2016 revenues for Industrial Water increased from the 2015 revenues due primarily to the increase in rates for 2016. The 2016 actual revenues were right on target with budget.

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- 2) *Service Revenues – Irrigation* – Water consumption for the Irrigation customers decreased 21% in 2016 compared to 2015. Irrigation revenues are highly contingent upon the amount of rainfall during the year and therefore vary from previous years and budget more than other services.
- 3) *Service Revenues – Grandview Utility* – Water consumption for the Grandview utility increased by 2% in 2016 compared to 2015. The 2016 revenues for the Grandview utility rose 6% over 2015 and were right in line with budget.
- 4) *Service Revenues – Electric Utility* - this line includes Electric service revenues for District services only (O&M, admin, labor, etc.). The pass-through revenues for BPA power, transmission, and tax costs have been removed from this statement. The budget, 2016 and 2015 actual amounts are in line with expectations.
- 5) *Miscellaneous Revenue* – this line includes any miscellaneous, operating income including late fees, interest income, rent, recycle income and any income or contribution for in-house projects. For 2016, the majority of the income came from interest income and rent income. The budget included reimbursement from Petrogas for a meter relocate which has not occurred, and D station upgrades for BP which has not been billed.

EXPENSES	2016	2015	Variance 2016 – 2015	%	2016 Budget	Variance Actual- Budget	%
6 Labor & Benefits	\$(2,687,314)	\$(2,581,384)	\$(105,930)	4%	\$(2,577,702)	\$(109,612)	4%
7 O & M Expenses	(1,145,099)	(1,205,877)	60,778	-5%	(1,863,355)	718,256	-39%
8 Administrative Exp.	(1,426,414)	(1,500,546)	74,132	-5%	(1,409,191)	(17,223)	1%
<b>TOTAL EXPENSES</b>	<b>\$(5,258,827)</b>	<b>\$(5,287,807)</b>	<b>\$28,980</b>	<b>-1%</b>	<b>\$(5,850,248)</b>	<b>\$591,421</b>	<b>-10%</b>

- 6) *Labor and Benefits* – this includes all the labor and benefits not associated with capital projects. The increase between 2016 and 2015 resulted from the 3.3% increase in labor and benefit costs budgeted, and also less labor costs capitalized. The difference between budget and 2016 costs were again, the over-budgeting of labor to capital projects.

O & M EXPENSES	2016	2015	Variance 2016 – 2015	%	2016 Budget	Variance Actual- Budget	%
<i>Purchased Power for Water</i>	\$532,459	\$506,300	\$26,158	5%	\$638,443	\$(105,984)	-17%
<i>BPA Credits</i>	(276,735)	(332,853)	56,118	-17%	(332,568)	55,833	-17%
<i>Chemicals</i>	162,314	220,798	(58,481)	-26%	191,267	(28,953)	-15%
<i>O &amp; M Services</i>	299,495	331,441	(31,945)	-10%	247,308	52,187	-21%
<i>O &amp; M Materials</i>	126,982	194,795	(67,816)	-35%	231,905	(104,923)	-45%
<b>Extraordinary Maintenance</b>							
<i>Plant 1 Mud Basin Clean</i>	140,060	120,963	19,097	16%	112,000	28,060	25%
<i>D Station Upgrades</i>	34,776	118,711	(83,935)	-71%	30,000	4,776	16%
<i>High Head Pump Rebuild</i>	-	-	-	0%	356,000	(356,000)	-100%
<i>Plant 1 Major Maint.</i>	78,183	-	78,183	0%	300,000	(221,817)	-74%
<i>Sm. Maint. Projects</i>	47,565	45,723	1,842	4%	89,000	(41,435)	-47%
	<b>\$1,145,099</b>	<b>\$1,205,878</b>	<b>\$(60,799)</b>	<b>-5%</b>	<b>\$1,863,355</b>	<b>\$(718,256)</b>	<b>-39%</b>

- 7) *O & M Expenses*– this line includes all operating costs, including power costs for the water treatment plants, but excluding power costs passed through to Phillips 66. The Phillips 66 power costs are a straight pass-thru from BPA and have a zero net effect. The 2016 actual costs of \$1,145,099 resulted in an overall decrease from 2015 of \$60,788, with the differences being spread between all categories, but the largest being chemical costs, usually a result of invoice timing and materials. The difference

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between 2016 and the budgeted amount is in Extraordinary Maintenance. The hi-head pump rebuilds and the Plant 1 Maintenance came in significantly under budget.

- 8) *Administration Expenses* – this category encompasses all the overhead, administrative type of expenses. 2016 decreased \$74,000 from 2015, with the largest decrease in outside services due to the 2015 expensing of engineering involved with the Water System Storage project and expensing of the survey of the transmission structure. The 2016 administration expenses were right in line with budget.

<b>BUSINESS SERVICES/ GRANTS</b>	<b>2016</b>	<b>2015</b>	<b>Variance 2016 –2015</b>	<b>%</b>	<b>2016 Budget</b>	<b>Variance Actual- Budget</b>	<b>%</b>
<b>9</b> Business Service Revenue	\$31,868	\$191,082	\$(159,214)	-83%	\$130,000	\$(98,136)	-75%
<b>10</b> Business Services Expenses	(31,406)	(133,289)	101,883	-76%	(130,000)	98,594	-76%
<b>TOTAL BUSINESS SERVICES</b>	<b>\$462</b>	<b>\$57,793</b>	<b>(\$57,331)</b>		<b>\$ -</b>	<b>\$462</b>	

### **BUSINESS SERVICES/GRANTS REVENUE**

<i>DOH 2 Year Pilot</i>	\$31,868	\$ -	\$31,868	0%	\$100,000	\$(68,132)	-68%
<i>Regional Water Supply Plan</i>	-	-	-	0%	30,000	(30,000)	-100%
<i>DOH Water Nitrates #1</i>	-	27,064	(27,064)	-100%	-	-	0%
<i>DOH Water Nitrates #2</i>	-	31,615	(31,615)	-100%	-	-	0%
<i>DOH Roederland</i>	-	29,992	(29,992)	-100%	-	-	0%
<i>DOH Central City</i>	-	29,979	(29,979)	-100%	-	-	0%
<i>DOH Everson A. Barn</i>	-	16,000	(16,000)	-100%	-	-	0%
<i>DOH S. Lake Samish</i>	-	9,381	(9,381)	-100%	-	-	0%
<i>Reclaimed Water – BP</i>	-	47,051	(47,051)	-100%	-	-	0%
<b>BUSINESS SERVICE REVENUE</b>	<b>\$31,868</b>	<b>\$191,082</b>	<b>\$(60,799)</b>	<b>-5%</b>	<b>\$1,863,355</b>	<b>\$(718,256)</b>	<b>-39%</b>

- 9) The majority of the revenue is from grants the District participates in, but can include outside consulting. 2016 income came solely from the 2 year pilot project with the Department of Health. Depending on the grant activity, this amount will fluctuate widely between years. The budget had a larger amount associated with the 2 year project and also \$30,000 for a Regional Water Supply Plan.
- 10) *Business Service Expenses* – this line includes the corresponding expenses associated with the Business Services. Smith said there is no effect on cash because the District is directly reimbursed for all expenses.

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CAPITAL COSTS		2016	2015	Variance 2016 –2015	%	2016 Budget	Variance Actual- Budget	%
12	Debt Service	\$(3,449,560)	\$(3,457,978)	\$8,418	0%	\$(3,449,560)	-	0%
13	Transfers for Capital Projects	(2,114,816)	(1,630,398)	(484,418)	30%	(1,291,653)	(823,163)	64%
<b>TOTAL CAPITAL COSTS</b>		<b>\$(5,564,376)</b>	<b>\$(5,088,376)</b>	<b>\$(476,001)</b>	<b>9%</b>	<b>\$(4,741,213)</b>	<b>\$(823,163)</b>	<b>17%</b>

### CAPITAL IMPROVEMENT PROJECTS

	<i>Trigg Rd Site Improvements Communications Backbone</i>	\$240,426	\$62,679	\$177,746	284%	\$167,000	\$73,426	44%
	<i>Water Trans. Storage</i>	-	(129,355)	129,355	-100%	-	-	0%
	<i>Install Main Valves</i>	13,688	218,928	(205,241)	-94%	60,239	(46,552)	-77%
	<i>115kV Line Imprv.</i>	152,926	148,173	4,753	3%	785,666	(632,740)	81%
	<i>ALL OTHER CWIP</i>	259,425	110,763	148,663	134%	336,000	(76,575)	-23%
	<b>CAPITAL TRANSFER</b>	<b>1,371,652</b>	<b>1,219,210</b>	<b>152,442</b>	<b>13%</b>	<b>(507,252)</b>	<b>1,878,904</b>	<b>-370%</b>
		<b>\$2,114,816</b>	<b>\$1,630,398</b>	<b>\$484,418</b>	<b>30%</b>	<b>\$1,291,653</b>	<b>\$823,163</b>	<b>64%</b>

12) *Debt Service* – This is simply the debt service paid annually. Although in 2016, the Grandview 2007 Water Revenue bonds were refinanced, the change is not reflected here since the 2007 debt service is paid by Local Utility District assessments and not rate revenue.

13) *Transfers for Capital Projects* – This is the amount used and transferred over to the Capital funds for existing and future capital projects. The amount is more than budgeted since there were excess funds in the Operating account which were transferred over at year end.

There is no fiscal impact to the District. The Commissioners thanked Smith and the PUD staff for a job well done on the 2016 Financial Report.

**ACTION:** Commissioner Murphy motioned to ACCEPT THE DISTRICT’S 2016 ANNUAL FINANCIAL REPORT. Commissioner Kenner second the motion. Motion passed unanimously.

#### ◆ **Approval of Transmission Operator Services Agreement with Bonneville Power Administration**

Background: The District’s electric system has transmission facilities that qualify as being part of the Bulk Electric System (“BES”), thereby requiring the District to comply with mandatory electric transmission system reliability standards approved by the Federal Energy Regulatory Commission (“FERC”) and enforced in the western region of the United States by the Western Electricity Coordinating Council (“WECC”), based in Salt Lake City, Utah.

As a requirement under the FERC reliability standards program, the District must register federally as to which functions it performs in support of the BES. Currently, the District is registered only as a Transmission Owner (“TO”). The District must comply with all standards that apply to TOs. Over time the reliability standards have evolved and additional new standards have been approved and implemented. In the fall of 2016, WECC informed the District that it must also register as a Transmission Operator (“TOP”) and a Transmission Planner (“TP”). The alternative provided was for the District to seek a third party to perform the TOP and TP functions and meet the requirements of the related standards on behalf of the District.

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Anticipating that this registration mandate was coming, District staff, along with ten (10) other public utilities facing the same circumstances, including Snohomish PUD, who has its own electric operations center, began discussions with the Bonneville Power Administration (“BPA”) in the fall of 2015 to develop agreements under which BPA would provide the necessary TOP and TP services for these utilities. The Transmission Operator Services Agreement (“TOP Agreement”) is the first agreement to be developed and will be followed by a second Transmission Planner Services Agreement (“TP Agreement”).

Walters explained some of the reasons why the District has looked to BPA for the provision of TOP Services, including:

*Financial Impact on the District:* To be a TOP would require the District to set-up a 24/7 operations center for the purpose of monitoring not only the real time status of the District’s electric system, but also events occurring on the broader regional Bulk Electric System. This would require real-time communications with both BPA and PSE, as well as the capability to control electric system facilities real-time in order to respond to negative events occurring within the region. The District would incur significant costs in setting up a 24/7 operations center, as well as ongoing operating expenses. It would require the hiring of at least three additional electric system staff to person the center. The annual cost of operation is estimated to be in the \$250,000 to \$500,000 range.

Under the TOP Agreement, BPA’s first year fees would be approximately \$42,000.

*Risk of Electric Reliability Standards Non-Compliance:* Should the District elect to register as a TOP, the complexity of the regulatory requirements would be at a much higher level than that currently experienced. It would be a significant organizational culture change. The risk of in-advertent violation of the standards would be much higher as a result. Large electric transmission utilities, such as BPA and PSE, already perform the TOP function for themselves and operate in that regulatory world.

An example of what would be required involves the transmission operator personnel that work in the operations center. Walters explained that they must be certified operators based on the regulatory requirements and maintain certification. Annual training and testing is required. Failure to pass annual testing results in de-certification. It is not as rigorous as what a nuclear plant operator faces, but is similar in approach.

*Timeline for Compliance:* Because the District and BPA have notified WECC that the parties are working on a TOP Agreement and an implementation plan as to what and when the technical arrangements needed will be put in place, WECC will not attempt to enforce the requirement that the District register as a TOP. Failure to enter into an Agreement with BPA and submit an implementation plan to WECC by August 2017 will result in WECC initiating an enforcement action against the District. At the least, this would mean that the District would have to initiate its registration as a TOP and submit its own implementation plan for how to comply with the requirements of being a TOP.

Commissioner Murphy inquired what other costs could be incurred. Walters replied that the District is still subject to all other compliance standards that go along with the TO designation, including cyber security standards which are being met today. Commissioner Kenner asked if BPA could decline the services. There is language in the agreement to terminate – such as nonpayment or violation of provisions, with a 90 day notice. The reason why the District is designated a TO is because we are looped within Puget Sound Energy lines, Walters said. The District originally had three designations and is now down to one.

Should the TOP Agreement be approved and executed, the District and BPA would identify what technical arrangements need to be put in place. The District, under a construction cost reimbursement agreement with BPA would be obligated to cover certain expenses incurred by BPA. This would include



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a necessary communications link between the District and BPA facilities. A decision as to the mode of communications, based on cost/benefits, would be made.

Currently there are two methods of communication via BPA's radio tower to the District's tower, and staff is looking into utilizing fiber which is estimated to cost approximately \$200,000, possibly routing from the refinery substation to the Alcoa/Intalco Substation. Fiber is more secure and also provides more options to tie into the water utility facility operations, such as the SCADA system.

A "bare bones" construction agreement will obligate the District to bear the costs of putting the technical arrangements into place and the annual fee for the TOP services for 2017 will be \$42,000. This fee may be adjusted on an annual basis, unlike BPA power rates, which are adjusted every two years. If approved, the executed Agreement will have no impact on the District's 2017 Budget, as activities and expenses associated with the Agreement were forecast and included.

**ACTION:** Commissioner Murphy motioned to APPROVE TRANSMISSION OPERATOR SERVICES AGREEMENT WITH THE BONNEVILLE POWER ADMINISTRATION AND AUTHORIZE THE DISTRICT'S GENERAL MANAGER TO SIGN THE DOCUMENT SUBJECT TO FINAL STAFF AND LEGAL COUNSEL REVIEW. Commissioner Kenner second the motion. Motion passed unanimously.

## ◆ **Manager's Report**

### End of Legislative Regular Session

WPUDA publishes a Weekly Bill Report and Jilk distributed the report for the end of the 2017 session. It includes a list of the bills which were passed and signed by Governor Inslee. There are a couple of bills that will benefit PUDs:

- SB 5036 – Clarifying the authority and procedures for unit priced contracting by PUDs. This comes in the wake of the State Auditor's Office issuing management letters to some utilities citing that the contracts were not authorized under statute. The legislation will ensure PUDs may continue to use the contracts without the threat of audit findings or cost increases and time delays in responding to the needs of the customers they serve.
- EHB 1595 – Concerning costs associated with responding to public records requests. This now allows agencies to charge up to 10-cents per page of scanned documents and up to five-cents for every four electronic attachments when replying to public records requests.
- E2SSB 5239 – Ensuring that water is available to support development. This bill reverses the State Supreme Court 2016 *Hirst* ruling by authorizing new exempt wells (that withdraw less than 5,000 gallons of water per day and don't need a state-issued water right) if water for the well is physically available and its use won't violate the terms of an instream flow rule adopted by the Department of Ecology. The bill also addresses the Supreme Court's 2015 *Foster* court ruling by allowing Ecology to approve water-right mitigation measures that benefit fish and aquatic habitat but don't fully replace the water in a stream or lake that might be reduced by the water right.

The bill passed the Senate and was heard in the House Agriculture and Natural Resources Committee, however lacked the votes to move further in the House. Jilk said that PUD counsel Tom Mortimer and a few others (including Bill Clarke, WPUDA) were asked to help with language in the bill in order to help get it passed. Although the solution for the *Foster* case (out-of-stream mitigation) could be an opening to help the *Hirst* case, Jilk doubts it will be a fix for the *Hirst* case. The *Foster* case isn't just about exempt wells – it includes irrigation, streamflow and the like. The *Hirst* case only focuses on wells and Whatcom County will continue to have long term problems due to the vast competition for water.

# DRAFT

The Strategic Plan calls out that the District is a Steward of Water Resources and in doing so, we continue to assist other agencies and organizations in the management of the water resource in the County, including discussions within the Water Supply Group and elected officials. To initiate a specific support program targeted at the water resource needs of the local agriculture industry is also needed. A presentation in relation to this will be scheduled for a regular meeting in June.

◆ **Adjourn**

There being no further business for the regular meeting, the Commission adjourned the regular meeting at 8:54 a.m.

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Paul D. Kenner, President

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Michael J. Murphy, Secretary

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Jeffrey L. McClure, Commissioner