

**MINUTES OF THE REGULAR
MEETING OF THE COMMISSION**

July 13, 2021

1. Call to Order | Pledge of Allegiance

The regular meeting of the Board of Commissioners of Public Utility District No. 1 of Whatcom County was called to order at 8:01 a.m. by Commissioner Atul Deshmane. Said meeting was open to the public and notice thereof had been given as required by law. Those present via Zoom teleconference included Commissioner Mike Murphy, Commissioner Christine Grant, Commissioner Atul Deshmane, and Legal Counsel Jon Sitkin. Staff attending via teleconference: Steve Jilk, General Manager; Ann Grimm, Executive Assistant; Rebecca Schlotterback, Manager of Contracts and Regulatory Compliance; Annette Smith, Director of Finance; Brian Walters, Assistant General Manager; Duane Holden, Director of Utility Operations; Alec Strand, Project Manager; Paul Siegmund, Manager of Automation and Technology; Aaron Peterson, IT/SCADA Technician; Mike Macomber, IT/SCADA Technician; and, Traci Irvine Accountant I.

Public attending via teleconference/Zoom:

Dave Olson, Citizen

Gina Stark, Port of Bellingham

Lauren Turner, Phillips 66

Carryn Vande Griend, Puget Sound Energy

Nash

2. Approval of Agenda

Deshmane requested to table the approval of the Special Meeting Minutes of June 30, 2021, as he did not have a chance to review them.

ACTION: Commissioner Deshmane motioned TO TABLE THE APPROVAL OF THE SPECIAL MEETING MINUTES OF JUNE 30, 2021. Commissioner Grant second the motion. Motion passed unanimously.

3. Approval of Consent Agenda

Deshmane requested remove Agenda Item No. 3c (Minutes of the Special Meeting of June 30) and an amendment to the Regular Meeting Minutes of June 22, 2021: To include the statement in which he said he would contact Darling before the July 6 meeting. The minutes were revised as such: Deshmane has addition input for Darling on the meeting and *will contact him beforehand...*

ACTION No. 1: Commissioner Grant motioned to REMOVE THE MINUTES OF THE SPECIAL MEETING OF JUNE 30, 2021 FROM THE CONSENT AGENDA. Commissioner Murphy second the motion. Motion passed unanimously.

ACTION No. 2: Commissioner Murphy motioned to APPROVE THE MINUTES OF THE REGULAR MEETING OF JUNE 22, 2021, AS AMENDED. Commissioner Grant second the motion. Motion passed unanimously.

ACTION No. 3: Commissioner Murphy motioned to APPROVE THE CLAIMS OF JULY 13, 2021. Commissioner Grant second the motion. Motion passed unanimously.

Claims of July 13, 2021:

VENDOR NAME	AMOUNT
BALANCING SERVICE COMPANY, INC	1,388.35
BECKWITH & KUFFEL INC.	16,359.25
BRIM TRACTOR COMPANY	1,161.64
CESCO NEW CONCEPT CHEMICAL PRODUCTS	157.08
CHMELIK SITKIN & DAVIS	8,826.62
COMCAST - NWRC	367.75
CORNERSTONE MANAGEMENT, INC.	3,141.05
DIGITAL BOUNDARY GROUP, INC.	15,077.14
EATON CORPORATION	583,322.50
FASTENAL	13.47
FEDERAL EXPRESS	27.64
FERNDALE ACE HARDWARE	27.99
FERNDALE CITY OF	194.57
GATEWAY CONTROLS	5,207.82

GENEVA CONSULTING	3,952.00
HD FOWLER CO, INC	569.03
HEALTH PROMOTIONS NORTHWEST	90.00
INDUSTRIAL SUPPLY, INC	102.04
K ENGINEERS, INC.	337.50
KAMAN FLUID POWER LLC	16.95
KCDA PURCHASING COOPERATIVE	967.24
LEEWARD STRATEGIES LLC	9,555.00
LITHTEX NW LLC	278.85
MASSMUTUAL RETIREMENT SVCS LLC	11,999.99
MILLS ELECTRIC	160,340.37
NORTHWEST CASCADE, INC.	118.50
NORTHWEST FIBER DBA ZIPLY FIBER	1,400.13
NORTHWEST MOWING & GARDENING	540.26
NP INFORMATION SYSTEMS (3-D CORP)	252.18
P&P EXCAVATING, LLC	20,698.65
PACIFIC SURVEY & ENGINEERING	1,682.50
PLATT ELECTRIC SUPPLY CO	2,572.26
PROBUILD - OSO LUMBER	22.50
PUGET SOUND ENERGY, INC	8,802.38
RAGAN COMMUNICATIONS	44.99
REGENCE BLUE SHIELD	41,002.80
REISNER DISTRIBUTION, INC	770.90
RICOH USA	171.53
SSC - SANITARY SERVICE COMPANY	533.80
TEAMSTER LOCAL #231	533.00
UNITED WAY OF WHATCOM COUNTY	495.00
UTILITIES UNDERGROUND LOCATION	24.51
VALVOLINE	356.99
VERIZON WIRELESS	1,966.51
WA ST DEPT OF ECOLOGY HAZ FEE	56.00
WA ST DEPT TRANSP-NW REGION	467.42
WASHINGTON DENTAL SERVICE	2,779.10
WASHINGTON TEAMSTERS WELFARE	12,029.15
WATERHOUSE ENVIRONMENTAL SERVICES CORP	18,887.04
WHATCOM JANITORIAL	1,018.75
WILSON ENGINEERING, LLC	3,255.00
GRAND TOTAL	\$943,963.69

4. Public Comment No. 1

Jamie Douglas commented about the digital divide and how necessary it is that the PUD have access and secure funding from available federal legislation. He supports partnering with the Port and using NoaNet’s expertise to move forward. Douglas said the goal is to provide affordable fiber to everyone in Whatcom County. Open access is also important, and he expressed his appreciation to the Commission for the efforts in this manner.

Rick Maricle inquired about the last work session (July 6) and was disappointed that there was no public comment taken on the agenda, he views this as a step back. In past work sessions, the public has been effectively involved PUD has provided /allowed input for the public the PUD loses by closing comments by the public and should always allow it.

5. Old Business

a) Strategic Planning Update on Initiatives

b) General Manager Appointment Process Update

Jim Darling presented information regarding the update and proposed schedule:

- *GM Selection Process*
- *Initiatives 2021*

- *Special Efforts in FY 2022*

Commissioners discussed timing and perhaps another work session is needed to finalize the initiatives and general manager job description.

ACTION: Commissioner Grant motioned to HOLD A SPECIAL MEETING ON JULY 20, 2021 AT 8:00 A.M. TO CONTINUE THE DISTRICT’S STRATEGIC PLANNING EFFORT. Commissioner Murphy second the motion. Motion passed unanimously.

- **General Manager Profile** - The parameters introduced at the July 6 meeting for the General Manager’s job description/profile were reviewed once again. These will be incorporated into the job description/profile that Prothman will create for marketing the position.

The discussion will be continued on July 20, 2021.

ACTION: No other action taken. Information only.

c) Approval of Purchase of Transformers for Refinery Substation

Background – The District has advertised twice for responsive bids for the purchase of transformers for the Refinery Substation. Based on review of the bids, it was determined there were no responsive bids, and therefore staff recommended that the Commission reject all bids. The Commission took action rejecting all bids for the same bid products at its regularly scheduled meeting on May 27 and June 8, 2021, respectively.

In the opinion of the District’s legal counsel, the receipt of bids under two separate competitive solicitations for the purchase of transformers, and the rejection of all bids as non-responsive by the Commission on both occasions was the equivalent of receiving no bids. Further, that “Special Market” conditions existed enabling the District to waive competitive bid requirements and negotiate a purchase agreement with one or more of the transformer suppliers.

Subsequently, at the same Commission meeting (June 8, 2021), the Commission approved Resolution 793, which waived the competitive bid requirements for the supply and purchase of the power transformers. The waiver was based on:

- 1) No responsive bids received, therefore “no bids” were received from two competitive bid solicitations;
- 2) Special market conditions exist prompting bidders to submit conditioned bids enabling exceedance of the bid price. Therefore, no firm bids recovered.

Following the June 8 Commission meeting, District staff and the District’s Engineer BKI, informed bidders of the rejection of all bids, resulting in no bid award. After interviews with the bidders involved, the District entered into purchase negotiations with one of the bidders, SPX Corporation.

A summary of purchase price amounts follows:

<i>Engineer’s Estimate:</i>	\$2,800,000.00 (w/o taxes)
SPX Original Bid:	\$2,056,896.00 (w/o taxes)
SPX Bid + 6.5%:	\$2,190,594.00 (w/o taxes)
Potential Price Increase:	\$133,698.00

Timing is critical and the lag in production of parts is creating delays. As such, staff recommends entering into a purchase agreement with SPX Corporation for two power transformers for a purchase price not to exceed \$2,190,594.00. Further, staff recommends that execution of the equipment purchase by the General Manager not proceed until final legal review of the purchase documents.

This Project is funded under the District’s approved 2021 Budget, as one of the major Capital Improvement Projects (CIP E-27). There is no fiscal impact.

ACTION: Commissioner Grant motioned to APPROVE PURCHASE OF TWO POWER TRANSFORMERS FROM SPX CORPORATION FOR A COST NOT TO EXCEED \$2,190,594.00 AND AUTHORIZE THE DISTRICT’S GENERAL MANAGER TO EXECUTE THE PURCHASE. Commissioner Murphy second the motion. Motion passed unanimously.

6. New Business

a) Approval of Interlocal Agreement with Port of Bellingham

Background: The Port of Bellingham (Port) has been working on the development of a publicly owned fiber optic backbone network in Whatcom County. The PUD has identified in its 2021 Strategic Plan, an initiative to also develop a fiber optic network and support the development of publicly owned broadband services in Whatcom County.

Staff from both agencies have developed an Interlocal Agreement that recognizes the agencies' authority to do so and identifies a process to organize the effort in a joint manner, identifies methods of communications between the two organizations, and identifies means of decision making in moving the program forward. The Port Commission will consider adopting the same Interlocal Agreement at an upcoming Port Commission meeting. Adoption of the Interlocal Agreement will not impact the District's 2021 budget.

ACTION: Commissioner Murphy motioned to APPROVE PORT OF BELLINGHAM AND PUBLIC UTILITY DISTRICT NO.1 OF WHATCOM COUNTY FIBER OPTIC/BROADBAND INTERLOCAL AGREEMENT. Commissioner Grant second the motion. Motion passed unanimously.

b) Approval of Whatcom Assistance Program: Small Grants Agreement with Nooksack Indian Tribe

Background: On September 22, 2020, the Commission approved a grant agreement between the District and Washington State Department of Fish and Wildlife (WDFW) to develop a WRIA 1 Coordinated and Integrated Outreach Education Program. The grant funding is \$200,000 and the agreement term is October 15, 2020 to December 15, 2022. The District is managing the grant on behalf of the WRIA 1 Watershed Management Board (WMB).

Tasks of the WRIA 1 Coordinated and Integrated Outreach and Education Program include a Communication Strategy: Develop and implement a coordinated and integrated outreach and communication strategy that addresses Whatcom ecosystem recovery plan elements, including water supply, water quality, floodplains, Chinook, and streamflow.

This grant allows for the use of a portion of the funds to provide small project grants to eligible organizations to conduct outreach/education. Maximum amount of the small grants is \$10,000. Each.

This is the second small grant to be approved under this current program.

The Nooksack Tribal Council approved it on July 6, 2021, and District staff recommends approval of the NIT agreement today. There is no fiscal impact to the District, as the District will pass funds from the WDFW grant to the Nooksack Indian Tribe. The funds will be disbursed quarterly based on approval by WDFW and the District of quarterly reports and invoices provided by the Nooksack Indian Tribe.

ACTION: Commissioner Murphy motioned to APPROVE THE WHATCOM ASSISTANCE PROGRAM SMALL GRANT AGREEMENT WITH THE NOOKSACK INDIAN TRIBE IN THE AMOUNT NOT TO EXCEED \$10,000.00 AND AUTHORIZE GENERAL MANAGER TO SIGN THE AGREEMENT. Commissioner Grant second the motion. Motion passed unanimously.

c) Approve Amendment No. 4 to Work Order No. 4 – BKI, Inc.

Work Order No. 4 (WO4) between the District and BKI was executed on October 15, 2018. The services to be provided and those currently in progress cover the permitting and design phases for a new substation to be constructed on PUD property at the Water Treatment Plant No. 1 site in Ferndale. The new substation will replace the existing substation currently providing power to the treatment plant.

This amendment's scope of services are for project management support during construction of the Pump No.1 Substation project.

The total cost not to exceed for the additional scope of services to be provided by BKI under Amendment No. 4 to Work Order No. 4 is \$141,220.00. It includes labor, materials, and expenses and applicable taxes. BKI shall not exceed this total cost, without prior approval of Whatcom PUD's Project Manager. Amendment No. 4 to Work Order No. 4 will increase the overall budget to \$959,780.00. Approval of the amendment has no financial impact and is funded in the District's approved 2021 budget.

ACTION: Commissioner Murphy motioned to APPROVE AMENDMENT NO. 4 TO WORK ORDER NO. 4 WITH BROWN AND KYSAR, INC. FOR ENGINEERING SERVICES AND AUTHORIZE THE DISTRICT'S GENERAL MANAGER TO EXECUTE AMENDMENT NO. 4. Commissioner Grant second the motion. Motion passed unanimously.

d) Approve Resolution No. 794 – Cancellation of Warrant

The District issued a request for a Warrant on the basis of an invoice received from Digital Boundary Group and now needs to be cancelled. The Commission authorized the issue of Warrant NO. 1125786, dated May 5, 2021. On July 1, 2021, the District was notified that Digital has not received the warrant and the check is still outstanding. The mailing address was also verified.

As such, the District notified the County that the Warrant was never received or lost in the U.S. Mail and has asked the County to cancel and disregard the Warrant. The District has requested that the County cancel Warrant No. 1125786 in the amount of \$15,077.14. A new warrant will be issued on the next Claims Request. There is no fiscal impact.

ACTION: Commissioner Murphy motioned to APPROVE RESOLUTION NO. 794 AUTHORIZING CANCELLATION OF WARRANT NEVER RECEIVED. Commissioner Grant second the motion. Motion passed unanimously.

7. General Manager's Report

- Jilk has provided a memo to Commissioners to identify specific actions/plans with the District's Water System Plan approval process.
- Met with new water legal counsel and they would like to review the draft Water System Plan. The timeline and meetings needed to address specific actions will be presented at the next meeting on July 27.
- Update on drought conditions – Jilk expects to see a drought declaration in Whatcom County very soon because of water supply and the early heatwave.

8. Commissioner Reports

Murphy:

- Has been discussing the water situation with several farmers and water associations. The ground is so dry and many wells are running low or are already dry. Water conservation is important now more than ever.

Grant:

- Meeting with County Executive Sidhu and Jilk to discuss Cherry Point and different approaches to planning, and will report at next meeting. The Center for Sustainable Infrastructure is preparing a presentation about their work around the state on infrastructure/economic development for an upcoming Commission meeting.

Deshmane:

- Was attending Watershed Improvement District meetings; however, most are not gathering for the summer due to farming activities.
- Planning Commission – An item on the last Planning Commission's meeting agenda was in regards to adopting new regulations and code amendments on battery-energy storage systems under 5 megawatts. Deshmane spoke with Walters at the PUD but it could potentially be a topic for the PUD.
- Attended City of Bellingham Broadband Advisory Group – Focused on presentations from the City of Anacortes and the State Broadband Office.
- Water Resources Advisory Committee (Governor's Office) – Developing water banking programs across the state, and Whatcom was missing from the list of counties which will be the focus of pilot programs.

9. Public Comment No. 2

Dave Olson (Water Systems Services and Cornerstone Management) is assisting the District with the Water System Plan and technical support to assist small water associations and systems (less than 1,000 connections). There is great concern and evidence that things are changing. He gave the example of a local water system in which the early heatwave in June experienced a 50 to 75% more water demand from customer behavior that required emergency no-outdoor watering due to their maximum supply they are able to take under their water rights. The education of how water will be used in the future by individuals will be a big part of the future, the role of the PUD and how the PUD can assist with advice or other means.

10. Executive Session

Commission President Deshmane requested an Executive Session pursuant to RCW 42.30.110(1) (i) to discuss potential litigation. The estimated time for Executive Session was forty minutes. The Commission President indicated that no action was anticipated be taken after the adjournment of the Executive Session. Following a five-minute recess, the Commission adjourned to Executive Session at 10:25 a.m.

- The Commission held Executive Session on a separate Zoom webinar platform for privacy, security matters and Open Public Meeting Act requirements.
- At 11:02 a.m., an additional five minutes was requested.
- At 11:19 a.m., an additional five minutes was requested.

Executive Session Adjourn

There being no further business for Executive Session, the Commission rejoined the Special Commission Meeting webinar platform at 11:20 a.m.

11. Adjourn

There being no further business for the meeting, Commissioner Deshmane adjourned the regular meeting at 11:22 a.m.

Atul Deshmane, President

Michael Murphy, Vice President

Christine Grant, Secretary

Commission Clerk Note: Video recordings of the Whatcom PUD Commission Meetings are available online at the following link on the PUD's Website: <https://www.pudwhatcom.org/the-commission/2021-agendas-packets-meeting-minutes-recordings/>

APPROVED: JULY 27, 2021
