

PUBLIC UTILITY DISTRICT NO. 1
of Whatcom County

1705 Trigg Road, Ferndale, WA 98248
(360) 384-4288 • www.pudwhatcom.org

November 16, 2022

Contact: Ann Grimm

Public Utility District No. 1 of Whatcom County

(360) 384-4288 ext. 27

**NOTICE OF PUBLIC HEARING REGARDING THE PROPOSED 2023 BUDGET FOR
PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY**

Notice is hereby given that the Board of Commissioners of Public Utility District No. 1 of Whatcom County (District) will hold a public hearing at the District's Regular Commission Meeting on **Tuesday, November 22, 2022** at 8:00 A.M. at the District's Administration Office, 1705 Trigg Road, Ferndale, WA.

The purpose of the hearing will be to receive comment on the proposed 2023 budget. The proposed budget is available for review on the District website at the following link, under Annual Budget Books:

<https://www.pudwhatcom.org/the-commission/financial-documents/>

All Commissioners will participate in-person, Zoom platform or by teleconference. The Commissioner's meeting room is open for the public to attend the meeting.

To attend the public hearing via Zoom/internet: <https://us02web.zoom.us/j/82576598555>

Or by telephone (253) 215-8782;

Webinar ID 825 7659 8555

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PUBLIC UTILITY DISTRICT No. 1
of Whatcom County

Agenda for the
Regular Meeting of November 22, 2022
8:00 a.m. at the PUD Office
(In-person, Zoom, & Teleconference)

1. Call to Order | Pledge of Allegiance (3 min.)
2. Approval of Agenda (3 min.)
3. Consent Agenda (5 min.)
 - a) Approval of Minutes of the Regular Meeting of November 8, 2022
 - b) Approval of Claims for November 22, 2022
4. Public Comment (10 minutes – Individual speakers: 3 min.)
5. Old Business
 - a) Broadband Program Update | Telecom Feasibility Study Presentation (30 min.)
6. New Business
 - a) Second 2023 Draft Budget Discussion (20 min.)
 - b) Public Hearing for 2023 Draft Budget (15 min.)
 - c) Approval of Amendment of Employment Contract with Steve Jilk (5 min.)
 - d) December Commission Meetings (10 min.)
7. General Manager Report (10 min.)
8. Operations Report (10 min.)
9. Commissioner Reports (15 min.)
10. Public Comment (10 minutes– Individual speakers: 3 min.)
11. Executive Session: RCW 42.30.110(1)(i): Potential Litigation - Water Rights Adjudication (Estimated time 30 min.)
12. Adjourn (10:30 AM estimated)

Notice:

In-person attendance is now allowed at PUD Commission Meetings.

All Commissioners will participate either in-person, via Zoom or teleconference.

The public meeting can be accessed by internet: <https://us02web.zoom.us/j/82576598555>

Or by telephone: Dial 1 (253) 215 8782 or 1 (346) 248 7799

Webinar ID: 825 7659 8555

Next Commission Meetings

December 13 & 20, 2022 | 8:00 a.m. | Regular Meetings – District Office

Access information will be announced - the public may join the meeting in-person, by phone or internet.

Contact: Ann Grimm, Commission Clerk at (360) 384-4288 x 27 • www.pudwhatcom.org

Agenda Item #3
November 22, 2022

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MINUTES OF THE REGULAR MEETING OF THE COMMISSION

November 22, 2022

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 8:00 a.m. by Commissioner Christine Grant. Said meeting was open to the public and notice thereof had been given as required by law. Those present included: Commissioner Christine Grant, Commissioner Mike Murphy; Commissioner Atul Deshmane; and Legal Counsel Jon Sitkin. Staff: General Manager Chris Heimgartner; Ann Grimm, Executive Assistant; Andrew Entrikin, Broadband Program Manager; Steve Jilk, In-House Consultant; Brian Walters, Assistant General Manager; Annette Smith, Director of Finance; Rebecca Schlotterback, Manager of Contracts and Regulatory Compliance; Paul Siegmund, Manager of Automation and Technology; Aaron Peterson, IT/SCADA Technician; Mike Macomber, IT/SCADA Technician; Traci Irvine, Accountant I; and Kurt Wank, Director of Utility Operations;

Public attending:

Rick Maricle, Citizen Jack Wellman, Puget Sound Energy
Dave Olson, Citizen Lauren Turner, Phillips66

2. Approval of Agenda

No changes.

ACTION: Commissioner Deshmane made the motion to APPROVE THE AGENDA OF NOVEMBER 8, 2022. Commissioner Murphy second the motion. Motion passed unanimously.

3. Approval of Consent Agenda

- Approval of Meeting Minutes of the Regular Meeting, October 25, 2022; and
- Approval of the Claims of November 8, 2022:

VENDOR NAME	AMOUNT
APPLIED DIGITAL IMAGING	205.57
BAY CITY SUPPLY	77.42
CARL'S MOWER & SAW, INC	116.41
CENTRAL WELDING SUPPLY	89.35
CORNERSTONE MANAGEMENT, INC.	779.00
EDGE ANALYTICAL LABORATORIES	112.27
ELECTRICAL RELIABILITY SERVICES	9,910.00
EXACT SCIENTIFIC SERVICES INC.	25.00
FCS GROUP	1,522.50
FERNDALE ACE HARDWARE	101.69
FERNDALE CITY OF	248.09
GRIMM, ANN	152.50
GUARDIAN SECURITY SYSTEMS, INC	93.18
HARDWARE SALES, INC.	112.14
HDR ENGINEERING, INC.	38,499.79
HEALTH PROMOTIONS NORTHWEST	150.00
LES SCHWAB TIRE CENTER	682.73
LITHTEX NW LLC	216.12
MILLS ELECTRIC	21,420.74

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MURPHY, MICHAEL J	70.56
NOANET	1,044.10
NORTHWEST CASCADE, INC.	118.50
NORTHWEST FIBER DBA ZIPLY FIBER	1,416.45
NORTHWEST MOWING & GARDENING	540.76
NW REQUIREMENTS UTILITIES, INC.	10,378.00
NP INFORMATION SYSTEMS (3-D CORP)	269.82
PACIFIC SURVEY & ENGINEERING	1,513.75
PACIFIC UNDERWRITERS CORP INC	236.00
PLATT ELECTRIC SUPPLY CO	446.79
PUD #1 OF WHATCOM COUNTY	16.56
PUGET SOUND ENERGY, INC	7,675.92
REGENCE BLUE SHIELD	48,219.17
REISNER DISTRIBUTION, INC	1,511.67
RICOH USA	215.70
SHRED-IT USA	52.79
SSC - SANITARY SERVICE COMPANY	559.54
STAR RENTALS	1,794.85
TEAMSTER LOCAL #231	569.00
TOP TO BOTTOM, INC	11,968.00
TRUE GREEN LAWN SERVICE	3,315.35
UNITED WAY OF WHATCOM COUNTY	601.00
UTILITIES UNDERGROUND LOCATION	21.93
VALVOLINE	127.57
VERIZON WIRELESS	2,013.60
WA ST DEPT TRANSP-NW REGION	140.81
WASHINGTON DENTAL SERVICE	2,570.70
WASHINGTON TEAMSTERS WELFARE	12,775.00
WHATCOM JANITORIAL	1,325.00
WHISTLE WORKWEAR	195.83
GRAND TOTAL	\$186,219.22

ACTION: Commissioner Murphy made the motion to APPROVE THE CONSENT AGENDA OF NOVEMBER 8, 2022. Commissioner Deshmane second the motion. Motion passed unanimously.

4. Public Comment

No comments.

5. Old Business

• Broadband Program Update

WA State Broadband Office (WSBO) Update

- Heimgartner contacted WPUA's George Caan regarding the WSBO's process of Notice of Funding – there have been three asks of *Calls for Comment*, which generally have received the same responses each time. There has been an eight-month delay in state funding opportunities. Heimgartner has asked Caan to reach out to Governor Inslee's for possible assistance.

Whatcom County Council Committee of the Whole Meeting

- Heimgartner, Entrikin, Commissioner Grant, and staff from the Port attended the October 25 meeting. Heimgartner and Entrikin presented information regarding broadband projects and planning. Grant thanked them for their nice work on the presentation.

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Port/PUD Steering Committee

- Entrikin reported that the group recently met and has suggested that the Steering Committee integrate with Whatcom County government for representation on the committee from the County. The Interlocal Agreement with the Port/PUD will need to be updated to include Whatcom County.
- Petrichor is wrapping up the feasibility study by the end of this week. A presentation to the Commission is planned for a future date.
- Fiber is now *in the air* for the Nooksack area broadband project.

6. New Business

a) **Approve Interagency License Agreement with WA State Department of Ecology**

Washington State Department of Ecology (DOE) has requested access to our intake structure to install a monitoring device. Parameters of the agreement were drafted by Jilk and Heimgartner and Legal Counsel Peter Ruffatto crafted the agreement. The agreement was then forwarded to DOE for review and comment. They have accepted it as written.

The agreement holds the District harmless for DOE actions on site, provides for PUD access to the data generated, precludes the DOE from using the data against the PUD in legal actions including the upcoming adjudication, and stipulates that DOE will bear all costs related to this installation, among other terms.

ACTION: Commissioner Deshmane made the motion to APPROVE SITE LICENSE AGREEMENT WITH DEPARTMENT OF ECOLOGY (DOE) TO INSTALL A MONITORING DEVICE ON A PUD OWNED WATER INTAKE STRUCTURE LOCATED AT 1921 MAIN STREET, FERNDALE, WA AND AUTHORIZE THE GENERAL MANAGER TO EXECUTE THE AGREEMENT. Commissioner Murphy second the motion. Motion passed unanimously.

b) **Approve Resolution No. 820 - Water System Consolidation Policy | Draft Interlocal Agreement with Whatcom County**

From time to time the District may be requested by a water system owner to consolidate the management and/or ownership of a water system. Further, in the rare circumstances where a water system has failed and the State Department of Health has commenced an action to place the water system into receivership, Whatcom County is designated by statute to be the receiver of last resort. Whatcom County can seek to have an agent perform the receiver services as the County's agent.

The Resolution Policy related to the *Voluntary Transfer of Water System Ownership and/or Operational Responsibilities* would establish the requirements and expectations of the District should a water system owner seek to contract with the District for the transfer of the water system ownership and/or management. This policy does not bind the District to enter into any consolidation agreement, as such decisions would be made by the Commission on a case-by-case basis. Commissioners proposed to include additional information to the recitals and intent statement as mentioned in the Strategic Plan Update 2025 and change the language of "takeover" to *consolidation* or something similar in the descriptions. Legal Counsel will provide an amendment to the language.

The proposed Interlocal Agreement with Whatcom County was drafted in response to the County's request that the District act as the County's agent should there be a water system placed into receivership by a Superior Court. This Interlocal Agreement would establish the conditions and requirements for the District to be a receiver should the Commission decide to serve in that capacity on a case-by-case basis. This Interlocal Agreement does not bind the District to serve as the receiver, as such decisions would be made by the Commission on a case-by-case basis. The Interlocal Agreement has not been presented to the County for review and consideration.

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ACTION: Commissioner Deshmane made the motion to APPROVE RESOLUTION NO. 820, AS AMENDED. Commissioner Murphy second the motion. Motion passed unanimously.

c) Approve Amendment No. 1 – RH2 Professional Services Agreement for Regional Water Supply Plan (RWSP)

Amendment No. 1 will extend the original terms of the Professional Services Agreement with RH2 in order to complete the work for the Regional Water Supply Plan from December 31, 2022 until February 28, 2023. There is no fiscal impact to the District as the District will pass funds from the Washington State Department of Fish and Wildlife (WDFW) grant to sub-contractors.

ACTION: Commissioner Deshmane made the motion to APPROVE AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT WITH RH2 ENGINEERING, INC, TO SUPPORT DEVELOPMENT OF PHASE 2 OF THE WRIA 1 REGIONAL WATER SUPPLY AND MANAGEMENT PLAN AND AUTHORIZE GENERAL MANAGER TO SIGN THE AGREEMENT. Commissioner Murphy second the motion. Motion passed unanimously.

d) Approve Amendment No. 2 to Work Order 17 with RH2 to Support Development of Phase 2 of the WRIA 1 Regional Water Supply and Management Plan

This item is in tandem with 6c. Due to the amount of data compiled and analyzed, the review and comment of the draft Phase 2 Water Supply Plan has taken longer than anticipated. District staff met with WDFW to request a time extension to February 1, 2023 and the additional time was approved by WDFW. District staff also met with RH2 consultants to discuss potential budget increase due to the additional time needed for review and comment by the Regional Water Supply Work Group. RH2 reviewed the remaining budget and proposed an additional budget of \$12,000 to bring the total budget to \$135,512.00. Funding will be covered either by the WDFW grant or by the Interlocal Agreement the District signed with Whatcom County in September 2022, wherein the County agreed to provide \$16,000 to support the RWSP completion. There is no fiscal impact to the District. The District will pass funds from the WDFW grant or Whatcom County to the sub-contractor that will perform the work.

ACTION: Commissioner Deshmane made the motion to APPROVE AMENDMENT NO. 2 TO WORK ORDER NO. 17 WITH RH2 ENGINEERING INC. TO SUPPORT DEVELOPMENT OF PHASE 2 OF THE WRIA 1 REGIONAL WATER SUPPLY AND MANAGEMENT PLAN NOT TO EXCEED \$132,512.00 AND AUTHORIZE GENERAL MANAGER TO SIGN THE AGREEMENT. Commissioner Murphy second the motion. Motion passed unanimously.

7. General Manager Report

- Operations Report - No update from Walters this meeting; however, the current cold and windy weather conditions will not last long enough to create a frazil ice or other hazardous issues for the crew.
- Attended a “Special Purpose Districts” Zoom meeting with Congresswoman DelBene and staff. The focus of the event was on the definition of a “Special Purpose District” as the term is defined many different ways depending on the statute (such as Hospital, Cemetery, Housing Authorities, etc.). Topics such as material supplies and worker shortages were discussed.

8. Commissioner Reports

Deshmane:

- Commented on an article by Eric Hirst regarding public agencies quantifying costs for water system improvements.
- Mentioned a *Seattle Times* editorial from Lummi staff in regards to the state and federal responses for near term actions avoiding salmon die-offs.

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- Attended a recent Watershed Management Board meeting. A presentation was made on lessons learned on the Yakima adjudication.
- Attended the Public Utility Risk Management (PURMS) meeting; commented on the premiums for “electric infrastructure fire” potentials. Since the District’s risk is low, Finance Director Smith has requested that this portion of the insurance premium for Whatcom PUD be dropped.

Murphy:

- Has been meeting with Heimgartner and continues to meeting with others in the Whatcom community to discuss current and future projects, mainly in regards to water issues.
- Attended a recent Port meeting – topic regarding the Port’s Shipping Terminal and increased terminal activity, requiring the support of local longshoreman jobs.
- Will attend the WPUDA committee meetings next week via Zoom.

Grant:

- Attended the Whatcom County Council Committee regarding broadband on October 25;
- Reiterated the suggested PUD work party to join *Nooksack Salmon Enhancement Association’s* community work party on Saturday, November 19, at Terrell Creek, Blaine.
- Discussed planning for an upcoming PUD Employee Recognition Event in January.
- Will attend the WPUDA committee meetings next week via Zoom.
- Plans to attend the Technology Alliance Group (TAG) book club meeting on November 21
- Seeking the summary from a study trip with local elected officials to Denmark to learn about their district’s heating areas with unique integrated climate solutions and interactions between the cities and federal organizations. The end result would be policy recommendations for our region. Heimgartner was to be included on the post-trip debriefing as he was unable to attend the trip. Grant mentioned a report was forthcoming.

9. Public Comment

No comments.

10. Executive Session

Commission President Grant requested an Executive Session pursuant to RCW 42.30.110(i) – Potential Litigation, relating to water rights adjudication. Estimated time for Executive Session was fifteen minutes. The Commission President indicated no action is anticipated to be taken after the adjournment of Executives Session. After a short break, the Commission adjourned to Executive Session at 9:45 a.m.

Executive Session Adjourn

There being no further business for Executive Session, the Commission rejoined the Regular Commission Meeting at 10:05 a.m.

11. Adjourn

There being no further business for the regular meeting, Commissioner Grant adjourned the regular meeting at 10:08: a.m.

Christine Grant, President/Commissioner

Atul Deshmane, Vice President/Commissioner

Mike Murphy, Secretary/Commissioner

Commission Clerk Notes:

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/2022-agendas-packets-meeting-minutes-recordings/>

Memo

To: Commissioners Deshmane, Grant and Murphy
From: Chris Heimgartner, General Manager
Date: November 22, 2022
Re: Approve Amendment to Employment Contract for Steve Jilk

Requested Action – APPROVE AMENDMENT TO EMPLOYMENT CONTRACT FOR STEVE JILK EFFECTIVE NOVEMBER 22, 2022.

Background – In June 2022, the Commission approved the Employment Contract with Steve Jilk. This approved contract superseded the prior employment contract with Mr. Jilk. Under the new contract, he is classified as a part-time (hourly) administrative employee. Prior to finalization of the Employment Contract with Legal Counsel, Heimgartner asked that the final draft to include annual Cost of Living Adjustments (COLA) and the District’s Retirement Contribution in lieu of being a member of Public Employee Retirement System (PERS), which is consistent with common payroll practices as noted in the Employment Contract. These were inadvertently not included on the original document.

The proposed amendment provides for:

- **Section 4.1.1** - a clarification in the Agreement in which *Payment will be consistent with the District’s Payroll Policy and Procedures for the PUD.*
- **Section 4.1.2** - *Annual Cost of Living Adjustment.* Beginning January 1, 2023, and for each subsequent year, the Employee shall receive an annual cost of living adjustment (“COLA”) which is calculated on the Employee’s current hourly base rate of pay; and at the same level the District applies to other administrative (non-bargaining unit) employees under the District’s Policy for Employee Compensation of Administrative Employees.
- **Section 4.1.3** – *District Contribution in Lieu of PERS.* Effective July 1, 2022, the Employee shall receive the contribution in lieu of PERS provided by the District to other administrative employees which is applied to the Employee’s base pay of \$90.98 per hour for hours worked and is currently set at 8.7% of the Employee’s base hourly pay. Such percentage shall increase or decrease as determined under the District’s Policy for Employee Compensation of Administrative Employees.

Fiscal Impact – The District’s 2022 Annual Budget includes sufficient funds to cover the retirement compensation. Annual Budget will not be impacted or amended. The draft 2023 Annual Budget will include sufficient funds to cover the Cost of Living Adjustment and Retirement Contribution amounts.

Recommended Action – APPROVE AMENDMENT TO EMPLOYMENT CONTRACT FOR STEVE JILK EFFECTIVE NOVEMBER 22, 2022.

AMENDMENT TO EMPLOYMENT AGREEMENT

THIS AMENDMENT TO EMPLOYMENT AGREEMENT (the "2022 Amendment") is entered into as of the last date written below between **WHATCOM PUBLIC UTILITY DISTRICT #1** (hereinafter referred to as the "PUD") and **STEPHAN JILK** (hereinafter referred to as the "Employee"), collectively referred to as the "Parties."

WHEREAS, the Employee and the PUD entered into a Restated and Amended Employment Agreement as Restated and Amended Through June 30, 2025 (the "Restated Employment Agreement") effective July 1, 2022; and

WHEREAS, the parties desire to amend the Restated Employment Agreement to clarify the Parties' original understanding and intent regarding common payroll practices to be applied to the Employee's compensation, including an annual cost of living adjustment to be applied January 1, 2023 and in subsequent years, and the contribution in lieu of PERS paid by the District to other administrative, non-bargaining unit employees (which has been paid to the Employee commencing July 2022 consistent with the Parties' intent and common payroll practices).

NOW, THEREFORE, in consideration of the following terms and conditions, the Parties agree as follows:

1. COMPENSATION. Section 4 of the Restated Employment Agreement is amended to add the underlined clarifying language and to read as follows:

4.1 For all services rendered by the Employee under this Agreement, the PUD shall provide the following compensation:

4.1.1 *Compensation.* Beginning July 1, 2022, the Employee will be paid \$90.98 per hour for each hour worked. Payment will be consistent with the District's Payroll Policy and Procedures for the PUD.

4.1.2 *Annual Cost of Living Adjustment.* Beginning January 1, 2023, and for each subsequent year, the Employee shall receive an annual cost of living adjustment ("COLA") which is calculated on the Employee's current hourly base rate of pay; and at the same level the District applies to other administrative (non-bargaining unit) employees under the District's Policy for Employee Compensation of Administrative Employees.

4.1.3 *District Contribution in Lieu of PERS.* Effective July 1, 2022, the Employee shall receive the contribution in lieu of PERS provided by the District to other administrative employees which is applied to the Employee's base pay of \$90.98 per hour for hours worked and is currently set at 8.7% of the Employee's base hourly pay. Such percentage shall increase or decrease as determined under the District's Policy for Employee Compensation of Administrative Employees.

4.2 **Retention Compensation.** The Prior Agreements provided for a variety of retention payments including: (a) payment of one hundred percent (100%) of accrued vacation hours and one hundred percent (100%) of accrued sick leave hours at the current rate of pay of \$90.98 per hour; and (b) a retention bonus of Fifty-Five Thousand Dollars (\$55,000.00). The dollar amount of the vacation and sick leave hours, accrued as of June 30, 2022, will be added to the retention bonus and the resulting total amount will be divided by thirty-six (36) to create monthly payments that will be paid beginning July 2022, and extend for thirty-six (36) months. This payment is not conditional, is not subject to any part of Section 10, with the exception of Section 10.3, of this Agreement, and represents earned compensation for faithful and exemplary service to the Utility for many years.

3. **OTHER TERMS AND CONDITIONS.** All other terms and conditions of the Restated Employment Agreement shall remain unchanged and in full force and effect. In the event of a conflict between this 2022 Amendment and the Restated Employment Agreement, this 2022 Amendment shall control.

PRESIDENT, BOARD OF COMMISSIONERS

Print Name: Christine Grant
Date: _____

STEPHAN JILK, EMPLOYEE

Print Name: Stephan Jilk
Date: _____