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2023 BOARD OF COMMISSIONERS

ATUL DESHMANE, PRESIDENT

CHRISTINE GRANT, VICE PRESIDENT

JAIME ARNETT, SECRETARY

PUBLIC UTILITY DISTRICT No. 1 of Whatcom County

Agenda for the Regular Meeting of April 25, 2023

8:15 a.m. at the PUD Office

(In-person, Zoom, & Teleconference)

1. Call to Order | Pledge of Allegiance (2 min.)
2. Approval of Agenda (3 min.)
3. Consent Agenda (5 minutes)
 - a) Approval of the Minutes of the Regular Meeting of April 11, 2023
 - b) Approval of the Minutes of the Special Meeting of April 13, 2023
 - c) Approval of Claims for April 25, 2023
4. Public Comment (10 minutes – Individual speakers: 3 min.)
5. Old Business (10 min.)
 - a) Broadband Program Update
 - b) Adjudication Update
6. New Business (60 min.)
 - a) Approve 2022 Annual Financial Report (20 min.)
 - b) Award of Bid: 30kW Solar Panel Array Project (10 min.)
 - c) Approve Resolution No. 831- Amending *Policy for Employee Compensation for Administrative Employees* (10 min.)
 - d) Post 2028: Bonneville Power Administration Power Contract Briefing (30 min.)
7. General Manager Report (10 min.)
8. Operations Report (10 min.)
9. Commissioner Reports (15 min.)
 - a) Upcoming Per Diem Requests
10. Public Comment (10 minutes– Individual speakers: 3 min.)
11. Executive Session: RCW 42.30.110(1)(i) Potential Litigation – (a) Water Rights Adjudication and (b) General Litigation (60 min.)
12. Adjourn (11:00 AM estimated)

Notice:

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

The public meeting can be accessed: In-person at location announced;

By internet: <https://us02web.zoom.us/j/89862537534>

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

Webinar ID: 898 6253 7534

Next Commission Meetings

May 9 and 23, 2023 | 8:15 a.m. | Regular Meeting – District Office

1705 Trigg Road, Ferndale, WA 98248

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

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MINUTES OF THE REGULAR MEETING OF THE COMMISSION

April 11, 2023

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 8:15 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 included: Commissioner Christine Grant, Commissioner Jaime Arnett; Commissioner Atul Deshmane; and Legal Counsel Jon Sitkin. Staff: Chris Heimgartner, General Manager; Assistant General Manager Brian Walters; Ann Grimm, Executive Assistant; Andrew Entrikin, Broadband Program Manager; Steve Jilk, In-House Consultant; Annette Smith, Director of Finance; Rebecca Schlotterback, Manager of Contracts and Regulatory Compliance; Paul Siegmund, Manager of Automation and Technology; Mike Macomber, IT/SCADA Technician; Traci Irvine, Accountant I; and Kurt Wank, Director of Utility Operations.

Public attending:

Rick Maricle

Jamie Douglass

Lauren Turner, Phillips66

Jack Wellman, PSE

2. Approval of Agenda

No changes made.

ACTION: Commissioner Grant made the motion to APPROVE THE AGENDA OF APRIL 11, 2023. Commissioner Arnett second the motion. Motion passed unanimously.

3. Approval of Consent Agenda

a) Approval of Meeting Minutes of the Regular Meeting, March 28, 2023;

b) Approval of the Claims of April 13, 2023:

Vendor	Amount
ALUMICHEM CANADA INC	35,954.40
APPLIED INDUSTRIAL TECHNOLOGIES, INC	41.71
AT&T MOBILITY	28.51
CARL'S MOWER & SAW, INC	84.19
CENTRAL WELDING SUPPLY	96.48
CITRIX SYSTEMS, INC.	1,551.05
CORNERSTONE MANAGEMENT, INC.	1,419.00
DESHMANE, ATUL	411.89
EDGE ANALYTICAL LABORATORIES	24.00
ELECTRICAL RELIABILITY SERVICES	7,827.00
EXACT SCIENTIFIC SERVICES INC.	27.00
FASTENAL	3.84
GRANICH ENGINEERED PRODUCTS, INC.	1,897.72
GUARDIAN SECURITY SYSTEMS, INC	2,100.00
HEALTH PROMOTIONS NORTHWEST	150.00
NATIONAL SAFETY, INC.	143.35
NORTH COAST ELECTRIC COMPANY	1,636.20
NORTHWEST CASCADE, INC.	118.50
NORTHWEST FIBER DBA ZIPLY FIBER	1,442.14
NP INFORMATION SYSTEMS (3-D CORP)	252.42
P&P EXCAVATING, LLC	11,560.50

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PACIFIC SURVEY & ENGINEERING	1,280.00
PLATT ELECTRIC SUPPLY CO	2,198.32
PUBLIC UTILITY RISK MANAGEMENT SERV.	54,160.28
PUD #1 OF WHATCOM COUNTY	13.86
PUGET SOUND ENERGY, INC	8,398.76
R&R COMPRESSOR SERVICE CO.	3,944.07
REGENCE BLUE SHIELD	45,798.72
REISNER DISTRIBUTION, INC	1,541.66
RICOH USA	173.60
SHRED-IT USA	56.05
SCHNEIDER ELECTRIC	8,477.70
SSC - SANITARY SERVICE COMPANY	615.43
TEAMSTER LOCAL #231	616.00
UNITED WAY OF WHATCOM COUNTY	742.00
UTILITIES UNDERGROUND LOCATION	9.03
VALVOLINE	175.66
WASHINGTON DENTAL SERVICE	2,860.65
WASHINGTON TEAMSTERS WELFARE	13,273.40
WHATCOM FARMERS CO-OP	60.88
WHATCOM JANITORIAL	1,430.00
WILSON ENGINEERING, LLC	325.50
WONDERWARE PACWEST	25,526.43
GRAND TOTAL	\$238,447.90

ACTION: Commissioner Grant made the motion to APPROVE THE CONSENT AGENDA OF APRIL 13, 2023. Commissioner Arnett second the motion. Motion passed unanimously.

4. Public Comment - No comments.

5. Old Business

a) Broadband Program Update

- The Washington State Broadband Office has delayed the award date of grants until the end of April or later.
- Staff continues to work on the Digital Equity Plan needs across Whatcom County. Entrikin is working with the Port and stakeholder engagements to complete the planning worksheets. This potential funding opportunity is in addition to the infrastructure grant applications.
- Zippy Fiber challenged some of the areas listed as un- or under-served in one of the Port's grant applications. This was confirmed and the end user locations in these areas will be removed from the Port's grant application.
- WPUA Telecom Workshop – Heimgartner plans to attend this and the General Manager's meeting in May.

b) Adjudication Update

Sitkin said House Bill 1792 is now awaiting approval by the Governor. There is no update for the budget proviso. An Executive Session is planned for the April 25 regular meeting for additional updates.

6. New Business

a) Approve Resolution No. 830

A warrant was issued for an invoice from Whatcom Land Title in the amount of \$350.00 however; the invoice had already been paid by Pacific Surveying and Engineering. The warrant was issued in error and needs to be cancelled.

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ACTION: Commissioner Grant made the motion to APPROVE RESOLUTION NO. 830 AUTHORIZING CANCELLATION OF WARRANT. Commissioner Arnett second the motion. Motion passed unanimously.

b) Water Resource Inventory Area 1 (WRIA 1) Survey Questionnaire

Heimgartner distributed copies of the Regional WRIA 1 Water Supply Plan (Phase 2) and a questionnaire regarding *planning for the next multi-year work plan*. Discussion followed. The Commissioners will send their individual responses to him prior to next meeting on April 25.

Sitkin said he could provide additional information regarding water rights in the adjudication process in a ten-minute Executive Session.

ACTION: Commissioner Arnett made the motion to ADD AN EXECUTIVE SESSION TO TODAY'S AGENDA IMMEDIATELY FOLLOWING PUBLIC COMMENT. Commissioner Grant second the motion. Motion passed unanimously.

c) Per Diem Policy Discussion

Sitkin addressed and clarified *Section 7 – Per Diem* of the Governance and Management Policy and Resolution No. 797. Discussion followed.

ACTION: No action taken. Information only.

7. General Manager Report

- Reminder: Special Meeting on Thursday at 4 PM, at Pioneer Park Pavilion, 2007 Cherry Street in Ferndale. This is an in-person meeting only.
- Update to the list of PUD member associations now includes Ferndale Chamber of Commerce.

8. Operations Report

- Walters will prepare a status update at the next regular meeting on the Bonneville Power Administration (BPA) contracts coming up in late 2024 or early 2025.
- The District's Request for Proposals for the the solar project are due this Friday.
- Continuous power market monitoring indicates power prices are still high and could be an impediment on new, large electric loads.

9. Commissioner Reports

Grant:

- Attended the Public Power Council meeting last week and provided key updates.

Arnett:

- Met with Heimgartner and Eric Hirst about water use efficiency.
- Will be attending WPUDA committee meetings this week.
- Inquired about other organizations the PUD donates to.

Deshmane:

- Attended the Whatcom County Economic Development Investment Board meeting.

10. Public Comment

Jamie Douglass commented on broadband, a new STEM organization being formed, his personal water cistern storage solution, and the Special Meeting regarding the Electric Expansion Feasibility Study.

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11. Executive Session

Commission President Deshmane requested an Executive Session pursuant to RCW 42.30.110(1)(i) Potential Litigation – (a) Water Rights Adjudication. Estimated time for Executive Session was ten (10) minutes. The Commission President indicated no action is anticipated to be taken after the adjournment of Executive Session. After a short break, the Commission adjourned to Executive Session at 10:12 a.m.

Executive Session Adjourn

There being no further business for Executive Session, the Commission rejoined the Regular Commission Meeting at 10:25 a.m.

12. Adjourn

There being no further business for the regular meeting, Commissioner Grant adjourned the regular meeting at 10:28 a.m.

Atul Deshmane, President/Commissioner

Christine Grant, Vice President/Commissioner

Jaime Arnett, Secretary/Commissioner

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/2023-agendas-packets-meeting-minutes-recordings/>

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MINUTES OF THE SPECIAL MEETING OF THE COMMISSION

April 13, 2023

1. Call to Order

The special meeting of the Board of Commissioners of Public Utility District No. 1 of Whatcom County was called to order at 4:06 p.m. by Commissioner Atul Deshmane. Said meeting was open to the public and notice thereof had been given as required by law. Those present included: Commissioner Christine Grant, Commissioner Jaime Arnett; Commissioner Atul Deshmane; and Legal Counsel Jon Sitkin. Staff: General Manager Chris Heimgartner; Brian Walters, Assistant General Manager; and Ann Grimm, Executive Assistant.

Public attending:

Gary Saleba, EES Consulting
Pam Brady, BP Cherry Point
Mr. Wellman, Sno-PUD
Calvin Bratt, Lynden Tribune
Mike Kauffman, citizen
Scott Corzine, citizen

Ellyn Murphy, Climate Impact Advisory Committee
Nash El-Badawi, BP Cherry Point
Jamie Douglass, citizen
Max and Carole Perry, citizens
Todd Lagestee, 40th Leg. Dist. Democrats

2. Presentation of EES Consulting's Electric Expansion Feasibility Study

a. General Manager Introduction and Overview

Heimgartner welcomed all, provided a brief summary, and introduced EES consultant Gary Saleba.

b. EES Consulting Presentation

Saleba provided a presentation highlighting aspects of the study.

3. Public Question and Answer Session

Saleba and staff answered audience questions about the study.

4. Adjourn

There being no further business for the special meeting, Commissioner Deshmane adjourned the special meeting at 5:50 p.m.

Atul Deshmane, President/Commissioner

Christine Grant, Vice President/Commissioner

Jaime Arnett, Secretary/Commissioner

Action Memo

To: Commissioners Arnett, Deshmane, and Grant
From: Annette Smith, Director of Finance
Date: April 25, 2023
Re: 2022 Annual Financial Report

Requested Action: ACCEPT THE DISTRICT'S 2022 ANNUAL FINANCIAL REPORT AND AUTHORIZE THE SUBMITAL TO THE STATE AUDITOR'S OFFICE.

The Annual Report will be available at <https://www.pudwhatcom.org/the-commission/financial-documents/> by the evening of Friday, April 21, 2023.

Background:

The Annual Report consists of the following four parts:

1. **Management's Discussion and Analysis (MD&A)** – This gives a high-level overview of the financial statements, discussing changes from the previous year. The intent is to give a broad, overview of any changes and trends.
2. **Financial Statements** – These statements are at a combined District level. Financial statements broken out per utility are under Note 14 in the following section. The statements include the Statement of Net position (Balance Sheet), Statement of Revenue, Expenses and Changes in Fund Net Position (Income Statement), and the Statement of Cash Flows.
3. **Notes to Financial Statements** – This is where different sections and activities of the District are discussed and explained in detail. For example, Note 7 lists details and schedules for the outstanding long-term debt. Most of the Notes have prescribed guidelines by the SAO, but still give valuable, detailed information.
4. **Required Supplemental Information** – This section contains required schedules in the SAO formats.

While the Annual Report provides extensive information, it does not provide a budget to actual comparison of results. For that reason, the following, high-level statement was prepared to provide additional information/comparison:

	2022	2021	Variance	%	2022 Budget	Variance	%	
REVENUE								
1	Service Revenues - Industrial Water	\$ 9,484,268	\$ 8,941,405	\$ 542,863	6%	\$ 9,396,884	\$ 87,384	1%
2	Service Revenues - Irrigation	85,304	94,112	(8,808)	-9%	81,567	3,737	5%
3	Service Revenues - Grandview Utility	243,660	256,339	(12,679)	-5%	280,351	(36,691)	-13%
4	Service Revenues - Electric Utility	2,238,960	2,203,956	35,004	2%	2,238,954	6	0%
5	Misc Revenue	239,885	187,927	51,958	28%	68,025	171,860	253%
	TOTAL REVENUE	\$ 12,292,077	\$ 11,683,739	\$ 608,338	5%	\$ 12,065,781	\$ 226,296	2%
EXPENSES								
6	Labor & Benefits	(3,596,689)	(3,156,145)	(440,543)	14%	(3,903,165)	306,476	-8%
7	O&M Expenses	(2,014,980)	(1,898,935)	(116,045)	6%	(2,097,945)	82,965	-4%
8	Administration Expenses	(2,176,549)	(3,189,431)	1,012,882	-32%	(2,682,887)	506,338	-19%
9	Telecom	(84,472)	-	(84,472)	0%	-	(84,472)	0%
	TOTAL EXPENSES	\$ (7,872,689)	\$ (8,244,512)	\$ 371,822	-5%	\$ (8,683,997)	\$ 811,308	-9%
BUSINESS SERVICES/GRANTS								
10	Business Service Revenue	435,590	67,258	368,332	548%	283,000	152,590	54%
11	Business Service Expenses	(248,326)	(59,910)	(188,416)	314%	(283,000)	34,674	-12%
	TOTAL BUSINESS SERVICES	\$ 187,265	\$ 7,348	\$ 179,917	2448%	\$ -	\$ 187,265	0%
12	INCOME (LOSS)	\$ 4,606,653	\$ 3,446,576	\$ 1,160,077	34%	\$ 3,381,784	\$ 1,224,869	36%
CAPITAL COSTS								
13	Debt Service	(2,496,070)	(2,532,703)	36,633	-1%	(2,496,070)	-	0%
14	Transfers for Capital Projects	(2,515,000)	(566,053)	(1,948,947)	344%	(1,470,000)	(1,045,000)	71%
	TOTAL CAPITAL COSTS	\$ (5,011,070)	\$ (3,098,756)	\$ (1,912,314)	62%	\$ (3,966,070)	\$ (1,045,000)	26%

The Phillips 66 pass-thru costs for power, transmission and related taxes, and non-cash expenses are removed from Revenue and Expenses.

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

- 1) *Service Revenues – Industrial Water* – Total water consumption for the Cherry Point area increased between 2021 and 2022 (3,964,896,733 gallons to 3,999,076,315 gallons respectively, a 1% increase). The 2022 revenues for Industrial Water slightly increased from the 2021 revenues due to an increase in rates for 2022. The 2022 actual revenues were just over budget.
- 2) *Service Revenues – Irrigation* – Water consumption for the Irrigation customers decreased 19% from 2021. Irrigation revenues are highly contingent upon the amount of rainfall during the year, therefore vary from previous years, and budget more than other areas.
- 3) *Service Revenues – Grandview Utility* – Water consumption for the Grandview utility decreased in 2022 compared to 2021 12%. The 2022 revenues for the Grandview utility fell below 2021 and budget predictions.
- 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 2022, 2021 actual amounts and budget are in line with expectations.
- 5) *Miscellaneous Revenue* – this line includes any miscellaneous income including late fees, interest income, lease payments, recycle income and any income for in-house projects. For 2022, the majority of the income came from interest income.

- 6) *Labor and Benefits* – this includes all the labor and benefits not associated with capital projects and extraordinary maintenance. The 2022 actual costs came in above 2021 but below budget. The amount of labor capitalized was not as much as budgeted, which drove up the expense, while three of the five new hires included in the 2022 budget were not filled, offsetting the increase.
- 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 2022 actual costs came in above 2021, but below budget. We continued to catch-up on maintenance projects. The variance between actual and budget fell mainly in the extraordinary maintenance category due to projects not being accomplished.
- 8) *Administration Expenses* – The abandonment of the Refinery substation in 2021 did have a residual expense in 2022 of approximately \$140k. Removing the Refinery substation expense, the engineering expenses were under compared to both 2021 and the budget and was the biggest variance. Engineering work was budgeted for levy work and hydraulic analysis which did not occur.
- 9) *Telecom* – In 2022, the District explored the possibility of reviving the Telecom utility. No operating revenue was generated therefore the utility was not recognized. The expenses were tracked separately, but at the end of the year, they were allocated across the other utilities. The position of Broadband Program Manager was budgeted and is reflected in the Labor and Benefits.
- 10) *Business Service Revenue* – this line includes all of the income from what we term Business Services. The majority of the revenue is from grants the District participates in, but can include outside consulting and in 2022 includes the BPA Energy Efficiency credit. Depending on the grant activity, this amount will fluctuate widely between years. 2022 income came from grants around the Water Supply Plan, Well Monitoring and Education and Outreach. Non-grant income came from BPA and the Port of Bellingham for telecom expenses. The budget included a grant for work Group A water systems which did not occur.
- 11) *Business Service Expenses* – this line includes the corresponding expenses associated with the Business Services. The difference between the Revenue and Expenses is usually due to the timing of reimbursement, but sometimes is due to a lower than 100% reimbursement.
- 12) *Income (Loss)* – This line is the result of revenues minus expenses, but is not a direct reflection of the Operating Income on the Statement of Revenue, Expenses and Changes in Fund Net Position. The Statement of Revenue, Expenses and Changes in Fund Net Position reflects GAAP accounting and non-cash expenses. Line 12 corresponds to the budget and does not include non-cash expenses.
- 13) *Debt Service* – This is the debt service paid annually. In 2022 no new debt was issued or refinanced. The 2016 LTGO debt service is not reflected here since it is paid with assessments and not revenue.
- 14) *Transfers for Capital Projects* – This is the amount transferred over to the Capital funds annually for existing and future capital projects.

Staff will provide a presentation/overview of the report and provide opportunities for questions at the Commission meeting on April 25th. The pre-audit 2022 Annual Report will be on the PUD's website (<https://www.pudwhatcom.org/the-commission/financial-documents/>).

Fiscal Impact: None

Recommended Action: ACCEPT THE DISTRICT'S 2022 ANNUAL FINANCIAL REPORT AND AUTHORIZE THE SUBMITAL TO THE STATE AUDITOR'S OFFICE.

AGENDA ITEM #6b
April 25, 2023

Action Memo

To: Commissioners Arnett, Deshmane, and Grant
From: Kurt Wank, Director of Utility Operations
Date: April 25, 2023
Re: Award of Bid to Western Solar for Plant 2 30kW Solar Panel Array

Requested Action: AWARD THE PLANT 2 SOLAR ARRAY PROJECT CONTRACT TO WESTERN SOLAR AND AUTHORIZE THE GENERAL MANAGER TO EXECUTE THE AGREEMENT.

Background: One of Whatcom PUD’s Goals identified in the Commission’s Strategic Plan 2025 document is to “**Define the PUD’s role in advancing clean and renewable energy**”. Strategy RE2 listed under this Goal is to “Undertake a demonstration project of the use of alternative clean and renewable energy technologies.” Consistent with Strategy RE2, PUD staff has investigated the implementation of a renewable energy technology to be located on PUD property and integrated with water utility facilities.

Staff determined that a solar voltaic panel array installed at Water Treatment Plant 2 (WTP2) would be a good first step. Operations staff prepared and issued a Request For Proposals (RFP) for a solar panel array on March 24, 2023. The RFP was for a 30kW capacity array to be mounted on the roof of the maintenance building at WTP2, and be connected to the 480-volt panel within the building. Staff contacted and sent the RFP to four companies whose qualifications were deemed to meet the requirements of the work to be performed.

The 30kW capacity solar project does not reach the level of a community solar installation and no net metering is involved, however, it will offset a portion of the electricity usage for the WTP2 complex of facilities. This small step installation will serve as an educational opportunity to enhance the ability of the PUD to identify, specify, and install future solar installations. The technical details and experience gained can be used to assist other county entities in the future.

The bid opening for the Plant 2 Solar Array Project Contract was held on Friday, April 14, 2023 at 10:00 a.m. Two bid packages were received by the deadline and upon review by staff were deemed responsive. The results of the bids based on a 30kW Solar Panel Array are as follows:

<u>Vendor</u>	<u>Bid Amount</u>
Western Solar.....	\$60,868.15 (tax not included)
Barron Solar	\$72,368.00 (tax not included)

Western Solar’s bid package was determined to be the lowest priced responsive bid. Based upon review, staff recommends awarding the Contract for the Plant 2 30kW Solar Panel Array to Western Solar.

Fiscal Impact: Although the solar project was not specifically identified in the 2023 Capital Improvement Budget, staff has determined that full funding for the Project can be secured from two Whatcom PUD established internal funds. One is the BPA Incentive Fund and the other is the ALCOA Fund. The latter has \$50,000 earmarked for renewable and clean energy initiatives, as the result of the 2023 Budget process. Use of these two funds will result in no impact on customer rates.

Staff has determined that an incentive payment equal to thirty percent (30%) of the solar project cost can be applied for from the IRS, as the result of a provision in the Inflation Reduction Act passed by Congress last year. This provision regards municipalities and other public entities' (i.e. PUDs) investments in renewable clean energy projects. Although the PUD is not eligible for federal tax credits, it can apply for a comparable Direct Payment from the IRS. Once the IRS completes its rules and regulations and develops the Direct Payment application forms, the PUD will apply for the payment. When the payment is received, it will be used to help replenish the Funds used to pay for the project.

Recommended Action: AWARD THE PLANT 2 SOLAR ARRAY PROJECT CONTRACT TO WESTERN SOLAR AND AUTHORIZE THE GENERAL MANAGER TO EXECUTE THE AGREEMENT.

Action Memo

To: Commissioners Arnett, Deshmane, and Grant
From: Chris Heimgartner, General Manager & Ann Grimm, HR Administrator
Date: April 25, 2023
Re: Approval of Resolution No. 831 – Amend the *Policy for Employee Compensation of Administrative Employees*

Requested Action: APPROVE RESOLUTION NO. 831 AMENDING THE *POLICY FOR EMPLOYEE COMPENSATION OF ADMINISTRATIVE EMPLOYEES* FOR THE PURPOSES OF ADDING THE WA STATE PAID FAMILY MEDICAL LEAVE (PFML) PROGRAM GUIDANCE POLICY.

Background: In 2020, Washington State implemented the new Paid Family and Medical Leave Program (PFML). No District employee has utilized the program until recently. This recent request for PFML prompted us to write a guidance policy. Attached as Exhibit A hereto is a proposed resolution amending the District's Policy for Employee Compensation for Administrative Employees. In preparing this Policy, staff consulted with Legal Counsel Peter Ruffatto.

The draft policy (Exhibit A to the Resolution) was crafted from a Mason 3 PUD policy and incorporated legal requirements pertaining to the District. It provides a summary of the PFML program and guidance for any District employee who utilizes the state benefit. Among other topics, it also clarifies that the District does not offer paid leave as a "supplemental benefit" and defines Employment Status and Leave Benefit Eligibility while on PFML.

Fiscal Impact: There is no fiscal impact.

Recommended Action: APPROVE RESOLUTION NO. 831 AMENDING THE *POLICY FOR EMPLOYEE COMPENSATION OF ADMINISTRATIVE EMPLOYEES* FOR THE PURPOSES OF ADDING THE WA STATE PAID FAMILY MEDICAL LEAVE (PFML) PROGRAM GUIDANCE POLICY.

RESOLUTION NO. 831

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PUBLIC UTILITY DISTRICT NO. 1 OF WHATCOM COUNTY (“DISTRICT”) AMENDING THE *POLICY FOR EMPLOYEE COMPENSATION FOR ADMINISTRATIVE EMPLOYEES* FOR THE PURPOSE OF ADDING WA STATE PAID FAMILY MEDICAL LEAVE (PFML) GUIDANCE POLICY

WHEREAS, the Commission finds it in the best interest of the District to annually review the District’s “Policy for Employee Compensation of Administrative Employees” attached hereto as “Exhibit A” for the Administrative Employees; and

WHEREAS, RCW 54.16.100 provides that the General Manager shall be the chief administrative officer of the district, in control of all administrative functions and shall be responsible to the commission for the efficient administration of the affairs of the district placed in his or her charge. RCW 54.16.100 further provides that the manager shall carry out the orders of the commission, and see that the laws pertaining to matters within the functions of his or her department are enforced;

WHEREAS, this policy is designed to provide a summary of the WA Paid Family and Medical Leave Program (PFML) to District employees who wish to utilize the State benefit. The Guidance Policy directs employees to obtain additional information at www.paidleave.wa.gov, and includes but is not limited to clarification of Eligibility, Leave Entitlement, Premiums collected via Payroll Deductions, Employee/Employer Notifications, and Employment Status/Leave Benefit Eligibility.

NOW, THEREFORE, BE IT RESOLVED by the Commission of Public Utility District No. 1 of Whatcom County as follows:

I

Effective April 25, 2023, The *Policy for Employee Compensation for Administrative Employees* of the Commission of the Public Utility District No.1 of Whatcom County attached hereto as Exhibit “A”, is amended for the purpose of adding the Washington State Paid Family and Medical Leave District Guidance Policy attached hereto as Exhibit “B”.

ADOPTED by the Board of Commissioners of Public Utility District No. 1 of Whatcom County at a regular meeting thereof, held this 25th day of April 2023.

**Public Utility District No. 1
of Whatcom County**

Atul Deshmane, President/Commissioner

Christine Grant, Vice President/Commissioner

Jaime Arnett, Secretary/Commissioner

Public Utility District Number 1 of Whatcom County

Policy for Employee Compensation of Administrative Employees

Purpose: This policy provides guidelines, responsibilities and authorities for the administration of the compensation for District Administrative (non-bargaining unit) Employees. This policy is subject to change, from time to time, by the Commission. This program is designed to promote, attract, and maintain a skilled workforce for the District.

The administration of this policy, where practicable, is to encourage career and professional development within the workforce. One of the goals of this policy is to reward increasing levels of responsibility and overall knowledge of the utility business. Demonstrated ability to incorporate the knowledge and experience to the benefit of the District will be a consideration in addressing compensation. To accomplish this, the District's compensation program is designed to strive for the following:

- 1. Encourage the recruitment, retention and motivation of qualified employees.** *The District seeks to compensate employees consistent with industry wages and the local economy.*
- 2. Comply with Federal and State Laws and Equal Employment Opportunity standards.** *The District compensates its employees in accordance with all applicable local, state and federal laws regarding race; color, religion; gender; marital status; national origin; citizenship status; age; sensory, mental or physical disability; disable or Vietnam-era veteran, or any other status protected by law.*
- 3. Identify other employment/compensation benefits for District Administrative Employees.** *The total measure of compensation will normally take into consideration all benefits enjoyed by employees inclusive of, but not limited to, salary, health insurance and benefits, personal leave, deferred compensation and retirement plans.*

Requirements

This policy shall apply to District Administrative Employees under the direction and supervision of the General Manager. The General Manager is charged with the administration of this policy, but is not covered by this policy. The terms and conditions of employment for the General Manager are determined by Contract with the Board of Commissioners.

At Will Employment

Public Utility District No. 1 of Whatcom County retains the *at will* status for all District Administrative Employees. As such, the employment relationship can be terminated at any time, with or without cause, by the District or the employee. No District representative has the authority to enter into any agreement for employment for a specified period of time or make any representations or agreement contrary to *at will* employment unless specifically authorized in writing by the Board of Commissioners.

Salary Administration

The compensation of the District's Administrative Employees is subject to availability of budgeted funds. As part of the annual budgeting process, the Commission will review and approve, at the Commission's discretion, funds to be allocated for total compensation, which includes salaries, all other compensation related expenses, and all benefit plans (medical, dental, vacation, retirement, and personal leave).

Salary Range

The Commission will establish a salary range for each District Administrative Employee position in accordance with this policy. Each salary level will list the yearly salary range within which the salary paid must fall, except as otherwise provided herein.

Industry Salary Comparison

The salary range will be reviewed annually and may be adjusted by the Commission utilizing as a guide both the most applicable Consumer Price Index, the Washington Public Utility Districts Association's Salary, Wage and Benefit Survey, and the District's Collective Bargaining Agreement wage schedule as reference. Internal equity is a factor to be considered by the District when assessing comparable levels of responsibility while addressing variations in local and regional labor markets.

The General Manager or his designee shall procure annually or at least every two years, salary schedules of equivalent jobs in utilities and other comparable industries to determine the appropriateness of the District's salaries. Based on this review, and/or other factors such as cost of living and/or inflation, the General Manager will submit for approval a revised schedule of salary ranges to the Commissioners.

Salary Level

Each administrative job is placed in an existing salary level by evaluation of the job description. Normally, the level of salary compensation falls within a range for each position at the District. Placement within the range is subject to case-by-case analysis of the individual and factors including, but not limited to, level of experience, education, knowledge of job, knowledge of utility business, ability to efficiently perform duties and level of responsibility.

Each District Administrative Employee's salary will be determined by the General Manager in conjunction with District lead managers/supervisors using the salary ranges set by the Commission.

Other Factors in Determining Salary Levels or Ranges

Proposed salary level or range placements which are contrary to the statement above made as a recognition of special skills, talents, accomplishments or circumstances brought to the job or as a result of special labor market conditions will be reviewed by the General Manager and/or designated staff. Several factors can determine the appropriate range. These include:

- Market conditions;
- The particular role;
- Education, professional training and/or certifications;
- Number of years relevant functional and/or industry experience;
- Number of staff previously supervised;
- Special abilities or national recognition; or

- Part-time and/or temporary employment salary level/salary ranges that do not include additional benefits such as District-covered health insurance, paid holidays, paid vacation and paid sick leave (other than required by law).

The General Manager shall have the flexibility of filling such positions which are already approved by the Commission to set salary levels or ranges that are not tied to an hourly rate.

Salary Adjustments

Changes within a range will normally occur on January 1 of each year or at other times deemed appropriate by the supervisor and approved by the General Manager. Salary increases of any nature are at the discretion of the District and no employee is entitled to any adjustment until approved by the General Manager.

Individual salary adjustments may occur throughout the year as appropriate for

- Cost of living adjustments;
- Increases for employees in new positions or entry level of the ranges;
- Change in responsibility or demonstrated competencies within the position;
- Change of position;
- Performance; or
- Other special circumstances as may occur.

Voluntary Transfer/Demotion

Voluntary transfers to a job with a lower salary level or demotions because of inadequate performance or other valid reasons may result in a salary reduction to a point within the new salary ranges.

Fair Labor Standards Act

It is the intent of the District to fully comply with applicable laws, including the Fair Labor Standards Act. Each administrative position will be classified as exempt or non-exempt from overtime. Job descriptions will reflect the classification.

Personal Leave

Accrual rates and beginning balances for personal leave may be adjusted as determined by the General Manager within the limitations described below. Adjustments outside the following limitations require Commission review and prior approval. Adjustments within the following limitations are determined by the General Manager.

- The base pay for the individual must remain within the salary range;
- The adjustment for any individual in the budget year will be limited to 10%;
- The total adjustments for all subject employees within a budget year shall be limited to the annual budget approved by the Commission;
- Personal leave accrual rate up to the standard accrual rate based on years of relevant experience.

As new positions are created or substantively changed, salary ranges will be determined by the Commission. Job descriptions may be reviewed every two years or whenever significant changes occur

to the duties or responsibilities of the position. New or updated job descriptions may be addressed when filling vacancies or promoting staff members.

Additional Benefits and Other Compensation:

Health Care

Exempt and Non-exempt employees will be provided with health care coverage consisting of medical, dental, vision and employee assistance programs. Specifics of these benefits may change from year to year. See the HR Administrator for additional information.

Vacation Benefits

Employees begin to accrue vacation benefits upon the date of hire. Once employees successfully complete their 90-day introductory period, they are eligible to begin to use accrued vacation time based on prorated benefit eligibility. For additional information, please see “Time Off and Benefits” in the Employee Handbook.

Vacation Schedule for District Administrative Employees

<i>Year</i>	<i>Annual Accrual</i>	<i>Monthly Accrual</i>
1	88 hours	7.33 hours
2	88 hours	7.33 hours
3	96 hours	8.00 hours
4	112 hours	9.33 hours
5	128 hours	10.66 hours
6	128 hours	10.66 hours
7	136 hours	11.33 hours
8	144 hours	12.00 hours
9	152 hours	12.66 hours
10	168 hours	14.00 hours
11	176 hours	14.66 hours
12	192 hours	16.00 hours
13	208 hours	17.33 hours
14	224 hours	18.66 hours
15	240 hours	20.00 hours
16	248 hours	20.66 hours
17	256 hours	21.33 hours
18	264 hours	22.00 hours
19	272 hours	22.66 hours
20	280 hours	23.33 hours

Sick Leave Benefits

Employees shall receive a maximum of 12 days (96 hours) of paid sick leave per calendar year accrued at a rate of 8 hours per month. Sick leave benefits are based on prorated benefit eligibility. For additional information, please see “Time Off and Benefits” in the Employee Handbook.

Insert WA PAID FAMILY MEDICAL LEAVE PROGRAM GUIDANCE POLICY HERE

Policy for Leave without Pay

If an employee requests time away from work, the employee may request leave without pay for up to 80 hours in a 12-month period. Requests for unpaid leave must be approved by the immediate supervisor and the General Manager. Upon approval by the General Manager, employees will not be required to use any accrued vacation and floaters before receiving unpaid leave. If approved by the General Manager, the employee's health benefits can be maintained during the unpaid leave. However, vacation time, floating holidays and sick leave hours will not be accrued during the unpaid leave.

Floater (in lieu of Holidays)

Employees shall receive a maximum of 12 days (96 hours) "floating" paid holidays per calendar year accrued at a rate of 8 hours per month based on prorated benefit eligibility. For additional information, please see "Time Off and Benefits" in the Employee Handbook.

Deferred Compensation Program and District Retirement Contribution

Employees covered by this policy may be eligible to participate in 401a or 457k deferred compensation program consistent with all state and federal regulations and receives **District contribution** in lieu of the District's contribution to the Washington Public Employees Retirement System (PERS). Such benefit shall be set annually by the Commission and is currently set at **9.2%** of the employee's base salary.

Separation of Employment

District Administrative Employees: Since employment with the District is "at will", both the employee and the District have the right to terminate employment at any time, with or without cause or advance notice, and without compensation except for time actually worked and accrued benefits, if any. Whether termination is voluntary or involuntary, employees will receive their final pay on the next regularly schedule payroll date following the employee's last day worked.

1. Vacation and Floating Holidays: All accrued vacation and floating holiday leave benefits will be paid at one-hundred percent (100%) at time of termination.
2. Sick Leave Benefits: Any accrued sick leave benefits will be cashed out at the following schedule based on years of service:
 - Greater than 20 years – at fifty percent (50%) of the unused balance at time of termination
 - Sixteen to 20 years – at forty percent (40%) of the unused balance at time of termination
 - Less than 16 years – at twenty-five percent (25%) of the unused balance at time of termination
3. Death: If the employee dies while employed by the District, the employment is terminated immediately. Upon such termination, the employee will receive his/her final paycheck, plus all accrued but unused benefits as noted above in item 1; and, any accrued sick leave benefits will be cashed out at one hundred percent (100%) of the unused balance at time of termination due to death.

EFFECTIVE: April 25, 2023
RESOLUTION NO. 831
Superseded Resolution Nos. 826, 810, 787, 777, 761, 752,
744, 737, 734, 720, 716, 702, 695, 687, 675, 663, 550, 560.

WA PAID FAMILY AND MEDICAL LEAVE PROGRAM WHATCOM PUD GUIDANCE POLICY

Paid Family and Medical Leave (PFML) is a mandatory statewide insurance program, administered by the Washington State Employment Security Department (ESD), that provides employees with paid leave for certain qualifying events.

This policy provides a summary of the PFML program. Employees may obtain additional information at www.paidleave.wa.gov. To the extent an issue is not addressed in this policy, the District will administer this benefit program consistent with applicable statutes and regulations.

Eligibility:

To be eligible for State PFML, employees must have worked 820 hours in the qualifying period (defined as the first four of the last five calendar quarters), for any employer(s) in Washington State. In any week in which an employee is eligible to receive benefits under another applicable federal or state unemployment or industrial insurance laws, the employee is disqualified from receiving PFML benefits. An employee is also ineligible for PFML benefits during any period of suspension from employment or during any period of time during which an employee works for remuneration or profit (e.g., outside employment or contracting).

Leave Entitlement:

Eligible employees are entitled to take up to 12 weeks of medical or family leave, or a combined total of 16 weeks of family and medical leave per claim year; an additional two weeks of leave may be available in the event the employee's leave involves incapacity due to her pregnancy.

The claim year begins when the employee files a claim for PFML benefits or upon the birth/placement of the employee's child. PFML leave may be taken for the following reasons:

Medical Leave:

Medical leave may be taken due to the employee's own serious health condition, which is an illness, injury, impairment or physical or mental condition that involves inpatient care or continuing treatment by a health care provider, as those terms are defined under RCW 50A.05.010. However, an employee is not eligible for PFML benefits if the employee is receiving time loss benefits under the workers compensation system.

Family Leave:

Family leave may be taken to care for a covered family member with a serious health condition; for bonding during the first 12 months following the birth of the employee's child or placement of a child under age 18 with the employee (through adoption or foster care); or for qualifying military exigencies. For purposes of family leave, covered family members include the employee's child, grandchild, parent (including in-laws), grandparent (including in-laws), sibling, or spouse.

PFML leave may be taken intermittently, provided there is a minimum claim requirement of eight (8) consecutive hours of leave in a week for which benefits are sought.

Payroll Deductions:

The PFML program is funded through premiums collected by ESD via payroll deductions and PUD contributions. Currently, the District pays the employee's premium. The premium rate is established by law.

PFML Application Process:

An employee must apply to ESD in order to seek PFML benefits. Eligibility determinations will be made by ESD. If approved, the employee will need to file weekly benefit claims with ESD to continue receiving benefits.

Notification Requirements: *Employee*

An employee must provide written notice to the District's Human Resources Administrator of the intent to take PFML leave. If the need for leave is foreseeable, notice must be given at least 30 days in advance of the leave. For unforeseeable leave, notice must be given as soon as practicable. The employee's written notice must include the type of leave taken (family or medical), as well as the anticipated timing and duration of the leave. After receiving the employee's notice of the need for leave, the District will advise the employee whether the employee is eligible for job protection under PFML or federal FMLA or both.

If leave is being taken for the employee's or family member's planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt District operations.

If taking leave intermittently, an employee must notify the District each time PFML leave is taken so that the District may properly track leave use. Leave will be considered a single period of PFML only if separated by less than 4 months.

Notification Requirements: *Employer*

The District is required to provide notice to employees who may be eligible for Paid Family and Medical Leave the later of: Five business days after an employee's seventh consecutive day of absence due to family or medical leave; or, Five business days after an employer becomes aware that the employee's absence is due to family or medical leave. (See Exhibit A – sample Employer Notice)

PFML Monetary Benefits:

If ESD approves a claim for PFML benefits, partial wage replacement benefit payments will be made by ESD directly to the employee. The amount of the benefit is based on a statutory formula.

With the exception of leave taken in connection with the birth or placement of a child, monetary PFML benefits are subject to a seven-day waiting period. The waiting period begins on the Sunday of the week in which PFML leave is first taken. The waiting period is counted for purposes of the overall duration of PFML leave, but no monetary benefits will be paid by ESD for that week.

Coordination With Other Benefit Programs:

When an employee is on leave and only receiving PFML benefits, the employee is deemed to be in unpaid status (Leave Without Pay) for purposes of the District policies and benefit programs. Insurance coverage will be handled in the same manner as other unpaid leaves of absence, pursuant to the District's policy and subject to any federal FMLA or other legal requirements requiring continuation of coverage.

Per District policy for unpaid leave, an employee's health insurance may be maintained during the unpaid leave if approved by the General Manager. The General Manager's determination will be consistent with District practice with regard to other employees taking Leave Without Pay and with the business needs of the District. COBRA options for self-pay are available if health insurance benefits are not maintained during the unpaid leave.

Unless leave is taken on an intermittent basis, Employees receiving PFML benefits do not accrue paid vacation, sick, or floating holiday leave during the period of PFML leave. Employees receiving PFML benefits and taking approved leave on an intermittent basis are subject to reduced leave accrual as described below.

Employment Status/Leave Benefit Eligibility

Most District positions are considered full-time (40 hours/week). Paid leave (vacation, sick, and floating holidays) is accrued based on prorated earn rates (see Table 1, which is subject to change). If an employee is on approved intermittent PFML leave, they will be on reduced leave accrual status and will accrue leave in accordance with the table below.

Table 1

Earn Rate	Work Schedule
100%	32 hours or more per week scheduled.
75%	24 to 32 hours per week scheduled.
50%	Less than 24 hours per week scheduled.

For example: An employee on approved intermittent PFML leave who works only 20 hours per week will accrue leave at earn rate of 50% as shown in Table 2:

Table 2

Earn Rate	Normal Earn Rate Accrual (40 hours/week)	Reduced Work Schedule – 20 hrs/week Accrual
50%	Sick Leave..... 8 hours Floating Holiday.... 8 hours Vacation.....7.33 hrs	4 hours 4 hours 3.66 hours

Job Restoration; Return to Work:

An employee who is eligible for job-protected leave will be restored to the same or equivalent position at the conclusion of PFML leave, unless unusual circumstances have arisen (e.g., the employee's position or shift was eliminated for reasons unrelated to the leave). The District may require a return-to-work certification from a health care provider before restoring the employee to work following PFML leave where the employee has taken leave for the employee's own serious health condition and has been on leave for more than four (4) days, the employee holds a safety-sensitive position, or where such certification is otherwise legally required.

If an employee taking PFML leave chooses not to return to work for any reason, the employee should notify the District as soon as possible. If an employee chooses not to return to work for reasons other than a continued serious health condition, the District may require the employee to reimburse the District any amount paid for the employee's health insurance premium, if covered, during the leave period.

Sample Notice

Employer Requirement to Provide Notice to Employees

Employers with employees working in Washington state must provide the following notice to employees who may be eligible for Paid Family and Medical Leave the later of:

- Five business days after an employee's seventh consecutive day of absence due to family or medical leave, or
- Five business days after an employer becomes aware that the employee's absence is due to family or medical leave.

Paid Family and Medical Leave

Statement of Employee Rights

You may qualify for Paid Family and Medical Leave

As of Jan. 1, 2020, Washington employees who have worked 820 hours or more in the qualifying period and experience(d) a qualifying event have access to Paid Family and Medical Leave. Employees who have missed work due to family or medical reasons may be eligible for paid family or medical leave for the following qualifications:

- Care for and bond with a child younger than 18 following birth or placement;
- Care for yourself or a family member experiencing a serious health condition;
- Certain military-connected events.

Paid Family and Medical Leave requires that you give your employer(s) written notice at least 30 days in advance of when you plan to take leave. However, if the reason you need leave was not foreseeable, you may notify your employer(s) as soon as possible.

The Paid Family and Medical Leave Benefit Guide provides information on how to apply for benefits and submit weekly claims. It also explains your rights and responsibilities under the law. Download the guide at www.paidleave.wa.gov/benefit-guide.

For more information about how to apply, contact the WA State Employment Security Department at 833-717-2273 or visit www.paidleave.wa.gov.

Important information for when you apply

Employee name: _____ Date: _____

Employer UBI #: _____ This employer offers supplemental benefits: Y ___ N ___ X ___

Note: Except during the waiting week, employees cannot use employer provided paid time off at the same time as Paid Family and Medical Leave, unless the employer chooses to offer a "supplemental benefit." Supplemental benefits can be used along with Paid Family and Medical Leave to provide additional pay while an employee receives partial wage replacement through Paid Leave benefits. Employees may accept or reject supplemental benefit payments.