

# MINUTES OF THE MEETING OF THE COMMISSION

May 13, 2014

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 Jeff McClure. Said meeting was open to the public and notice thereof had been given as required by law. Those present included Commissioner Mike Murphy, Commissioner Paul Kenner and Legal Counsel Jon Sitkin. Staff: Steve Jilk, General Manager; Ann Grimm, Administrative Assistant; Brian Walters, Director of Utility Operations; Annette Smith, Director of Finance; Duane Holden, Manager of Construction and Facilities; Rebecca Schlotterback, Manager – Contracts and Regulatory Compliance; Alec Strand, Project Manager; Lew Gaskill, Accountant 1; Mike Macomber, IT/SCADA Technician; Fred Disch, Water Systems Supervisor. Public attending: Greg and Karen Brown, citizens; Max and Carole Perry, citizens; and Rick Maricle, Phillips 66.

## ◆ Public Comment

Greg Brown thanked staff for providing a copy of the Franchise Agreement to him but said he still doesn't understand why the PUD needs access to *all* right-of-ways on Whatcom County roads (which would make access less complicated) – why not continue on an as-needed basis for access. He added that “easier isn't always the right way.” Commissioner McClure thanked Brown for his comments.

## ◆ Approval of the Meeting Minutes and Claims

The Commissioners were presented with the Minutes of the regular meeting held April 22, 2014 and the following Claims of May 13, 2014.

VENDOR NAME	AMOUNT
3-D CORPORATION	- 1,170.00
APPLIED DIGITAL IMAGING	- 37.43
CENTRAL WELDING SUPPLY	- 61.29
CORNERSTONE MANAGEMENT, INC.	- 5,317.22
CULLIGAN NORTHWEST	- 69.07
EDGE ANALYTICAL LABORATORIES	- 19.00
FEDERAL EXPRESS	- 14.05
FERNDALE ACE HARDWARE	- 46.74
FERNDALE CITY OF	- 124.72
FRONTIER	- 760.32
GUARDIAN SECURITY SYSTEMS, INC	- 72.00
HARDWARE SALES, INC.	- 2,040.94
HAWLEY'S AUTO SUPPLY	- 142.83
HEALTH PROMOTIONS NORTHWEST	- 90.00
INDUSTRIAL SUPPLY, INC	- 65.13
LES SCHWAB TIRE CENTER	- 163.00
LISTEN AUDIOLOGY SERVICES, INC	- 460.00
MORTIMER, TOM	- 5,469.29
MURRAY SMITH & ASSOCIATES	- 27,056.62
NORTHWEST MOWING & GARDENING	- 447.42
NORTHWEST PROFESSIONAL SERVICES	- 550.00
NW RECYCLING	- 108.50
OPEN SQUARE	- 12,346.03
PLATT ELECTRIC SUPPLY CO	- 17.83
POTELCO, INC	- 36,784.11
PROBUILD - OSO LUMBER	- 469.58
PUBLIC UTILITY RISK MGMNT SERV	- 18,217.42
PUD #1 OF WHATCOM COUNTY	- 693.81
REGENCE BLUE SHIELD	- 33,438.46
REISNER DISTRIBUTION, INC	- 1,418.65
RICOH USA	- 248.88
SMITH, ANNETTE	- 240.80
STELLAR J CORPORATION	- 443,441.56
STREMLER GRAVEL, INC	- 10,400.17
THATCHER COMPANY OF MONTANA	- 32,312.16
TRI-COUNTY DIESEL MARINE	- 45,925.75
UTILITIES UNDERGROUND LOCATION	- 18.18
VERIZON WIRELESS	- 1,054.14
WA ST DEPT OF REV PRIVLGE	- 208,360.37
WASHINGTON DENTAL SERVICE	- 2,435.15
WASHINGTON TEAMSTERS WELFARE	- 8,794.80
WESTERN FLUID COMPONENTS	- 19.19
WHATCOM FARMERS CO-OP	- 228.25

XEROX CORPORATION	-	201.25
YEAGER'S SPORTING GOODS	-	52.13
<b>GRAND TOTAL</b>		<b>\$901,404.24</b>

**ACTION:** Commissioner Kenner motioned to approve the Minutes of the regular meeting held April 22, 2014 and the Claims of May 13, 2014. Commissioner Murphy second the motion. Motion passed unanimously.

◆ **Whatcom County Franchise Providing Water Utility Agreement**

Note: This item was tabled from the last Commission meeting on April 22, 2014.

Background: The District owns and operates several miles of water transmission lines in the County. Historically, the District has operated under several franchises with Whatcom County that had/have a 50 year term. Several of the individual franchises are up for renewal and/or need updating. To operate more efficiently and to plan for future operations of the District's facilities for the water utilities and to conform with Whatcom County regulations regarding use of County rights of way the District has, in working with County legal and public works staff developed a draft franchise for County Council approval that will provide a single 25 year franchise to the District to locate, operate and maintain District water facilities in County rights of way throughout Whatcom County.

Legal Counsel Sitkin provided additional clarification from the last meeting on the Franchise Agreement:

1. The Franchise Agreement only establishes the terms, rules and requirements related to the use of the rights of way. The Agreement is not an approval of the PUD extension or any water service.
2. The PUD "wholesale" service area is countywide.
3. The Whatcom County Coordinated Water System Plan defines the PUD's retail water service area. The PUD's retail service area is currently limited to the Grandview and Cherry Point Service Areas. The PUD cannot extend retail water service into another service area without the consent of the existing designated retail water provider and/or the Washington State Department of Health.
4. The County has existing zoning regulations that require a zoning conditional use permit for any water line in excess of eight (8) inches or more, with few exceptions. All exceptions would require that the extension be consistent with the County approved Comprehensive Plan.
5. The PUD obtained its authority to serve or provide water service to the entire county by a vote of the citizens of Whatcom County in 1937. This Franchise does not extend or enhance that authority, nor will it diminish the authority granted by the voters of Whatcom County.

If approved by the PUD Commission, the next step in the process is that the County will consider this franchise via at a public hearing, yet to be set, and then consider approval of the franchise/ordinance following the hearing. This process conforms to County regulations. Commissioner McClure added that with public process involved, the agreement lays the groundwork – similar to building codes which set the conditions of a sizable process. Other utilities such as electric and cable companies have franchise agreements with the county.

The current franchise agreement covers only the main water transmission pipelines to Cherry Point. Other infrastructure that the District owns such as Grandview and irrigation connections and connections to serve water associations already in place may not be covered by the existing franchise.

Commissioner Murphy said after careful review of the Agreement, it does not give the PUD the go-ahead to build transmission lines on all of the County rights-of-way, he realizes there are restrictions and feels it is important for the PUD to be here as a service provider.

**ACTION:** Commissioner Murphy motioned to approve the draft Franchise Agreement with Whatcom County for the District to locate, install, operate and maintain water service facilities in Whatcom County rights of way and authorize the General Manager to submit to Whatcom County to hold a public hearing and approve and authorize the General Manager to sign on approval by the County. Commissioner Kenner second the motion. Motion passed unanimously.

◆ **Renew Membership with Western Interconnected Electric System (WIES)**

Background – Since 1997, the District has been a member of the Western Interconnected Electric System group. Membership in the group has been a requirement in our interconnect agreement with PSE. The purpose of the group was to prevent excessive lawsuits due to decisions on interconnected power systems.

The agreement consisted of two parts: a release and hold harmless between the parties and an insurance policy to cover any damages related to the interconnected system. Around a year ago, it was discovered that the insurance policy through AEGIS was double coverage for many of the participants. Through WIES, the District had a \$9 million AEGIS policy and through PURMS, a \$25 million AEGIS policy. Many of the participants of WIES had similar double coverage. When AEGIS discovered this, they closed the loophole. In our case, the District would be limited to \$25 million coverage, not \$34 million.

In consideration of this, WIES moved to amend the agreement to remove the insurance requirement. At that time, it was discovered that the wording was not consistent across all of the agreements and a rewrite of the agreement was necessary. The Commission was provided a copy of the new agreement with the insurance requirement removed prior to today's meeting. Finance Director Smith said yesterday she received an email with another revision of the agreement in which minor changes were made (pluralizing of Corps and a listing of the participating states were corrected). Legal counsel Sitkin has reviewed the document.

**ACTION:** Commissioner Kenner motioned to approve the amended and restated agreement with the Western Interconnected Electric Systems and approve the General Manager, Stephan Jilk, to sign the contract. Commissioner Murphy second the motion. Motion passed unanimously.

◆ **Approve Amendment No. 2 to Exhibit C to Interlocal Agreement with City of Blaine for a Transfer of District BPA Conservation Budget Credits.**

Background – The District entered into an Interlocal Agreement with the City of Blaine on April 12, 2005. The term of the Agreement was amended with approval of the District's Commission on June 12, 2012. The revisions to the Agreement included extending the term through December 31, 2017 and adding a new subsection (3.4), which describes and enables the parties to transfer BPA allocated conservation credits budget to each other, subject to the approval of each of their respective governing bodies and BPA.

Such transfers would be on a case by case basis and no actual funds would be transferred from one party to the other. Rather, a portion of the BPA conservation credits budget allocated to one party would be transferred to the other party. The details of any transfers to or from each party would be described in Exhibit C to the Agreement and future Amendments to Exhibit C.

On March 26, 2013, the Commission approved the transfer of forty thousand dollars (\$40,000) of BPA FY 2013 conservation budget funds to the City of Blaine under Amendment 1 to Exhibit C. Director of Utility Operations Walters explained that Amendment No. 2 revises Exhibit C to enable a transfer of BPA FY 2014-15 conservation budget allocated to the District to the City of Blaine in the amount of one hundred twenty-five thousand dollars (\$125,000). The transfer amount is listed in a letter from the City of Blaine in which Blaine's Public Works director requests the District's assistance. A copy of Amendment No.2 and the City of Blaine letter was provided to the Commission prior to today's meeting.

Walters said the District's remaining BPA conservation budget is sufficient to cover the District's anticipated energy efficiency projects, including any at the Phillips 66 Refinery. Rick Maricle added that the refinery is currently discussing a variety of energy efficiency projects. The District's Water Treatment Plant 2 Upgrades Project will also qualify for approximately \$166,000 in conservation budget funds. Commissioner Murphy asked what kinds of projects the City of Blaine will use the budget funds for. Walters replied there are several which consist of HVAC improvements, exterior street lightening and interior lighting enhancements, roofing, and windows. It will also include the purchase of energy efficient motors at their water treatment plant. The other small cities in the county are unable to use the BPA conservation budget funds because the funds are only available to BPA customers (Cities of Blaine and Sumas).

The District also has a similar arrangement with Pacific County PUD – these Interlocal Agreements also enable the budget funds to be transferred back to us. If approved, Amendment No. 2 to Exhibit C will have no direct fiscal impact on the District. Exhibit C, as amended, will reduce the total amount of budget funds available from BPA for reimbursement of conservation projects completed by the District during BPA fiscal years 2014-15 (October 1, 2013 through September 30, 2015).

**ACTION:** Commissioner Kenner motioned to approve Amendment No. 2 to Exhibit C to the Interlocal Agreement with the City of Blaine for a Transfer of District BPA Conservation Budget in the amount of \$125,000 and authorize the District's General Manager to sign the document. Commissioner Murphy second the motion. Motion passed unanimously.

◆ **Authority for Change Order Approval on Project RW-1 for General Manager**

Background – When the Commission approved the contract award for RW-1, Plant 2 Upgrade, the Commission initially approved the General Manager to consider and act on change orders to the contract in a single change order amount not to exceed \$25,000 and a cumulative amount of \$100,000. The Commission identified the potential that the change order cumulative amount could exceed the \$100,000 in the future. Subsequently the Commission has approved increases to that amount up to \$400,000 (February 5, 2014).

Jilk reported that at this time, he has approved and reported several change orders to RW-1 and the net, cumulative amount of those change orders is approaching \$400,000 but has not exceeded it yet. The total net change orders for the project, which have been approved by the General Manager and those approved by the Commission is currently at \$371,897.83 or 2.14% of the original contract awarded of \$17,410,000 plus sales tax. This does not take into consideration the expected savings for using BPA Conservation Credits in an amount of approximately \$160,000. When the District completes the project we will be able to access the BPA Conservation Credits to reduce the overall project cost.

In order to continue the implementation of the project in a timely manner, this action is requested to set the cumulative amount of change orders at no more than \$450,000 and keep the per change order amount, which the General Manager can approve, not to exceed \$25,000. As required in the action by the Commission, the General Manager will report all change orders approved under these criteria to the Commission on a timely basis.

The project's final completion date is scheduled for June 27.

This change will not impact the budget for the project as the contingency budget, for more than the \$450,000.00 was included in preparing for this project.

Commissioner Murphy thanked staff for working diligently to keep the change order amount so low.

**ACTION:** Commissioner Murphy motioned to approve the increase in the amount of Change Order Approval for the General Manager up to \$450,000 from \$400,000 with single change orders amounts remaining at the amount not to exceed of \$25,000.00 for Plant 2 Project (RW-1). Commissioner Kenner second the motion. Motion passed unanimously.

#### ◆ **Manager's Report**

##### May 13<sup>th</sup> – Second Grange Water Forum

Jilk distributed information about the second water form sponsored by the Rome Grange, which is tonight at the Ten Mile Grange (Hannegan and Pole Roads) beginning at 7:00 p.m. Jilk will plan to attend.

##### WRIA1 Planning Unit

The next Planning Unit meeting is May 28 and the Joint Board will meet on May 29<sup>th</sup>. Jilk is planning to attend.

##### WPUDA Water Workshop

WPUDA's Water Workshop is planned for September 24 – 26 at the Swinomish Casino in Skagit County. If Commissioners would like to attend, contact Ann Grimm to make arrangements.

##### Water Rights Conference

Jilk is planning to attend a Water Rights Conference in Seattle on June 19 and 20. There are several speakers and topics of interest which will be addressed.

##### AWWA Water Shortage Preparedness Survey

Jilk distributed a copy of this survey.

##### Family Farm Alliance

The Family Farm Alliance released a report drawing attention to the need to prepare the western United States for future droughts. The document is intended to inform policymakers about the challenges of constructing new storage facilities, the level of public support for such projects, and options for balancing the need for water for urban and environmental purposes against the need for water for agricultural uses.

##### National Infrastructure Week

Happening this week to create awareness of federal support and legislation via the federal congress to provide funding/financing for "public" utilities (i.e. pipelines to roads and bridges) that are aging and in need of replacement.

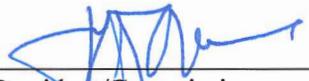
##### Chevron Pipelines Company Purchase

Petrogas Energy Corp. announced it will be purchasing Chevron's Ferndale storage and distribution facility for bulk shipments of propane, butane and iso-butane. A transfer of the industrial water service agreement between the District and Chevron to Petrogas is in process.

Commissioner Murphy asked that in light of recent accidents involving chemical transports via rail, have any studies completed on the what-if's of water source contamination be it ground or surface water in Whatcom County? Jilk said a Resource Protection Plan was devised in 1998-99 for rivers which covers pipelines and bridge crossings protection for spills, and an Aquifer Protection Plan is in place for lakes and rivers. Jilk added that he is planning a Commission workshop (date to be announced) on this topic as well as climate change, sea level rise, and low flows and how it will impact the District and our customers.

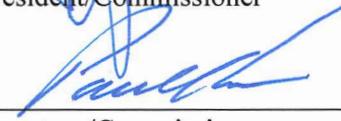
◆ **Adjourn**

There being no further business for the regular meeting, the Commission adjourned the regular meeting at 8:38 a.m.



---

President/Commissioner



---

Secretary/Commissioner



---

Commissioner