

MINUTES OF REGULAR MEETING OF THE COMMISSION
OF PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY, WASHINGTON

April 6, 2009

The regular meeting of the Commission of Public Utility District No. 1 of Chelan County, Washington, was held in the office of the District, 327 North Wenatchee Avenue, Wenatchee, Washington, on April 6, 2009, at the hour of 11:00 a.m., pursuant to proper notice thereof.

Commissioners present were Ann Congdon, Randy Smith, Carnan Bergren and Norm Gutzwiler. In attendance were Acting General Manager Joe Jarvis, General Counsel Carol Wardell and Clerk of the Board Sheila Salmon. Various staff members were also in attendance.

Others in attendance: Bob Huber, Bill Stokes and Christine Pratt (Wenatchee World).

A motion was made by Commissioner Smith to excuse Commissioner Bolz from today's meeting due to health issues. The motion was seconded by Commissioner Gutzwiler and unanimously approved.

Foreman Mechanic Mike McCarl led the Pledge of Allegiance and provided a safety minute.

President Congdon presented the Consent Agenda items for adoption. He asked if any item on the Consent Agenda should be transferred to the Regular Agenda for further review. No items were requested to be transferred to the Regular Agenda. President Congdon presented the Consent Agenda items for adoption as follows:

The minutes of the board retreat held on March 13, 2009, and regular session held on March 23, 2009, were presented for approval.

The Auditor's memorandum, dated March 31, 2009, supporting documentation and the District's Computer Report, which certify, pursuant to RCW 42.24.080, that the District received certain goods, services and other considerations specified therein and described as follows were presented for approval:

1. Claims certified by the Auditor for payment and authorization for the Auditor to issue warrants payable by the Treasurer for services, goods and other considerations received by the District in the total amount of \$6,232,355.87;
2. Customer Deposit Returns payment dated March 31, 2009 in the amount of \$1,529.37; and

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3. Net Payrolls, Warrant Nos. 221794 through 221895 and Advice Nos. 489878 through 490539 for the period ending 3/15/2009 in the amount of \$1,485,758.66.

Resolutions:

RESOLUTION NO. 09-13444 APPROVING FIELD WORK ORDER NOS. 1 THROUGH 3, AUTHORIZING FINAL ACCEPTANCE OF WORK PERFORMED UNDER BID NO. 08-51 WITH WHITEBIRD, INC. OF WENATCHEE, WASHINGTON AND AUTHORIZING PAYMENT OF RETAINAGE DUE FOR THE ROCK ISLAND BUILDING C-13 ADDITION

RESOLUTION NO. 09-13445 APPROVING FIELD WORK ORDER NOS. 1 THROUGH 3, AUTHORIZING FINAL ACCEPTANCE OF WORK PERFORMED UNDER BID NO. 07-17 WITH SIEMENS ENERGY, INC. OF WENDELL, NC AND AUTHORIZING RELEASE OF THE BOND IN LIEU OF RETAINAGE FOR THE PURCHASE OF TWO 115kV-12kV, 28 MVA POWER TRANSFORMERS

Motion was made by Commissioner Gutzwiler, seconded by Commissioner Bergren and unanimously carried adopting the Consent Agenda consisting of the minutes of the March 13, 2009 (board retreat), and regular meeting March 23, 2009, the above listed vouchers and Resolution Nos. 09-13444 and 09-13445, which are on file in the offices of the District.

Employees Mike Hamilton and Duane Whitley were both recognized for their years of service to the District. Mike Hamilton is retiring after working 22 years for the District and Duane Whitley has been with the District for 30 years. Commissioners, along with District staff, thanked each employee and presented them with certificates of retirement.

Next, the Commission considered the matters listed in the Regular Agenda.

Water Resource Manager Ron Slabaugh briefed Commissioners on the 2008 Comprehensive Water System Plan which is required by the state Department of Health for large municipal water systems. Mr. Slabaugh noted that the plan identifies and analyzes the water system components and includes a 6-year improvement program to keep pace with projected population growth and to comply with Washington Department of Health planning requirements. Mr. Slabaugh requested that Commissioners set a date for public hearing and comment on the plan.

A motion was made by Commissioner Smith, seconded by Commissioner Bergren and unanimously passed to set a public hearing for May 4, 2009, at 1:00 p.m. in the board room to comment on the Wenatchee Water System 2008 Comprehensive Water System Plan.

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Next, Mr. Slabaugh informed Commissioners that the District applied for 2009 Drinking Water State Revolving Funds (DWSRF) and was denied funding. Projects ready to proceed in 2009 that were submitted included water main replacement projects, Squilchuck pump stations improvements and security improvements. He note that there were 347 applications submitted requesting funds at total \$416,000,000 and was awarded to 27 projects for a total of \$38,000,000 of which 20 had to do with source treatment and health issues.

The meeting recessed at 11:45 a.m. for the purpose of lunch, to reconvene at 1:00 p.m. for the purpose of conducting the business of the District.

Governmental Affairs Manager Suzanne Grassell updated the Board on specific legislation important to the District in the 2009 Legislative Session. Staff is monitoring about 90 bills out of 720 bills still pending. Bills must pass opposite chambers by April 17, 2009. Manager Grassell highlighted three bills and their activity in Olympia last week:

- Recreational use statute amendment (limit on whitewater boating liability) – This bill will not be advanced this session and staff will work with our legislators again in 2010.
- Amendment to Initiative I-937 – Governor Gregoire proposed a compromise on SB 5840 and the compromise bill passed House Technology Committee. Clark and Tacoma PUDS proposed to change to a 200,000 customer threshold instead of the less than 2 Million MWhs of annual retail sales. Tax incentives in HB 1099 critical to keeping SB 5849 alive
- Climate Change SB5735 – approved by the House Ecology and Parks Committee allows Ecology to keep working within WCI. The bill passed House Ways and Means Committee with a null and void clause.

Intergovernmental Relations Manager Jeff Smith reported that the final cost of the Monitor Domestic Water System Project to be \$4,751,861 (about \$1.8 million less than original estimates) and that staff is ready to take the next steps to complete the Monitor Water System Local Utility District (LUD) and close out the project. Project Management Manager Vern Chamberlain noted that the construction went well and that the community was supportive of the project. He said Buno Construction started in February and has installed 40,000 feet of main line and 160 meter chambers on schedule and under budget.

Senior Treasury Analyst Heather Ireland told Commissioners that finalization of the preliminary assessments for individual property owners will be completed soon and will be ready to be presented to Commissioners for adoption. She noted that the \$1.5 million loan will be repaid by property owners over a 20 year period at ½-percent interest rate which matches the DWSRF financing loan. The assessments are based on 2 components; part A – the total cost of construction spread to each parcel and part B – applicable to parcels that elected to pay meter fees and system development charges upon completion. Property owners in the LUD will be receiving notice of their final proposed assessments and will have an opportunity to comment.

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Once approved by the Board, property owners will have 30 day no-interest time period to pay off the LUD assessment entirely. Customers who do not pay off the LUD within the 30 day window will receive their first annual bill one year from the 30 day no-interest cut-off date.

Staff attorney Erik Wahlquist recommended Commissioners set a date for public hearing of the Monitor Water System LUD in accordance to Resolution No. 08-13410 and state statute. It was also his recommendation to provide a court reporter for legal recording of the LUD process.

A motion was made by Commissioner Gutzwiler to schedule a special meeting of the Commission for May 21, 2009, at 5:30 p.m. in the District's auditorium. The purpose of the meeting will be to hold a public hearing on the final assessment roll for the Monitor Water System Local Utility District (LUD). The motion was seconded by Commissioner Bergren and unanimously passed.

Next, the Commissioners reported on the various meetings each attended during the weeks of March 23, 2009 and March 30, 2009.

A motion was made by Commissioner Smith, seconded by Commissioner Gutzwiler and unanimously carried to convene into executive session for the purpose of discussing with legal counsel litigation and/or legal risks as authorized by RCW 42.30.110(1)(i). It is anticipated that the board will reconvene into regular session at approximately 2:45. The notice of such executive session, including the purpose of the session and the estimated time the session would conclude was properly posted by the Clerk of the Board.

Reconvening into regular session, General Counsel Carol Wardell discussed the decision made by the court on Friday, April 3, 2009, to deny the District's motion for new trial of the Graham case. Damages awarded to Mr. Graham on February 27, 2009 by the jury were \$351,000. Scott Kane, Mr. Graham's attorney, made a request to the court for reimbursement of attorney fees in the amount of \$267,745 which the judge has taken under advisement. Ms. Wardell told Commissioners that Mr. Kane has offered to accept \$150,000 for attorney fees and costs. She noted by accepting Mr. Kane's offer, the District would be required to forego any rights to appeal. It was Ms. Wardell's recommendation to Commissioners to accept Mr. Kane's proposal.

A motion was made by Commissioner Smith to approve the recommendation of legal counsel to pay the court awarded damage settlement in the Gordon Graham case in the amount of \$351,000 and the attorney fees in the amount of \$150,000 and forego any rights to appeal. The motion was seconded by Commissioner Bergren and unanimously approved.

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There being no further business, the meeting adjourned at 3:00 p.m.



President

Vice President



Secretary



Commissioner



Commissioner

