

PUBLIC UTILITY DISTRICT NO. 1  
OF ASOTIN COUNTY, WASHINGTON  
MEETING MINUTES  
November 15, 2012

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President Don Nuxoll presiding, the Public Utility District No. 1 of Asotin County Meeting was called to order at 5:30 p.m. at the PUD Office at 1500 Scenic Way.

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ROLL CALL: PRESENT      Commissioners: Don Nuxoll, Judy Ridge and Gary Hicks.

PUD Staff: General Manager Tim Simpson and Counsel Scott Broyles.

Members of the public were present.

MINUTES OF MEETING AND VOUCHER APPROVAL:

**MOTION** by Commissioner Gary Hicks and seconded by Commissioner Judy Ridge to approve the consent agenda approving the minutes of the October 22, 2012 Regular Meeting and payment of the Transaction Vouchers covering vouchers #1762 and #1763 and vouchers #2538EFT through #2553EFT in the amount of \$31,313.94 and Blanket Transaction Voucher Approval Document covering vouchers #30790 through #30863, and Electronic Transaction Vouchers #121102, #12110201, #12110202, #12110601 and #12112101 in the amount of \$391,230.06. The question was called for on the motion. The motion passed 3-0.

OLD BUSINESS

Water Rights Usage Request

The manager reported that as directed by the Board, he and Counsel Scott Broyles participated in a conference call with Foster Pepper attorney Joe Brogan to discuss concerns raised by the Commissioners and Counsel regarding the water rights usage request by Benchmark, LLC. The manager stated that the PUD has been approached by Benchmark requesting the lease or use of up to 3,600 acre feet of our water rights. The primary purpose of the use is agricultural for crops similar to what you would see in the Columbia Basin. The secondary purpose of the use of our water rights is for a commercial rock-crushing operation. Benchmark is currently drilling a well and they have reached at least 1,000 feet. The manager stated that they will need to go another 600 plus feet down in order to be considered within the same body of water we draw from. The manager stated that in order for Benchmark to use our water rights we will have to amend our Water System Plan to include the area where the property resides, agree to a contract for use of our water rights and finally, submit a water right change application to add Benchmark's well as a point-of-diversion from PUD wells.

The manager reported that Mr. Brogan stated that one of his concerns was whether leasing a water right was considered a municipal purpose. Mr. Brogan stated that leasing water rights is not addressed in the Revised Code of Washington (RCW). The state statute only addresses government or public entities that hold water right for use or delivery. He stated that if the process moves forward with Benchmark then a state attorney general's (AG) opinion would need to be obtained to determine if leasing of water rights is acceptable. Mr. Brogan stated that the best scenario is that the PUD owns Benchmark's well and they become our customer.

The other concern Mr. Brogan expressed during the call was whether agricultural use of a municipal water right is a valid use. He stated that agricultural use is addressed in the Department of Ecology's policy. He stated that Asotin PUD was the likely test case for this policy because of our long held agricultural irrigation water rights which were converted to municipal supply. Ecology's policy states that each issue, with regards to agricultural irrigation, would be handled on a case-by-case basis. He did state, however, that Ecology's policy states that agricultural use must be for governmental purposes.

Mr. Brogan stated in conclusion that leasing water rights could be an issue. He believes that the definition under the law allows for the lease of our rights but that we would need to receive clarification from the state AG's office. We could get a favorable opinion but it could be costly. Through a water right change application we can add Benchmark's well as a point-of-diversion but Mr. Brogan stated that it doesn't mean it won't be challenged. If the owner constructs the well and we take over ownership then adding the well as a point-of-diversion would be less of a problem. He also stated that Ecology will look at the underlying hydrogeological gradient when making a determination of validity. Mr. Brogan's concern is that with the proposed depth of the well it may be difficult for Ecology to come to a conclusion as to whether the well has penetrated the aquifer we draw water from. Mr. Brogan stated that there would be issues with use of our water right for agricultural irrigation that is not for governmental purposes.

In conclusion, Mr. Brogan stated that since Benchmark is not our customer, the risk associated with allowing Benchmark to lease or use our water right raises concerns and could create unintended consequences. He stated that clarification of Ecology's position on these matters will need to be obtained if we proceed further and it could prove costly. Mr. Brogan did, however, encourage us to amend and expand our water rights usage area. He stated that this could prove beneficial in the long run.

Upon discussion and review of the information presented through Mr. Brogan's counsel the Board of Commissioners decided to not proceed further with the water rights usage request and the Draft Water Rights Usage Contract developed with Benchmark. The Commissioners stated that they will not put our customer-owned water rights in a position to be challenged and/or potentially relinquished. They stated that the expense to seek an AG's opinion would be high and they are unwilling to spend the funds to do so.

Port of Wilma Progress Report for Water and Sewer System Upgrades

That manager reported that work on upgrading both the water and sewer systems in the Port of Wilma prior to PUD acceptance of these systems has begun. He stated that on the water system 17 of the 28 water meters have been retrofitted with automated meter reading (AMR) registers. The remaining 12 include five 8 inch meters that will have to be dug up and replaced with AMR meters and one meter that can be retrofitted. One meter will need to be moved out of a building and one will need to be installed at an office that does not have a meter. The remaining six meters are 4 inch and 2 inch that will also need to be replaced.

The manager stated that on the sewer system four manholes have been raised and the city of Lewiston has flushed 1/3 of the piping. Once the entire pipe is flushed they will video the line in order to assess its condition. Staff reported that it is likely this line has never been flushed based on what they found. Work on assessing the condition of the drain field also began with the hiring of Roto Rooter to investigate the septic system. They found that the drain field is failing. They jetted the drain field approximately 300 feet and ran a camera out 100 feet but this did not improve its performance. Roto Rooter then excavated down to different areas of the drain field and found the drain lines full of sludge and the tank at reverse grade.

The manager reported that the system was setup to have a double or triple chamber septic tank where effluent would settle out and then be pumped into the drain field. They did not find a pump or an extra chamber(s) in the septic tank. This situation contributed to the sludge in the drain field lines and the failure of the septic drain field. The next step in this process is to meet with the Whitman County Health Department and Port of Whitman County officials to determine the next steps.

NEW BUSINESS

Addendum to Valleyview Drive Sewer Expansion Project

The manager stated that at the Commissioner meeting on September 11th West Tech Industries was awarded the quote for the Valleyview Drive sewer main extension project to. He stated that this project will expand our sewer system from the sewer line on Scenic Way south and up the hill to the intersection of Valley View Drive and 20th Street then going west stopping approximately 100 feet short of Appleside Boulevard. This line will also be run through property from Valley View Drive south to Andreasen Drive. He stated that this project began with interest received from a customer on Valley View Drive whose rental trailer's septic system failed. This individual will be connecting all four (4) of her properties to the line. Interest has been received from other customers who can connect to the line was once is constructed.

The manager stated that since approval and awarding of the work we have had to add two additional manholes and decided to provide service stub outs to five (5) properties. One manhole will be added near Scenic Way due to the steep slope and the other manhole will be added on Andreasen Drive. We have decided to go out into the center of the street on Andreasen Drive in preparation for extending sewer both directions. The service stub outs were added so the street would only be tore up once. A quote for this additional work was requested from West Tech. The quote for this additional work is \$14,772.00 plus tax. The manager requested Board approval of the additional work proposed for the amount quoted. He stated that the total project with the addendum will be \$94,372.10 with Washington State sales tax.

**MOTION** by Commissioner Judy Ridge and seconded by Commissioner Gary Hicks to award the addendum and quote for the Valleyview Drive Sewer Main Extension Project to West Tech Industries in the amount of \$14,772.00 plus Washington State sales tax and approving the total cost of the project in the amount of \$94,372.10. The question was called for on the motion. The motion passed 3-0.

#### MANAGER'S REPORT

Water Projects Update – the manager reported that contractor M.L. Albright & Sons (Albright) continues to work on Highland Avenue. Albright has completed main line installation to Billups Street with tie-ins to the main line completed up intersection of 10<sup>th</sup> Street. The final project scheduled for Parkview Court and tying into the main on Highway 129 ran into an issue. The manager reported that the property owners, who had previously concurred with the project, when presented with an easement became concerned that the proposed water main to be constructed through their property on the property line would devalue their property. After receiving a long list of issues raised by the property owners the manager told them that it would be in their best interest not to proceed. A new location was sought and secured on Riverside Drive and the State DOT has approved the project relocation. Albright has requested a project time extension from the initial completion date of November 30<sup>th</sup> to December 31<sup>st</sup>.

Sewer Projects Update – the manager stated that the 25<sup>th</sup> – 26<sup>th</sup> Streets and 8<sup>th</sup> Avenue and the Valleyview Drive sewer system expansion projects are both underway and should be completed in December.

BPA Proposed Rate Increases – the manager reported that the Bonneville Power Administration is currently working on their rate case for the 2013-2014 periods. He stated that the PUD received word from both the power supply and transmission service account executives informing him of the potential impact of the rate case on PUD rates. Power rates for the PUD are proposed to go up 3.98% but both the power supply and transmission cost for the General Transfer Agreement will go up a proposed 245%. The reason for the significant increase is BPA will be going away from a Transmission System Peak to a Customer Load Individual System Peak.

### COMMISSIONER'S REPORT

Commissioner Nuxoll reported that he attended the Public Utility Risk Management System (PURMS) PUD Self-Insurance annual meeting on Wednesday and Thursday, November 7<sup>th</sup> and 8<sup>th</sup> in Burien, Washington. He reported that he was re-elected Chairman of the PURMS Board. He reported that the new health insurance act passed by congress has increased costs 2% this year and will increase the cost another 8% next year. Starting in 2014 health insurance member's children can be on the health plan through the age of 29 regardless of whether they are being covered under another plan. He stated that our health insurance plan administrative costs are low at 3.6% whereas other insurance funds and programs see a 15 to 20% administrative overhead. He reported that AEGIS will be visiting sites to complete valuation audits for property and liability insurance. The manager reported that AEGIS will be at our PUD the first week in December. Commissioner Nuxoll reported that an audit from the Washington State Auditor's office was conducted and for the 16<sup>th</sup> year in a row PURMS had a clean audit.

Commissioner Nuxoll reported that he attended a Washington State Supreme Court hearing on Tuesday, November 13<sup>th</sup>. He stated that the hearing involved a rancher from our watershed who resides on Pataha Creek. Ecology wanted the rancher to fence his property to keep cattle out of the stream. He challenged Ecology's authority to change his cattle ranching operation with the issue going to the PCHB and then reaching the Supreme Court. He stated that a decision from the Court will come in four months.

### ADJOURNMENT

There being no further business the meeting was adjourned at 6:25 p.m.