



LAKE WHATCOM WATER AND SEWER DISTRICT

1220 Lakeway Drive
Bellingham, WA 98229

REGULAR SESSION OF THE BOARD OF COMMISSIONERS

Minutes

November 29, 2023

Board President Todd Citron called the Regular Session to order at 8:00 a.m.

Attendees: Commissioner Todd Citron (v)	General Manager Justin Clary
Commissioner Bruce Ford	Engineering Manager Greg Nicoll
Commissioner Jeff Knakal	Finance Manager Jenny Signs
Commissioner John Carter	Operations Manager Jason Dahlstrom
Commissioner David Holland (v)	Legal Counsel Bob Carmichael
Recording Secretary Rachael Hope	

Also in attendance was Melanie Mankamyer of Wilson Engineering (v). Attendees noted with (v) attended the meeting virtually.

Consent Agenda

Action Taken

Knakal moved, Carter seconded, approval of:

- Minutes for the 11.08.2023 Regular Board Meeting
- Payroll for Pay Period #23 (10.28.2023 through 11.10.2023) totaling \$49,462.09
- Benefits for Pay Period #23 totaling \$56,124.74
- Payroll for Pay Period #24 (11.11.2023 through 11.24.2023) totaling \$51,398.67
- Benefits for Pay Period #24 totaling \$31,581.80
- Accounts Payable Vouchers totaling \$179,474.24

Motion passed.

Dupont Aqueous Film-forming Foams Product Liability Class Action Lawsuit Settlement

Clary recalled that at the November 8 regularly scheduled meeting, the Board was provided with information regarding two class action settlements related to per- and polyfluoroalkyl substances (PFAS). Labeled "forever chemicals" PFAS are a group of manmade chemicals that have been used in a variety of products since the 1940s but have relatively recently been identified as harmful to human health and the environment.

One of the primary manufacturers of PFAS was E.I. DuPont de Nemours and Company (DuPont). Based upon the liability created by Dupont's manufacture and distribution of PFAS, the City of Camden, New Jersey filed suit against Dupont in U.S. District Court. A class action settlement was reached on June 30, 2023, for a total of \$1.185 billion. As the operator of a public water system required to monitor for PFAS under UCMR 5, the District has been identified as a potential Settlement Class Member, subject to the Meeting Minutes

terms of the settlement. However, the settlement does allow the District to opt out of the settlement, thus preserving its rights for future litigation against Dupont, should the District identify PFAS in its source water at some point in the future. Discussion followed, including input from District legal counsel Bob Carmichael.

Action Taken

Knakal moved, Carter seconded, to file a request for exclusion (“to opt out”) from the Class Action Settlement MDL No. 2:18-mn-02873 with E.I. DuPont de Nemours and Company and to authorize the District General Manager and Attorney to sign and submit on behalf of the District any and all documents necessary to opt out. Motion passed.

3M Aqueous Film-forming Foams Product Liability Class Action Lawsuit Settlement

Clary recalled that at the November 8 regularly scheduled meeting, the Board was provided with information regarding two class action settlements related to per- and polyfluoroalkyl substances (PFAS). Labeled “forever chemicals” PFAS are a group of manmade chemicals that have been used in a variety of products since the 1940s but have relatively recently been identified as harmful to human health and the environment.

One of the primary manufacturers of PFAS 3M Company (3M). Based upon the liability created by 3M’s manufacture and distribution of PFAS, the City of Camden, New Jersey filed suit against 3M in U.S. District Court. A class action settlement was reached on June 22, 2023, for a total of \$12.5 billion. As the operator of a public water system required to monitor for PFAS under UCMR 5, the District has been identified as a potential Settlement Class Member, subject to the terms of the settlement. However, the settlement does allow the District to opt out of the settlement, thus preserving its rights for future litigation against Dupont, should the District identify PFAS in its source water at some point in the future. Discussion followed, including input from District legal counsel Bob Carmichael.

Action Taken

Carter moved, Knakal seconded, to file a request for exclusion (“to opt out”) from the Class Action Settlement MDL No. 2:18-mn-2873-RMG with 3M Company and to authorize the District General Manager and Attorney to sign and submit on behalf of the District any and all documents necessary to opt out. Motion passed.

2024 Wilson Engineering Rates

Clary explained that Wilson Engineering has provided on-call engineering services to the District for many years through professional services agreements. The current agreement was executed on September 2, 2021, and is effective through July 31, 2026. Per Section 8.4 of the agreement, Wilson Engineering may annually request revision to the approved rates to accommodate inflation and market conditions. Staff provided the board with a letter from Wilson Engineering dated November 14, 2023, requesting revision to its rates and fees for 2024, which are relatively consistent with inflationary and marketplace values. Discussion followed.

Action Taken

Knakal moved, Ford seconded, to approve rates and fees to be effective January 1, 2024, for professional services performed by Wilson Engineering under the existing on-call professional services contract with the District, as requested in the November 14, 2023, letter from Wilson Engineering. Motion passed.

Division 7 Reservoir Replacement Project Tree Falling Public Works Contract Close Out

Clary summarized that this project consisted of falling 58 mature trees located within the footprint of the future Division 7 water reservoirs in advance of the migratory bird nesting season. Tree removal was conducted under the Division 7 Reservoir Replacement Project construction contract, which is anticipated

to begin after the Lake Whatcom Watershed land disturbance window opens on June 1, 2024. The District awarded the public works contract to Rawls Tree Service LLC on October 11, 2023. The contractor completed all work and contract requirements the week of November 6th. Staff recommended accepting the project as complete and closing out the public works contract. Discussion followed.

Action Taken

Knakal moved, Holland seconded, to accept the Division 7 Reservoir Replacement Project Tree Falling public works contract performed by Rawls Tree Service LLC as complete and authorize staff to close out the public works contract. Motion passed.

General Manager's Report

Clary updated the Board on several topics, including the ongoing Rose Ridge Loop Sewer Main blockage, communication with the Washington State Department of Health regarding chlorine residual requirements in the Eagleridge water system, and possible adjustments to Lake Whatcom total maximum daily load (TMDL) requirements. Clary also recognized Operations and Maintenance Manager Jason Dahlstrom for his recent role in updating and enhancing the District's firewalls. Discussion followed.

Engineering Department Report

Nicoll highlighted several projects, including updates on the Euclid pump station project and options for alum tank and door replacement at the Sudden Valley Water Treatment Plant. Discussion followed.

Finance Department Report

Signs highlighted October financial information, explaining that increased expenditures from the sewer fund were mostly the result of bond payment due. Signs noted that revenues and expenditures are tracking with expected trends, as well as providing an update regarding overall positive customer response to changes in cash handling and bill cycle dates. Discussion followed.

Operations & Maintenance Department Report

Dahlstrom reported on field crew operations, including continuation of an excellent safety record, shortened run times at the Sudden Valley Water Treatment Plant due to seasonal turnover of the lake, and two recent projects which were able to be done recently in-house rather than contracting out.

Executive Session Per RCW 42.30.110(1)(g): To review the performance of a public employee

Citron recessed the Regular Session to Executive Session at 9:04 a.m. It was estimated that the Executive Session would take about 30 minutes and end at 9:34 a.m. The purpose of the Executive Session was to review the performance of a public employee (General Manager performance evaluation). Citron recessed the Executive Session and reconvened the Regular Meeting at 9:34 a.m. and indicated that the Board would reconvene in Executive Session for an additional 40 minutes and end at 10:14 a.m. Citron recessed the Executive Session and reconvened the Regular Meeting at 10:12 a.m. No action was taken.

With no further business, Citron adjourned the Regular Session at 10:12 a.m.



Board President, Todd Citron

Attest: 

Recording Secretary, Rachael Hope

Minutes approved by motion at ☒ Regular ☐ Special Board Meeting on 12/13/2023