

**Port Ludlow Drainage District
P.O. Box 65261
Port Ludlow, WA. 98365
APPROVED**

Approved

**Minutes
For Commissioners Regular Meeting # 218
Thursday, October 13, 2016
at 10:00 AM
At the Beach Club
121 Marina View Drive
Port Ludlow, WA. 98365**

Call to Order: Meeting was called to order by Chair Commissioner Wilcox at 10:00 a.m.

Roll Call: Commissioner Wilcox present. Commissioner Uyeda present. Commissioner Smith present. No absences. Engineer Nancy Lockett, Assistant Sue Bartkus.

Guests: Allison Arthur, Brian Belmont, Walter Cairns, Kathleen Kler, Peggy Manspeaker, Jim Mueller, Mike Nilssen, Mel Smith, and Diane Wilcox.

Consent Items:

• **Minutes:**

- Commissioner Uyeda made a motion to approve the **September 8, 2016 Regular Meeting Minutes**. Commissioner Smith seconded the motion. Commissioner Wilcox carried the motion. Motion approved 3-0.

After short review, Commissioner Wilcox objected to a statement in these Minutes and called for a revision. He wanted to remove the statement "*the District entered into executive session without properly documenting estimated length, start times, and reason for entering into executive sessions*" and replacing the statement with "Of note in the report was that executive sessions did not specify reasons".

A partial review of the actual statement made in the email from Washington State Auditor Intern, Brittany Wallace was done by all three Commissioners. A motion was made by Commissioner Uyeda to amend the minutes. Motion was seconded by Commissioner Smith. Motion was carried by Commissioner Wilcox. Motion approved 3-0.

- Commissioner Wilcox made a motion to approve the **September 22, 2016 Special Meeting Budget Workshop Minutes**. Commissioner Smith seconded the motion. Commissioner Uyeda carried the motion. Motion approved 3-0.

• **Vouchers:**

- Commissioner Wilcox made a motion to approve the **Payroll** in the amount of \$637.21(Voucher # 16-068), and L & I tax of \$ 13.12 (voucher # 16-073) for Total Payroll of \$650.33. Commissioner Uyeda seconded the motion. Commissioner Smith carried the motion. Motion approved 3-0.

- Commissioner Smith made a motion to approve the **Vouchers** from September 6, 2016 to October 6, 2016 in the amount of \$6,444.45 for an overall Total of \$7,094.78. Commissioner Uyeda seconded the motion. Commissioner Wilcox carried the motion. Motion approved 3-0.

Voucher Number	Item	Description	Amount
16-067	Artemis Computing	Qrtly. Ret. Rackspace email hosting & archiving reimbursement. Site project	495.00
16-068	Susan Bartkus (payroll)	30 hours	637.21
16-069	Yard Dogs Landscaping	Reg. inspection & service. 9/20 Remove silt on Cascade. Project inlet in GB	1,270.36
16-070	Gray & Osborne Inc.	Gen. Eng. 4.5 Hrs.	713.66
16-071	Glessing & Associates	9/6, 9/7, 9/21 Acct. service	97.88
16-072	Seton Construction	Final Progress Estimate 5	3,867.55
16-073	Dept. of L & I (payroll)	Class 5306-07 Counties/Tax Dist Adm/CI Offc 69 hrs. @ 0.1902 Rate	13.12

PLDD Cash Account		106,223.20
PLDD Reserve Account		40,000.00
PLDD Interest Income Reserve Fund		6,543.21
Expenses – Current Month from above		(7,094.78)
Expenses – Year to Date	(Co. YTD 9.30.2016 = \$131,106.64+ \$7,094.78)	138,201.64
NET TOTAL ALL ACCOUNTS		145,671.63
Special Assessment		89,999.29
PAID TO DATE		(51,632.24)
UNPAID (REMAINING)		38,367.05

Public Forum: No issues were brought to the Commissioners attention.

Correspondence:

- Terry Duff, an Engineer Tech III for Jefferson County forwarded to the Commissioners her response to Ted Haworth, owner of 211 Montgomery Lane about his desire to install a 40' culvert in the ditch in front of his home, which is within the County right of way. Ms. Duff originally referred Mr. Haworth to the PLDD; he attended the September 8, 2016 meeting to discuss the matter with the Commissioners and Engineer Lockett. Engineer Lockett contacted Engineer Duff about the request and the County's position on these matters. Ms. Duff's response letter was read into the record by Commissioner Smith, it reads as follows:

September 30, 2016

Dear Mr. Haworth:

I am writing in response to your request to culvert the drainage ditch adjacent to #211 Montgomery Lane. in Port Ludlow. Although I had directed you to the Port Ludlow Drainage District for guidance in this matter, I had misspoken and the Drainage District does not have authority over work within County rights-of-way. That authority is with Jefferson County Public Works and we do not approve of culverting ditches other than for a driveway access.

Please contact me should you have any questions regarding this matter.

Sincerely,

Terry Duff, Eng Tech III

Commissioner Smith pointed out that the important statement that Ms. Duff said in her response is that “we (the County) do not approve of culverting ditches other than for a driveway access”.

Commissioner Smith noted that over the years that Jefferson County Public Works Director/County Engineer Monte Reinders and other County authorities had stated many times that Port Ludlow residents should not be filling in ditches. Peggy Manspeaker commented that many of her neighbor’s ditches on McCurdy Lane were filled in prior to when she built her home there in 2004.

New Business:

1. Engineer Lockett shared a PowerPoint presentation highlighting completed PLDD projects, PLDD history, past yearly PLDD budgets and the **2017 Budget proposal of \$187,600.00 with an Assessment amount of \$118,600**. Copies of these documents will be attached to these minutes.

Expected projects for the year 2017 are improvements to Montgomery Lane/Libby Court at an estimated cost of \$45,000.00, and a Wastewater Treatment Plant (WWTP) Ditch Overflow Protection Project at an estimated cost of \$20,000.00.

Also discussed was the expense of regular Drainage Maintenance Operations at a cost of \$17,600.00 for the year to have small works contractor, Yard Dogs Landscaping maintain completed PLDD ditches and structures, keeping them free of debris and operating properly.

Commissioner Wilcox stated that the PLDD was reaching the end of a need for the District to be a construction organization and should be moving to more of a maintenance organization, relying on Jefferson County to take more responsibility for things.

Commissioner Smith noted that the District will always have problems with stormwater and that these problems will need to be addressed, noting that the 19 projects just highlighted by Engineer Lockett dealt with common properties not in County Jurisdiction. She also stated that taking care of these problems is what the PLDD is tasked with.

Commissioner Wilcox made a motion to accept the proposed amount of **\$187,600.00 for the PLDD 2017 Budget, and \$118, 600.00 for the Assessment**. Commissioner Uyeda seconded the motion. Commissioner Smith carried the motion. Motion approved 3-0.

Commissioner Smith read **Resolution # 2016-02** adopting the Budget and Assessment amounts. All three Commissioners signed the resolution; a copy will be attached to these minutes.

2. Last month, Engineer Lockett brought to the Commissioners a copy of a Professional Engineering Services contract, one of which had not been completed with Gray & Osborne since 2004.

Commissioner Smith made a motion that the PLDD approve and sign the on-call Professional Engineering **Services Contract** for Gray & Osborne to continue as the Engineering firm of record for the PLDD. Commissioner Wilcox seconded the motion. Commissioner Uyeda carried the motion. Motion approved 3-0. Commissioners each signed the contract. Some audience members questioned how hiring an engineering firm was determined. Engineer Lockett explained that (as per the Revised Code of Washington (RCW 39.80) the PLDD advertises for the Engineering Services Roster every two years.

3. Commissioner Smith reported that reading the report findings of the recent 2014 & 2015 audits done by the Washington State Auditor's Office (WSAO) intern Brittany Wallace, prompted her to look into the **per diem rate allowed per meeting for Special District Commissioners**, as she wanted to make sure that she followed the proper protocol prior to submitting a pay voucher. Commissioner Smith discovered by reading on the State website that it was \$90.00 per day, but cost of living increases were allowed for every 5 years. In 2008, the amount allowed was increased to \$104.00 per diem, and in 2013 the amount could be raised to \$114.00. The problem was that the PLDD Commissioners had not adopted that rate of pay at those times in an open meeting by Resolution. It had been incorporated improperly in April of 2015, by the Commissioners without following the process of adopting it in an open public meeting and by Resolution, which is specified by statute. Commissioner Smith read the statute in part as follows:

RCW 85.38.075

Governing body—Compensation and expenses.

The members of the governing body may each receive up to ninety dollars per day or portion thereof spent in actual attendance at official meetings of the governing body or in performance of other official services or duties on behalf of the district. The governing body shall fix the compensation to be paid to the members, secretary, and all other agents and employees of the district. Compensation for the members shall not exceed eight thousand six hundred forty dollars in one calendar year. A member is entitled to reimbursement for reasonable expenses actually incurred in connection with such business, including subsistence and lodging, while away from the member's place of residence, and mileage for use of a privately owned vehicle in accordance with chapter 42.24 RCW.

Any member may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the secretary as provided in this section. The waiver, to be effective, must be filed any time after the member's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2008, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington State, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used for the adjustments for inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

Commissioner Smith also referred to WSR 13-112-078 from the Office of Financial Management which reads in part:

OFFICE OF
FINANCIAL MANAGEMENT

[Filed June 5, 2013, 9:35 a.m.]

Office of Financial Management

Notice of Special District Governing Body Dollar Threshold Adjustment

Compensation limits for special district governing body members are set in statute. RCW 85.38.075 provides that payment of compensation for each member may be at a rate up to ninety dollars (\$90) per day, with compensation for each member not to exceed eight thousand six hundred and forty dollars (\$8,640) per year. RCW 85.38.075 also provides for the Office of Financial Management to adjust this dollar threshold for inflation every five years, beginning July 1, 2008. The adjustment is to be based upon changes in the consumer price index for "wage earners and clerical workers, all items" compiled by the Bureau of Labor and Statistics, U.S. Department of Labor during that five year period. The new dollar threshold shall be transmitted to the Office of the Code Reviser for publication in the Washington State Register at least one month before the new threshold takes effect.

Over the five-year period from April 2008 to April 2013, the Consumer Price Index for Urban Wage Earners and Clerical Workers for the Seattle-Tacoma-Bremerton, WA area as reported by the Bureau of Labor Statistics, U.S. Department of Labor, increased by 8.66 percent.

In accordance with the requirements set forth above, the Office of Financial Management submits for publication the new dollar threshold. The new dollar threshold is one hundred and fourteen dollars (\$114) per day with a new annual compensation limit of ten thousand nine hundred and forty four dollars (\$10,944). The new dollar threshold takes effect July 1, 2013.

If you have any questions or need further information, contact Bob Baker at bob.baker@ofm.wa.gov.

Commissioner Smith also cited Article II, section 25, Chapter 469 of the 2007 Washington State Constitution, in reference to a question posed in the comments section to the State Attorney General regarding mid-term increases. His reply was that "*any increase must be delayed until the next term*".

Commissioner Smith also read in part a reply to her email inquiry by the Municipal Research and Services Center (MRSC) Legal Consultant Paul Sullivan, as follows:

Katie Smith: Would the new commissioner per diem rate become effective at the beginning of the new term (for each commissioner) following the passage of the new compensation resolution?

Paul Sullivan: Yes. I believe it would. Under the constitution, compensation may not be increased after an officer's election or during their term of office. See art. XI sec.8. There is an exception where this prohibition does not apply if the officer does not set his or her own compensation. Here, however, the commissioners do set their compensation level. Thus, in my opinion, while the commissioners could approve an increase at any time, that increase could not go into effect until the beginning of a new term.

KS: Must a Resolution be passed in order to increase the Commissioner per diem of Special Purpose Districts?

Paul Sullivan: RCW 85.38.075 sets the maximum compensation (per diem) that a drainage district board member can be paid but requires the commission itself to actually set the compensation. Thus, to increase the compensation will require the commission to adopt a new compensation resolution.

Commissioner Wilcox objected to Commissioner Smith investigating this matter without informing the other Commissioners. Commissioner Smith pointed out that the matter had been discussed during the September 22, 2016 Budget Workshop, copies of the vouchers that had been submitted by the Commissioners between April of 2015 and this year were made available at that time.

Commissioner Uyeda asked what would be the definition of a new term. Jefferson County Commissioner, Kathleen Kler stated that a new term would begin with the election after you were sworn in. The Commissioners who vote on an increase, via a Resolution, cannot take that increase during that term; it would have to be taken when they begin a new term.

A partial statement from PLDD attorney Shane Seaman was shared by Commissioner Wilcox, he was of the opinion that the RCW's cited had some room for argument and could be viewed. Commissioner Smith noted that her inquiries about the per diem were shared with the other Commissioners via email, prior to this meeting, and copies of the tallied vouchers were made available to them. Brian Belmont, General Manager of the Ludlow Maintenance Commission (LMC) asked when Commissioner Wilcox sought an attorney opinion, and if the attorney consultation done by Commissioner Wilcox was done without the knowledge of Commissioner Smith, if so, he was guilty of the same type of behavior that he accused Commissioner Smith of.

Lengthy discussion continued regarding this matter. Commissioner Uyeda directed assistant Bartkus to draft a Resolution to accept the \$114.00 per meeting, and forward it to each Commissioner for their review and editing. Commissioner Smith noted that there was plenty of time to do this, and pointed out that the outstanding issue was recovery of the overpayment. Commissioner Uyeda replied that he had no problem with repaying whatever the amount was, but he felt that each Commissioner should make that decision on his own. Commissioner Smith noted that Commissioner Uyeda's overpayment was \$432.00; Commissioner Wilcox's was \$648.00, and that former Commissioner Jim Boyer's was \$864.00. Commissioner Wilcox said that he would pay it back and he was sure that his last quarter meetings would exceed what he owed.

4. Commissioners discussed Bond coverage; it was discovered by Commissioner Smith that for some reason prior "Named Position" coverage, that may have been considered bond coverage, was cancelled from the Enduris insurance policy in 2013 and that it could be re-instated. Commissioner Wilcox noted that the County had to set a Bond amount. Commissioner Smith noted that the RCW states the Bond coverage should be between \$1,000.00 and \$5,000.00. Commissioner Wilcox made a motion to obtain coverage through Enduris for \$10,000.00 per Commissioner, effective September 9, 2016 (when the new coverage year started). Commissioner Smith seconded the motion. Commissioner Uyeda carried the motion. Motion approved 3-0.

Enduris Director of Member Services, Joanne Bisquerra, offered to attend the Nov 10 PLDD Regular Meeting to review current coverage and discuss options that may potentially assist in the bond coverage issue. Commissioners agreed to this visit.

Old Business:

5. Commissioners discussed that a photographer, Jim Swoboda, sent by Joanne Bisquera of **Enduris** Insurance, had come to take photographs of PLDD structures. Russ Lowry of Yard Dogs Landscaping, had met with the photographer at the Beach Club, and taken him to WWTP ditch and bridge for action photos of the maintenance crew.
6. The possibility of moving PLDD meetings from the Bay View Room to the Gallery Room was discussed briefly. Assistant Bartkus noted that it would mean less set up for Beach Club staff, which could translate to less possibility of a future rent increase if the regular PLDD meetings were to continue to be held in the Bay View Room. Commissioner Uyeda made a motion to move the meetings to the Gallery Room. Commissioner Smith seconded the motion. Commissioner Wilcox carried the motion. Motion approved 3-0.

Commissioner Resignation:

Chair Commissioner Wilcox tendered his resignation to the District "this afternoon."
Commissioner Smith asked the Chair if he wished to adjourn the meeting, and he said yes, let's adjourn.

Commissioner Smith made a motion to adjourn the meeting at 12:10 p.m. Commissioner Uyeda seconded the motion. Motion approved 2-0.

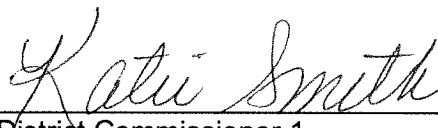
Respectfully prepared by:
Susan Bartkus

Approved:

Approved:



District Commissioner 3
Allen Uyeda



District Commissioner 1
Katie Smith