

Thurston Conservation District Board of Supervisors
Regular March Meeting (Rescheduled) & Work Session Agenda - Final Draft
April 8th, 2019 (2:00pm - 5:00pm)
Work Session begins at 12:00pm
2918 Ferguson St SW, Suite A, Tumwater, WA 98512, 360.754.3588



No.	Item	Time Allotted	Tab #	Plan
Work Session: 12:00pm – 2:00pm				
1.	Review April Board Meeting Materials, All A. 2019 Budget Development	120 minutes		A/S: 88
Work Session Time Allotment: 120 minutes (2 hr)				
Monthly Meeting: 2:00pm – 5:00pm				
1.	Welcome, Introductions, Audio Recording Announcement and Pledge of Allegiance	2:00 PM 5 minutes		
2.	Agenda Review	2:05 PM 5 minutes		
3.	Public Comment <i>*Three minutes per person</i>	2:10 PM 15 minutes		
4.	Partner Reports A. Washington State Conservation Commission (WSCC), <i>Alison Halpern</i> B. Natural Resources Conservation Service (NRCS), <i>Jeff Switek</i> C. Washington Association of Conservation Districts (WACD), <i>Doug Rushton</i>	2:25 PM 15 minutes		
5.	Board Meeting Minutes Review, All - Action Item A. March 12th, 2019 Regular Meeting Minutes & Work Session Minutes B. February 26th, 2019 Regular Meeting Minutes & Work Session Minutes C. October 30th, 2018 Special Meeting Minutes D. July 24th, 2018 Special Meeting Minutes & Work Session Minutes E. June 26th, 2018 Regular Meeting Minutes & Work Session Minutes F. June 19th, 2018 Subcommittee Meeting Minutes G. June 7th, 2018 Regular Meeting Minutes & Work Session Minutes H. March 5th, 2018 Special Meeting Minutes & Work Session Minutes I. January 9th, 2018 Special Meeting Minutes & Work Session Minutes J. November 1st, 2017 Regular Meeting Minutes K. September 26th, 2017 Regular Meeting Minutes & Work Session Minutes	2:40 PM 30 minutes	1	A/S: 92
6.	Financial Report, Susan Shelton A. Monthly Financial Report B. March Check Register - Action Item A. State Audit Update and Entrance Conference, <i>Doug Rushton</i>	3:10 PM 15 minutes	2	A/S: 92
7.	2019 Annual Budget, All - Action Item	3:25 PM 20 minutes	3	A/S: 92
8.	Contracts and Agreements, All - Action Item A. Rates and Charges Interlocal Agreement B. Dept. of Ecology Grant C. TCEH Shellfish NTA Grant	3:45 PM 20 minutes	4	A/S: 92
9.	Public Comment <i>*Three minutes per person</i>	4:05 PM 15 minutes		
10.	Governance, All	4:20 PM	5	

- A. 2018 and 2019 CAPP Review 20 minutes
- B. Collective Bargaining and Contract Negotiations
- C. Review of Transition Issues
- D. Follow up on Aspen Group Training, Sarah Moorehead

11. **TCD Policy Review and Revision** 4:40 PM
A. Consent Agenda Policy Development 10 minutes

12. **Board of Supervisors Reports** 4:50 PM
10 minutes

13. **Executive Session: Performance evaluation discussion of Interim Executive Director.** 5:00 PM
15 minutes
RCW 42.30.110 To review the performance of a public employee.

14. **Executive Session: To discuss pending litigation with legal counsel.** 5:15 PM
15 minutes
RCW 42.30.110 (i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

Adjourn, All 5:30 PM

Meeting Time Allotment: 210 minutes (3.5 hrs)

Total Time Allotment: 330 minutes (5.5 hrs)

Key: GAP (Governance Action Plan), A/S (Annual & Strategic Plans)

Information Only: Interim Executive Director's Report

1

Thurston CD Board Meeting Minutes
Signature and Posting Record - Updated 4.3.2019

Date	Reviewed	Passed	Signed	Posted
February 26, 2019 Board meeting				
January 15, 2019 Board Meeting		2/26/2019		
November 15, 2018 Board Meeting		2/26/2019	X	X
October 30, 2018 Board Meeting				
September 28, 2018 Special Meeting in Executive Session		10/30/2018		
September 25, 2018 Board Meeting		10/30/2018	X	X
August 20, 2018 Board Meeting		10/30/2018	X	X
July 24, 2018 Special Board Meeting	8/20/2018			
June 26, 2018 Board Meeting	8/20/2018			
June 19, 2018 Subcommittee Work Session	8/20/2018			
June 7, 2018 Special Board Meeting	6/26/2018			
May 29, 2018 Board Meeting		6/26/2018		
April 24, 2018 Board Meeting		6/26/2018		
March 27, 2018 Board Meeting		4/24/2018		
March 27, 2018 Work Session		4/24/2018	X	X
March 5, 2018 Special Board Meeting				
February 27, 2018 Board Meeting		6/26/2018		
February 27, 2018 Work Session		6/26/2018	X	X
February 15, 2018 P&P Sub-Committee (No Quorum)		N/A	N/A	N/A
January 30, 2018 Board Meeting		4/24/2018		
January 30, 2018 Work Session		4/24/2018		
January 9, 2018 Special Board Meeting				
December 20, 2017 Board Meeting		5/29/2017		
December 20, 2017 Work Session		5/29/2017	X	X
November 21, 2017 Special Board Meeting		5/29/2017		
November 21, 2017 Work Session		5/29/2017	X	X
November 1, 2017 Board Meeting				
October 2, 2017 Special Meeting		X	X	X
September 26, 2017 Board Meeting	5/21/2017			
September 26, 2017 Work Session	5/21/2017			
February 28, 2017 Board Meeting		2/27/2018		

N/A - no minutes
COMPLETE - signed and posted
NOT APPROVED
APPROVED - need signature and posting

2019

TCD Board of Supervisors Meeting Minutes
March 12th, 2019 (9:00pm - 11:30pm) - Special Meeting
2918 Ferguson St SW, Suite A, Tumwater, WA 98512, 360.754.3588



Present at Meeting:

Paul Pickett, TCD Board Chair Sarah Moorehead, Interim Executive Director (IED)
Doug Rushton, TCD Board Auditor Tony Wilson, Public
Robert Clark, Public
Chris Stearns, TCD Associate Supervisor/Thurston PUD

Action Items:

1. Susan will send the totals of the expenses incurred to date in the categories labeled 'must have' with expenditures anticipated after May 1, 2019 and 'should have'.
2. Supervisors will review the updated draft 2019 budget and address any questions with TCD Staff prior to April 8th Board Meeting.
3. Sarah Moorehead, IED will look into consent calendar models and bring some examples to the meeting (particularly Whatcom CD).

1. **Welcome, Introductions, Audio Recording Announcement and Pledge of Allegiance**
TCD Board and staff introductions. Audio recording announced by Chair. Pledge of Allegiance.

2. **Agenda Review**

Motion: Supervisor Rushton moved to approve the agenda. Supervisor Pickett Seconded. Motion Passed. (Unanimous)

3. **Meeting Dates Scheduling, All – Action Item**

A. Revise date for Mid-Term Elected Candidate Interviews

Candidate interviews will take place on April 2nd at 1:30pm at the TCD Office. Individual interviews will begin around 1:45pm after some discussion by the Board. The meeting will go until around 5:30pm, depending on the number of candidates. An executive session is to be included for the purpose of reviewing candidate qualifications for this elective office.

B. Reschedule Regular March Meeting Date

The March meeting has been rescheduled to Monday, April 8th beginning at 2:00 PM at the TCD Office. A two-hour work session, beginning at 12:00 PM will focus on the development of the 2019 Budget.

The Board will revisit the regular meeting schedule, to revise if necessary, once the Board is fully constituted.

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March 12th, 2019 (9:00pm - 11:30pm) - Special Meeting
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4. TCD Resolution #2019-06: Mid-term Elected Seat Appointment (Updated), All – Action Item

The resolution was updated to include the section, ‘WHEREAS, the WSCC Elections and Appointment Procedure Manual requires a 28-day application period.’.

The application deadline for the mid-term elected seat is March 28th, 2019 at 4:30pm. Applications are due to Sarah Moorehead, IED. Application instructions are available on the TCD website, as well as, will be marketed according to the TCD Mid-Term Elected Seat Policy.

Supervisor Rushton moved to approve TCD Resolution #2019-06: Mid-term Elected Seat Appointment. Supervisor Pickett seconded. Motion passed. (Unanimous)

5. Review and Decide on Reference Check and Interview Questions, All - Action Item

The Board reviewed and revised prior templates for the reference check and interview questions for use in the mid-term elected seat appointment process.

6. Time-sensitive Issues, All – Action Item

A. 2019 Budget Development, Sarah Moorehead, IED & Susan Shelton, TCD Accountant

Sarah Moorehead, IED and Susan Shelton, TCD Accountant presented the status of the 2019 Budget. Supervisor Rushton asked to include retroactive compensation for the IED in the budget. The Board approved budget items that are labeled ‘must have’ with expenditures anticipated before May 1, 2019 at their January 2019 Board Meeting. Several items have since incurred expenses in both the categories labeled ‘must have’ with expenditures anticipated after May 1, 2019 and ‘should have’. Staff asked that the Board approve these expenditures and address the potential for additional expenditures before the approved budget.

Supervisor Rushton moved to authorize the Interim Executive Director to spend up to \$3,000.00 in the categories labeled ‘must have’ and ‘should have’ within the March 12th, 2019 draft of the 2019 Budget. Supervisor Pickett seconded. Motion Passed. (Unanimous)

AI – Susan will send the totals of the expenses incurred to date in the categories labeled ‘must have’ with expenditures anticipated after May 1, 2019 and ‘should have’.

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AI – Supervisors will review the updated draft 2019 budget and address any questions with TCD Staff prior to April 8th Board Meeting.

B. Other Issues, All

- Union and Collective Bargaining Update: Collective Bargaining Training with the Public Employee Relations Commission will take place on April 12th from 1:00pm – 5:00pm at the TCD Office. Supervisor Pickett will retire from the Washington State Department of Ecology on April 1st, 2019, no longer being a member of the local chapter of the Washington Federation of State Employee's Union that the Thurston CD staff belong to.
- Consent Calendar: Supervisor Pickett would like to discuss the idea of a consent calendar during the April 8th, 2019 Board Meeting.

AI – Sarah Moorehead, IED will look into consent calendar models and bring some examples to the meeting (particularly Whatcom CD).

- Topics for next meeting: consent calendar, executive session for personnel discussion, 2019 budget

7. Adjourn, All

Supervisor Rushton moved to adjourn the meeting. Supervisor Pickett seconded. Motion Passed. (Unanimous)

Respectfully,

Paul Pickett, Board Chair

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February 26th, 2019 (2:00pm - 6:45pm) - Regular Meeting
2918 Ferguson St SW, Suite A, Tumwater, WA 98512, 360.754.3588**



Present at Meeting:

Paul Pickett, TCD Board Chair	TJ Johnson, Public
Doug Rushton, TCD Board Auditor	Tony Wilson, Public
Sarah Moorehead, TCD Staff	James Murray, Public
Ben Cushman, TCD Counsel	Patricia Harrigan, Public
Chris Stearns, TCD Associate Supervisor	Bob Clark, Public
Alison Halpern, WSCC	Melissa Barker, Public
Melinda Holman, Public	Paula Holroyde, Public
John Flory, Public	Martin McCallum, Public
Carol Goss, Public	Joe Hanna, TC Ag Advisory Committee

Action Items:

1. Sarah will follow up regarding the third party audit with Mr. Ooms to express appreciation for his efforts and the intent to continue moving forward with a defined scope and deliverables.
2. Ben Cushman and Sarah will follow up on the public disclosure request issue noted in the CAPP.
3. Sarah will draft an email demonstrating TCD's progress on CAPP for the Chair to send to Kirk Robinson and Allison Halpern at WSCC.
4. Sarah will follow up with Tom Salzer and The Aspen Group to gather information for the Board on costs and governance structure/culture training opportunities.
5. Sarah will follow up with WFSE and PERC to schedule a collective bargaining training for Board and staff.

1. **Welcome, Introductions, Audio Recording Announcement and Pledge of Allegiance**
TCD Board and staff introductions. Audio recording announced by Chair. Pledge of Allegiance.

2. Agenda Review

Motion: Paul moved to adopt revised agenda from Board work session that has been provided to the public. Doug Seconded. Passed unanimously.

3. Election of New Officers, All

Ben Cushman presented his guidance document titled, "Why Two Supervisors Constitutes a Quorum of the Board of Supervisors", concluding that the current quorum of the Thurston CD Board is two supervisors and does not count the currently vacant board positions.

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Motion: Doug Rushton nominated Paul Pickett to serve as TCD Board Chair. Paul seconded. Passed unanimously.

Motion: Paul Pickett nominated Doug Rushton to serve as TCD Auditor. Doug seconded. Passed unanimously.

The Board discussed paths forward to make TCD meetings efficient, improve organizational structure and governance, staff responsibilities, financial transparency, incorporating public input and union relations to rebuild Thurston CD. The Board invited feedback from the public and established a new, more formal operation norm for Board meetings.

4. Public Comment

Tony Wilson
Chris Stearns
TJ Johnson
Ruth Piccone
Patricia Harrigan
Martin McCallum
Joe Hanna

5. 2019 Elections, All - Action Item

A. District Elections Timeline and Information, Nora White

Today, February 26th at 4:30pm is the candidate filing deadline for 2019 District Election. Eligibility of candidates will then be verified. Information about voter participation will also be advertised and available on the Thurston CD website.

Beginning March 6th, ballots will be available for request from TC Auditor's Office (no ballots will be available from TCD). Ballots can be requested to be mailed to voters through March 21st. Ballots can be requested in person at the TC Auditor's Office through March 25th at 4:30pm.

The poll site election will be held on March 26th, 2019 at the Thurston County Auditor's Office Ballot Processing center – address from 8:00am – 8:00pm.

Handouts were provided to the Board, including: a timeline of dates and deadlines regarding the 2019 election, FAQ's and outreach flyers.

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Audience questions:

1. What happens if only one candidate files?

a. Election will still take place. The incumbent is not running. The WSCC elections manual will be followed.

2. What is different from last year?

a. The main difference is that there will be no E1C (electronic ballot delivery system) ballot request option. This option provided challenges for TC Auditor's Office staff in relationship to District election requirements and was costly to the District.

B. TCD Resolution #2019-03: 2019 District Elections, All - Action Item

Motion: Doug moved to adopt. Paul seconded. Passed Unanimously.

C. Interlocal Agreement for 2019 Election with Thurston County Auditor's Office, All - Action Item

Motion: Doug moved to approve the Interlocal Agreement with the Thurston County Auditor's Office for conduction the 2019 District Election. Paul seconded. Passed unanimously.

6. Filling the Mid-Term Elected Seat Vacancy, All

The announcement to fill the Mid-Term Elected Seat Vacancy will go out tomorrow, February 27th, 2019. The deadline for applications will be March 13th, 2019 at 4:30pm.

The Board discussed holding a meeting on Friday, March 15th, 2019 from 3:00pm – 5:00pm to finalize interview questions, reference check questions and do an initial screening and selection of interview candidates.

Reference checks will be done on selected applicants following the meeting and candidates will be notified of the interview date.

The Board discussed holding candidate interviews and appointing an applicant during a Special meeting on Tuesday, March 19th, 2019.

The Board discussed the timing and recruitment plan for the open position, as well as compliance with TCD Policy 4.10. Candidate skills and requirements were defined, per TCD Policy, including the criteria: 'Willingness to work between meetings to address

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District business and review information'. The Board made updates to the application and included the requirement of submitting a cover letter.

Chris Stearns, TCD Associate Supervisor was designated to conduct reference checks to fill mid-term elected seat appointment. Sarah will take notes and support the process and compliance with the policy.

7. Financial Report

A. Monthly Financial Report, Susan Shelton

Susan asked for any questions from the Board regarding the Monthly Financial Report. The Board discussed the East Fork McLane project and the WSCC Implementation grant.

B. January Check Register - Action Item

Motion: Doug moved to approve January check register #19863 - #19892 totaling: \$107,354.22 with one voided check #19882. Paul seconded. Passed unanimously.

C. Third Party Audit Update

Sarah provided a status report on the progress of the Third Party Audit. Ben Cushman discussed potential concerns regarding Edgar Ooms statement regarding testimony provided at the WSCC investigative hearing. Ben also stated that he believes that Edgar Ooms is a neutral third party auditor and believes that a third party audit would provide value to the District's governance. The Board shared concerns over the lack of a contract or scope of work and timeline for deliverables associated with the current third party audit. The Board discussed that a process is needed for the auditor to communicate with the full Board. Deliverables need to be established that are beneficial to the governance of District.

Ben Cushman noted that there is an advantage to allowing the State Auditor's Office to complete their audit first, and then ask Edgar Ooms to review the outcome of the State Audit and direct him to fill any gaps and/or provided any additional information requested by the Board. Ben also stated that it is appropriate to define the scope of work, as the outcome of a third party audit remains independent.

Sarah provided an update on the State Audit process. The State Auditor's Office entrance conference will be held on March 19th.

Motion: Doug moved to put the third party audit on hold until the completion of the state audit and the filling of vacant board positions, after which the Board will consult with Mr. Ooms to give him direction as to the scope, timing and deliverables of his work. Paul seconded. Unanimous passed.

The Board expressed their appreciation for Edgar Ooms and his work as a volunteer third party auditor. Sarah was directed to communicate the Board's gratitude and the decision to wait on completion of the third party audit.

Action Item: Sarah will follow up regarding the third party audit with Mr. Ooms to express appreciation for his efforts and the intent to continue moving forward with a defined scope and deliverables.

D. TCD Resolution #2019-04: Authorized Bank Signers

Doug moved to approve TCD Resolution #2019-04: Authorized Bank Signers with the updates to newly elected officer positions and the correction of the spelling of Doug Rushton's name. Paul seconded. Passed unanimously.

Staff was directed to hold checks until bank signer authorization has been updated.

The Board discussed adding a two hour Board Work Session before the regular March meeting to discuss the 2019 Budget. The Board would like to see the newly appointed Board Supervisor have a meeting with Susan and Sarah before the regular March meeting to come up to speed on 2019 Budget development.

8. Board Meeting Minutes Review, All – Action Item

The Board discussed a consent calendar model for approving minutes.

A. November 15th, 2018 Regular Meeting Minutes

Doug moved to approve. Paul seconded. Passed unanimously.

B. January 15th 2019 Regular Meeting Minutes

Doug moved to approve the January 15th, 2019 Regular meeting minutes, with the inclusion of the meeting attendees. Paul seconded. Passed unanimously.

C. Review of New Minutes Template and Policy

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Ben Cushman discussed working on a policy with Paul and a template that would utilize the existing meeting agenda as template using a spreadsheet format, allowing for limited discussion.

9. Legal Report, Ben Cushman

Three defined legal matters pending:

- I. Appeal for suspension of funding with WSCC. The appeal is not proceeding and will likely not need to proceed as compliance with the CAPP issues will likely resolve the issues of funding suspension.
- II. West Vs. TCD regarding OPMA violation
- III. Hanna Vs. TCD regarding OPMA violation

Strategic decisions need to be made. Ben Cushman has appeared for TCD Supervisors in the West case, not in the Hanna. Ben Cushman requested to receive direction to formally withdraw from representation of former Supervisors in West case.

Executive Session: Impacts of governance change on pending litigation. RCW 42.30.110 (i): To discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

The TCD Board and Ben Cushman (TCD Counsel) entered Executive Session for the purpose of receiving legal advice of counsel on pending litigation and to discuss strategy for those cases under RCW 42.30.110 (i) at 5:23pm for 15 minutes and resuming public session 5:38pm. Executive Session was resumed for an additional 15 minutes at 5:38pm, concluding at 5:53pm. Executive Session was resumed for an additional 5 minutes at 5:53pm, concluding at 5:58pm. Executive Session was resumed for an additional 5 minutes at 5:58pm, concluding at 6:03pm. Public session was resumed at 6:03pm.

Legal Report (continued), Ben Cushman

Ben Cushman requested direction to formally withdraw from representation of former TCD Supervisors in West vs. TCD.

Doug moved to direct legal staff to withdraw from representing former board members and settle with West. Paul seconded. Passed unanimously.

230 10. Filling the Mid-Term Elected Seat Vacancy (*resumed agenda item #6*), All – Action
231 Item

232
233 *Doug moved to approve TCD Resolution #2019-05: A Resolution of the Thurston*
234 *Conservation District, Providing for the Mid-Term Filling of a Vacant Elected*
235 *Position, with the addition of the year 2019 and the Board Officers. Paul seconded.*
236 *Passed unanimously.*

237
238 11. Governance, All

239 A. CAPP Review

240 The Board and Ben Cushman discussed follow up to public disclosure requests.
241 **Action Item: Ben Cushman and Sarah will follow up on the public disclosure**
242 **request issue noted in the CAPP.**

243
244 The Board discussed additional Board and staff training opportunities.
245 **Action Item: Sarah will draft an email demonstrating TCD's progress on**
246 **CAPP for the Chair to send to Kirk Robinson and Allison Halpern at**
247 **WSCC.**

248
249 B. Governance Review Process

250 The Board discussed looking into The Aspen Group and talking to Thurston
251 County Commissioner regarding governance training. The Board would like a
252 structured process that allows for customization to fit the needs of the District.
253 Additional goals include: hiring an executive director, making other financial
254 improvements as necessary, updating the organizational structure and in general
255 increasing efficiency and effectiveness of the District. A presentation provided by
256 Tom Salzer regarding governance was discussed.

257
258 **Action Item: Sarah will follow up with Tom Salzer and The Aspen Group to**
259 **gather information for the Board on costs and governance structure/culture**
260 **training opportunities.**

261
262 C. Collective Bargaining with WFSE Union

263 The Board discussed the desire to proceed with a joint Board and staff bargaining
264 training in April 2019.

265
266 **Action Item: Sarah will follow up with WFSE and PERC to schedule a**
267 **collective bargaining training for Board and staff.**

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268
269 **12. Adjourn, All**
270 *Motion: Doug moved to adjourn the meeting. Paul seconded. Passed unanimously.*

271

272 Respectfully,

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275 _____
Paul Pickett, Board Chair

DRAFT

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Present at Meeting:

Paul Pickett, TCD Board Chair
Doug Rushton, TCD Board Auditor
Sarah Moorehead, TCD Staff
Interim Executive Manager (IEM)
Ben Cushman, TCD Counsel
Chris Stearns, TCD Associate Supervisor
Alison Halpern, WSCC
Melinda Holman, Public
John Flory, Public
Carol Goss, Public

TJ Johnson, Public
Tony Wilson, Public
——James Murray, Public
Patricia Harrigan, Public
Bob Clark, Public
Melissa Barker, Public
Paula Holroyde, Public
Martin McCallum, Public
Joe Hanna, TC Ag Advisory Committee

Action Items:

1. Sarah IEM Moorehead will follow up regarding the third party audit with Mr. Ooms to express appreciation for his efforts and the intent to continue moving forward with a defined scope and deliverables.
2. Ben Cushman and Sarah IEM Moorehead will follow up on the public disclosure request issue noted in the CAPP.
3. Sarah IEM Moorehead will draft an email demonstrating TCD's progress on CAPP, for the Chair to sign, which will be sent to Kirk Robinson and Allison Halpern at WSCC.
4. Sarah IEM Moorehead will follow up with Tom Salzer and The Aspen Group to gather information for the Board on costs and governance structure/culture training opportunities.
5. Sarah IEM Moorehead will follow up with WFSE and PERC to schedule a collective bargaining training for Board and staff.

1. **Welcome, Introductions, Audio Recording Announcement and Pledge of Allegiance**
TCD Board and staff introductions. Audio recording announced by Chair. Pledge of Allegiance.

2. Agenda Review

Motion: ~~Paul~~ Supervisor Pickett moved to adopt revised agenda from Board work session that has been provided to the public. ~~Doug~~ Supervisor Rushton Seconded. Passed unanimously.

3. Election of New Officers, All

Ben Cushman presented his guidance document titled, "Why Two Supervisors Constitutes a Quorum of the Board of Supervisors", concluding that the current quorum

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of the Thurston CD Board is two supervisors and does not count the currently vacant board positions.

Motion: Doug Rushton nominated Paul Pickett to serve as TCD Board Chair. ~~Paul~~ Supervisor Pickett seconded. Passed unanimously.

Motion: Paul Pickett nominated Doug Rushton to serve as TCD Auditor. ~~Doug~~ Supervisor Rushton seconded. Passed unanimously.

The Board discussed paths forward to make TCD meetings efficient, improve organizational structure and governance, staff responsibilities, financial transparency, incorporating public input and union relations to rebuild Thurston CD. The Board invited feedback from the public and established a new, more formal operation norm for Board meetings.

4. Public Comment

Tony Wilson
Chris Stearns
TJ Johnson
Ruth Piccone
Patricia Harrigan
Martin McCallum
Joe Hanna

5. 2019 Elections, All - Action Item

A. District Elections Timeline and Information, Nora White

Ms. White briefed the Board on the 2019 elections, and provided 3 handouts regarding the election process: 1) A timeline; 2) a "how to vote" flyer; 3) an FAQ sheet.

Today, February 26th at 4:30pm is the candidate filing deadline for 2019 District Election. Eligibility of candidates will then be verified. Information about voter participation will also be advertised and available on the Thurston CD website.

Beginning March 6th, ballots will be available for request from TC Auditor's Office (no ballots will be available from TCD). Ballots can be requested to be mailed to voters through March 21st. Ballots can be requested in person at the TC Auditor's Office through March 25th at 4:30pm.

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The poll site election will be held on March 26th, 2019 at the Thurston County Auditor's Office Ballot Processing center – address from 8:00am – 8:00pm.

Handouts were provided to the Board, including: a timeline of dates and deadlines regarding the 2019 election, FAQ's and outreach flyers.

The Chair offered the audience a chance to ask Audience questions:

1. What happens if only one candidate files?
 - a. Election will still take place. The incumbent is not running. The WSCC elections manual will be followed.
2. What is different from last year?
 - a. The main difference is that there will be no EIC (electronic ballot delivery system) ballot request option. This option provided challenges for TC Auditor's Office staff in relationship to District election requirements and was costly to the District.

B. TCD Resolution #2019-03: 2019 District Elections, All - Action Item

Motion: ~~Doug~~Supervisor Rushton moved to adopt. PaulSupervisor Pickett seconded. Passed Unanimously.

C. Interlocal Agreement for 2019 Election with Thurston County Auditor's Office, All - Action Item

The Auditor is estimating \$22,000 based on counting 5,000 votes.

Motion: ~~Doug~~Supervisor Rushton moved to approve the Interlocal Agreement with the Thurston County Auditor's Office for conduction the 2019 District Election. PaulSupervisor Pickett seconded. Passed unanimously.

6. Filling the Mid-Term Elected Seat Vacancy, All

The announcement to fill the Mid-Term Elected Seat Vacancy will go out tomorrow, February 27th, 2019. The deadline for applications will be March 13th, 2019 at 4:30pm.

The Board discussed holding a meeting on Friday, March 15th, 2019 from 3:00pm – 5:00pm to finalize interview questions, reference check questions and do an initial screening and selection of interview candidates.

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Reference checks will be done on selected applicants following the meeting and candidates will be notified of the interview date.

The Board discussed holding candidate interviews and appointing an applicant during a Special meeting on Tuesday, March 19th, 2019.

The Board discussed the timing and recruitment plan for the open position, as well as compliance with TCD Policy 4.10. Candidate skills and requirements were defined, per TCD Policy, including the criteria: 'Willingness to work between meetings to address District business and review information'. The Board made updates to the application and included the requirement of submitting a cover letter.

Chris Stearns, TCD Associate Supervisor was designated to conduct reference checks to fill mid-term elected seat appointment. Sarah IEM Moorehead will take notes and support the process and compliance with the policy.

7. Financial Report

A. Monthly Financial Report, Susan Shelton

Susan Ms. Shelton asked for any questions from the Board regarding the Monthly Financial Report. The Board discussed the East Fork McLane project and the WSCC Implementation grant.

B. January Check Register - Action Item

Motion: Doug Supervisor Rushton moved to approve January check register #19863 - #19892 totaling: \$107,354.22 with one voided check #19882.

Paul Supervisor Pickett seconded. Passed unanimously.

C. Third Party Audit Update

Sarah IEM Moorehead provided a status report on the progress of the Third Party Audit. Ben Cushman discussed potential concerns regarding Edgar Ooms statement regarding testimony provided at the WSCC investigative hearing. Ben also stated that he believes that Edgar Ooms is a neutral third party auditor and believes that a third party audit would provide value to the District's governance. The Board shared concerns over the lack of a contract or scope of work and timeline for deliverables associated with the current third party audit. The Board discussed that a process is needed for the auditor to communicate with the full Board. Deliverables need to be established that are beneficial to the governance of

TCD Board of Supervisors Meeting Minutes
February 26th, 2019 (2:00pm - 6:45pm) - Regular Meeting
2918 Ferguson St SW, Suite A, Tumwater, WA 98512, 360.754.3588



District. The Board was also concerned about workload impacts with the State Audit starting up.

Ben Cushman noted that there is an advantage to allowing the State Auditor's Office to complete their audit first, and then ask Edgar Ooms to review the outcome of the State Audit and direct him to fill any gaps and/or provided any additional information requested by the Board. Ben also stated that it is appropriate to define the scope of work, as the outcome of a third party audit remains independent.

Sarah IEM Moorehead provided an update on the State Audit process. The State Auditor's Office entrance conference will be held on March 19th.

Motion: Doug Supervisor Rushton moved to put the third party audit on hold until the completion of the state audit and the filling of vacant board positions, after which the Board will consult with Mr. Ooms to give him direction as to the scope, timing and deliverables of his work. Paul Supervisor Pickett seconded. Unanimous passed.

The Board expressed their appreciation for Edgar Ooms and his work as a volunteer third party auditor. Sarah IEM Moorehead was directed to communicate the Board's gratitude and the decision to wait on completion of the third party audit.

Action Item: Sarah IEM Moorehead will follow up regarding the third party audit with Mr. Ooms to express appreciation for his efforts and the intent to continue moving forward with a defined scope and deliverables.

D. TCD Resolution #2019-04: Authorized Bank Signers

Doug Supervisor Rushton moved to approve TCD Resolution #2019-04: Authorized Bank Signers with the updates to newly elected officer positions and the correction of the spelling of Doug Rushton's name. Paul Supervisor Pickett seconded. Passed unanimously.

Staff was directed to hold checks until bank signer authorization has been updated.

TCD Board of Supervisors Meeting Minutes
February 26th, 2019 (2:00pm - 6:45pm) - Regular Meeting
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The Board discussed adding a two hour Board Work Session before the regular March meeting to discuss the 2019 Budget. The Board would like to see the newly appointed Board Supervisor have a meeting with Ms. Shelton and Sarah IEM Moorehead before the regular March meeting to come up to speed on 2019 Budget development.

8. Board Meeting Minutes Review, All – Action Item

The Board discussed a consent calendar model for approving minutes.

A. November 15th, 2018 Regular Meeting Minutes

Doug Supervisor Rushton moved to approve. Paul Supervisor Pickett seconded. Passed unanimously.

B. January 15th 2019 Regular Meeting Minutes

Doug Supervisor Rushton moved to approve the January 15th, 2019 Regular meeting minutes, with the inclusion of the meeting attendees. Paul Supervisor Pickett seconded. Passed unanimously.

C. Review of New Minutes Template and Policy

Ben Cushman discussed working on a policy with Paul Supervisor Pickett and a template that would utilize the existing meeting agenda as template using a spreadsheet format, allowing for limited discussion.

9. Legal Report, Ben Cushman

Three defined legal matters pending:

- I. Appeal for suspension of funding with WSCC. The appeal is not proceeding and will likely not need to proceed -as compliance with the CAPP issues will likely resolve the issues of funding suspension.
- II. West Vs. TCD regarding OPMA violation
- III. Hanna Vs. TCD regarding OPMA violation

Strategic decisions need to be made. Ben Cushman has appeared for TCD Supervisors in the West case, not in the Hanna. Ben Cushman requested to receive direction to formally withdraw from representation of former Supervisors in West case.

Executive Session: Impacts of governance change on pending litigation. RCW 42.30.110 (i): To discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in

TCD Board of Supervisors Meeting Minutes
February 26th, 2019 (2:00pm - 6:45pm) - Regular Meeting
2918 Ferguson St SW, Suite A, Tumwater, WA 98512, 360.754.3588



an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

The TCD Board and Ben Cushman (TCD Counsel) entered Executive Session for the purpose of receiving legal advice of counsel on pending litigation and to discuss strategy for those cases under RCW 42.30.110 (i) at 5:23pm for 15 minutes and resuming public session 5:38pm. Executive Session was resumed for an additional 15 minutes at 5:38pm, concluding at 5:53pm. Executive Session was resumed for an additional 5 minutes at 5:53pm, concluding at 5:58pm. Executive Session was resumed for an additional 5 minutes at 5:58pm, concluding at 6:03pm. Public session was resumed at 6:03pm.

Legal Report (continued), Ben Cushman

Ben Cushman requested direction to formally withdraw from representation of former TCD Supervisors in West vs. TCD.

Doug Supervisor Rushton moved to direct legal staff to withdraw from representing former board members and discuss a possible settlement with West. Paul Supervisor Pickett seconded. Passed unanimously.

10. Filling the Mid-Term Elected Seat Vacancy (resumed agenda item #6), All – Action Item

Doug Supervisor Rushton moved to approve TCD Resolution #2019-05: A Resolution of the Thurston Conservation District, Providing for the Mid-Term Filling of a Vacant Elected Position, with the addition of the year 2019 and the Board Officers. Paul Supervisor Pickett seconded. Passed unanimously.

11. Governance, All

A. CAPP Review

The Board and Ben Cushman discussed follow up to public disclosure requests.

Action Item: Ben Cushman and Sarah IEM Moorehead will follow up on the public disclosure request issue noted in the CAPP.

The Board discussed additional Board and staff training opportunities.

Action Item: Sarah IEM Moorehead will draft an email letter demonstrating TCD's progress on CAPP, for the Chair to sign, which will be sent to Kirk Robinson and Allison Halpern at WSCC.

B. Governance Review Process

The Board discussed looking into The Aspen Group and talking to Thurston County Commissioner regarding governance training. The Board would like a structured process that allows for customization to fit the needs of the District. Additional goals include: hiring an executive director, making other financial improvements as necessary, updating the organizational structure and in general increasing efficiency and effectiveness of the District. A presentation provided by Tom Salzer regarding governance was discussed.

Action Item: Sarah IEM Moorehead will follow up with Tom Salzer and The Aspen Group to gather information for the Board on costs and governance structure/culture training opportunities.

C. Collective Bargaining with WFSE Union

The Board discussed the desire to proceed with a joint Board and staff bargaining training in April 2019.

Action Item: Sarah IEM Moorehead will follow up with WFSE and PERC to schedule a collective bargaining training for Board and staff.

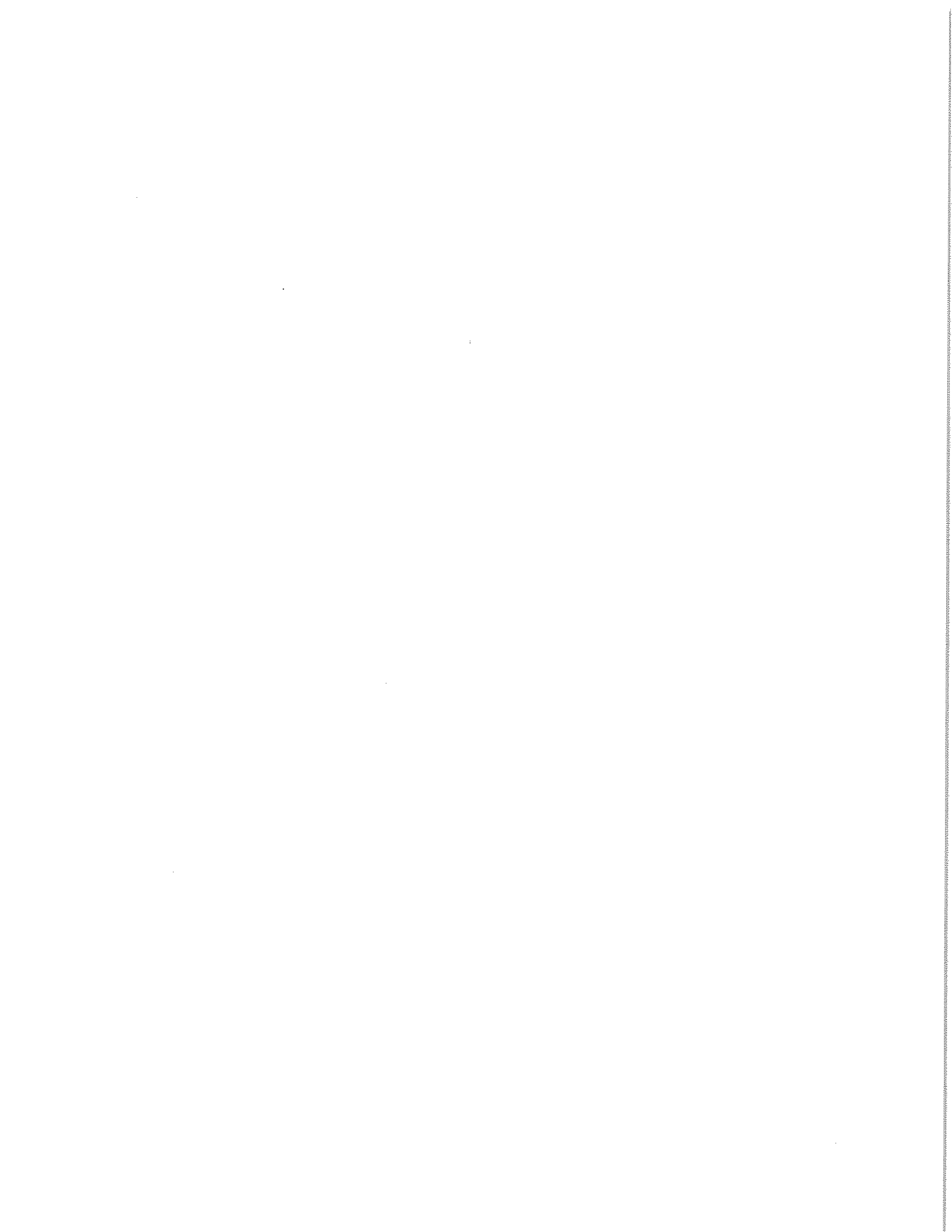
12. Adjourn, All

Motion: Doug Supervisor Rushton moved to adjourn the meeting. Paul Supervisor Pickett seconded. Passed unanimously.

Respectfully,

Paul Pickett, Board Chair

2018





Board of Supervisors
Regular Board Meeting Minutes
Tuesday, October 30, 2018 (2:00pm)

Present at Meeting:

Eric Johnson, TCD Board Chair	Sarah Moorehead, TCD Interim Executive Director
Richard Mankamy, TCD Board Auditor	Heather Roskelley, TCD Staff
Paul Pickett, TCD Board Supervisor	Doug Rushton, TCD Board Supervisor
Linda Powell, TCD Board Vice-Chair	Ben Cushman, Deschutes Law Group PLLC
Alison Halpern, WSCC	Chris Stearns, Associate Board Supervisor
Tom Salzer, NCDEA	Susan Shelton, TCD Staff
Susan Simon Bredensteiner, Public	Melinda Holman, Public
Pam Pride, Public	Mike Holly, Public
Barbara Anderson, Public	Noll Steinweg, WDFW
Ben Peterson, WFSE	Bryson Bristol, SAO
Tim Thorp, WFSE	Jeff Swotek, NRCS
Elena Guilfoil, WFSE	Matt Zuviln, WFSE
Patricia Harrigan, Public	

Action Items:

1. Ben Cushman and Paul Pickett will review minutes templates and discuss policy and report back with findings and recommendations at next Board meeting
2. Eric to sign all approved minutes before November 29 and to provide a signing statement for any that he does not sign
3. Staff to provide a report at November meeting on how to minimize the effect of reduced funds to the District's staff, finances, function, and products
4. Staff to send signed and approved letter to Office of the Washington State Auditor to commence 2018 audit; Sarah to notify Supervisors a minimum of seven (7) days ahead of audit so that they can attend
5. Staff to send approved letter and a letter of funding appeal from Ben Cushman to WSCC Commissioners
6. Staff to send approved letter with Linda's signature to WFSE Union

1. Welcome, Introductions, Audio Recording Announcement and Pledge of Allegiance

- Eric Johnson called the meeting to order at 2:07pm. There was a quorum.
- Welcome, Introductions, & Pledge of Allegiance conducted
- Chair announced meeting is audio recorded

2. Public Comment (3 minutes per person)

- Persons who provided public comment:
 - Nora White
 - Stephanie Bishop
 - Nicole Warren
 - Tom Salzer
 - Patricia Harrigan
 - Greg Devereux
 - Lee Riser
 - Paula Holroyde
 - Representative Laurie Dolan
 - Jeanne Janecki

54 **3. Agenda Review, All**

- 55 ▪ Reschedule November and December Board meetings – #7D
56 ▪ Discussion of TCD Letter of Support for WSCC budget request to Governor's office – #7C
57 ▪ Discuss June and July minutes – #4E
58 ▪ After #5G – Third Party Auditor discussion – discuss #8A (Update on Rates and Charges) and
59 #10A (Resolution #2018-04: TCD Governance Study)
60 ▪ After #10, have #11 be discussion of Paul Pickett authorizations and community outreach
61

62 **4. Board Meeting Minutes Review, All**

- 63 A. August 20, 2018 meeting minutes; September 25, 2018 meeting and work session minutes
64

65 **Doug motioned to approve all three minutes with edits as discussed in Work Session.**
66 **Linda seconded. Unanimous approval.**
67

68 C. **Review of new minutes template and policy**

- 69 • Attorney Ben Cushman and Paul Pickett will review minutes templates and discuss
70 policy and report back with findings and recommendations at next Board meeting
71 • Potential Process: Discuss minutes during Work Session; AED edits and prints revised
72 minutes to be approved during Board meeting
73

74 D. **Discussion of past Board meeting minutes**

- 75 • Ben Cushman recommended that Eric sign all approved minutes before November 29; if
76 Eric has a problem with any of the minutes, he should provide a signing statement
77 • A folder of approved minutes that have not been signed were given to Eric during
78 meeting

79 E. **Rescheduling of November and December meetings**

- 80 • Board rescheduled November 27th Board meeting to November 15th
81 • The rescheduling of December meeting to be discussed during November meeting
82

83 **AI – Ben Cushman and Paul Pickett will review minutes templates and discuss policy and**
84 **report back with findings and recommendations at next Board meeting**

85 **AI – Eric to sign all approved minutes before November 29 and to provide a signing**
86 **statement for any that he does not sign**
87

88 **5. Financial Report, Sarah Moorehead**

89 A. **Monthly Financial Report**

- 90 • Sarah introduced the new TCD accounting manager, Susan Shelton
91

92 B. **October Check Register**

93 **Doug moved to approve checks 19762-19783 totaling \$59,966.49 with no voided checks.**
94 **Paul seconded. Unanimous approval.**
95

96 C. **Year End Budget Strategy**

- 97 • Susan discussed actions undertaken to remain within budget given WSCC's cessation of
98 funding as of October 11 including: Return of State vehicles by Nov. 1; General
99 suspension of equipment and soil testing programs with exceptions; limiting AED's time
100 with administrative duties; reduced IT support from WSU extension service; delaying
101 fulfillment of PDR requests until 2019; allocating accounting and admin staff time to
102 grants rather than unrestricted funds
103 • Susan made presentation regarding status of budget through early 2019. Bank balance
104 is \$59,000 as of November 1. TCD will have sufficient funds through March 2019.
105 Three budget scenarios were shown with the assumption that Rates and Charges are
106 approved and WSCC funding restored.

D. Reduction in Force (RIF) Motion

Richard introduced a motion proposing a Reduction in Force (handout), specifically calling for an elimination of the position of Deputy Director and a potential placement of remaining staff into lower rated positions. Linda seconded.

Paul proposed a friendly amendment stating that the TCD Board's intent is to eliminate the title of Deputy Director and to have a report in the November meeting on how to minimize the effect to the District's staff, finances, function, and products. Doug seconded. Unanimous approval.

AI – Staff to provide a report at November meeting on how to minimize the effect of reduced funds to the District's staff, finances, function, and products

Break at 4:25pm. Meeting resumed at 4:37pm.

E. Equipment Rental & Soil Testing Programs

- Eric would like programs to be reinstated
- Sarah noted these programs are covered by specific grants and Rates and Charges and are thus limited at this time.

F. VSP MOU Update

Doug motioned to have the VSP work agreement between Grays Harbor CD and Thurston CD approved. Linda seconded. Unanimous approval.

G. 2018 Audit Engagement Letter

Doug motioned to approve the letter to the Office of the Washington State Auditor and directed the Acting Executive Director to notify the Board in no less than seven (7) days from when the audit will take place so that Supervisors can attend. The TCD Board approved \$5,700 for the cost of the audit. WSCC will pay the balance up to \$10,000. Linda seconded. Vote: Doug, Linda, Paul, and Eric approved; Richard opposed. Motion passed.

AI – Staff to send signed and approved letter to Office of the Washington State Auditor to commence 2018 audit; Sarah to notify Supervisors a minimum of seven (7) days ahead of audit so that they can attend

H. Update on Rates and Charges

- Thurston County BoCC meeting will be on Tuesday, November 6th, 10am-11am, to further discuss Rates and Charges.

I. Third Party Auditor Discussion

- A resolution to accept the donated time and expertise of an auditor/forensic accountant, Edgar Ooms, was written up by Ben Cushman (handout) and presented by Linda
- Sarah recommended reviewing State accountability audit upon completion and then potentially have a third party delve in deeper on certain issues; Sarah recommends having a thorough contract if a third party auditor such as Mr. Ooms is contracted to do this work
- Attorney Ben Cushman will get Mr. Ooms' CV; Ben noted there is a difference between a forensic and a governance auditor; Mr. Ooms is a forensic auditor

J. Review of TCD Governance Action Plan, All

A. Resolution #2018-04; TCD Governance Study

- Paul: Approval of this resolution would show intent to WSCC that if Thurston CD gets this money, TCD will do everything it can to provide accountability

Paul motioned to approve Resolution #2018-04 with revisions as discussed in meeting. Doug seconded. Unanimous approval.

Enduris raised their rate to \$14,000 and wanted payment by October 31. Ben Cushman recommended paying for insurance and shopping around in the meantime.

6. Discussion of Public Employee Sarah Moorehead, Eric Johnson

- Ben Cushman recommended that the letter of reprimand in the Board packet be presented as a proposed letter to be fully considered at next Board meeting followed by a formal response from Sarah
- Ben stated there needs to be a process in place before formal disciplinary action is taken; TCD should develop formal disciplinary procedure for management in future

7. Review of Conservation Accountability and Performance Program (CAPP), Eric Johnson

A. Adoption of CAPP Action Plan, All

Paul motioned to have the Conservation Accountability and Performance Program (CAPP) Action Plan approved with amendments including potential training with collective bargaining and Robert's Rules of Order. Linda seconded. Unanimous approval.

Doug motioned to have approved minutes posted without public comments by November 29 but all meeting materials and communications will be preserved as public record and retained by TCD. Linda seconded. Unanimous approval.

B. Discussion of WSCC Funding Appeal

Paul motioned to have letter to WSCC Commissioners approved as well as a letter of funding appeal from Ben Cushman. Linda seconded. Unanimous approval.

AI – Staff to send approved letter and a letter of funding appeal from Ben Cushman to WSCC Commissioners

8. 2019 District Funding

A. Discussion of Grant: Dept. of Health (revised)

- Eric has issues with FarmLink in grant

Paul motioned to have Department of Health grant approved. Doug seconded. Vote: Doug and Paul approved. Richard, Eric, and Linda opposed. Motion did not pass.

B. Discussion of Grant: Department of Ecology

Doug motioned to have Department of Ecology grant approved. Paul seconded. Vote: Doug approved. Richard and Eric opposed. Linda and Paul abstained. Motion did not pass.

Eric left meeting at 7:48pm. TCD Board Vice-Chair Linda Powell assumed Chair duties.

9. Letter to WFSE Union re: Negotiations Request

Doug motioned to approve letter with amendments and Linda's name replacing Eric's name. Paul seconded. Vote: Linda, Richard, and Doug approved. Paul abstained. Motion passed.

AI – Staff to send approved letter with Linda's signature to WFSE Union

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10. Adjourn, All

Richard moved to adjourn. Linda seconded at 7:58pm. Unanimous.

Respectfully Submitted,

Eric Johnson, Board Chair



Board of Supervisors
Special Meeting Minutes
Tuesday, July 24, 2018
1:30pm

Present at Meeting:

Eric Johnson, TCD Board Chair	Sarah Moorehead, TCD Interim Executive Director
Richard Mankamy, TCD Board Auditor	Alison Halpern, WSCC
Doug Rushton, TCD Board Supervisor	Melinda Holman, Public
Linda Powell, TCD Board Vice-Chair	Jerry Dierker, Public
Paul Pickett, TCD Board Supervisor	Tony Wilson, Public
Steven W. Morrison, Public	
Paula Holroyde, Public	
Ben Peterson, WFSE	

Action Items:

1. Staff to explore with the Attorney General's office possible representation with the Arthur West lawsuit
2. Board Supervisors and staff to review legal services RFP submissions at July 31st Board meeting (or on potentially rescheduled date in August)

1. Welcome, Introductions, Audio Recording Announcement and Pledge of Allegiance

- Eric Johnson called the meeting to order at 1:31pm. There was a quorum.
- Welcome, Introductions, & Pledge of Allegiance conducted
- Chair announced meeting being audio recorded

2. Public Comment (3 minutes per person)

- Persons who provided public comment:
 - Steven W. Morrison
 - Tony Wilson
 - Jerry Dierker
 - Arthur West

3. Agenda Review, All

- Sarah requested discussion of the documents received to date in response to the legal services RFP as well as an email from Ann Essko, Senior Counsel with the Office of the Attorney General – Ecology Division and receipt of the Notice of Appearance by the State of Washington
- Doug stated that the agenda was not discussed between Chair and other Board Supervisors and the Board Chair needs to ensure this happens in the future; Chair is to work collaboratively with the other Supervisors and agenda is then formalized by staff
- Eric stated that this was a tight timeline; this meeting was only called to address the Notice of Appearance

4. Discuss a contract for legal services to respond to and answer the notice served to the District regarding Notice of Appearance, State of Washington Thurston county Superior Court No. 18-2-03305-34 dated July 12, 2018:

- Clarification regarding Notice of Appearance and the State of Washington; the State filed a Notice of Appearance, which does not extend to the District or to any of the District's Supervisors
- Doug motioned to have staff explore with the Attorney General's office representation with this lawsuit to be considered at a future meeting. Paul seconded. Unanimous approval.

- Only the State of Washington has been served; Thurston Conservation District and the individual Supervisors named in the lawsuit – Eric, Richard, and Linda – have not been served
- The Board has 20 days after they've been served to respond
- Alison Halpern noted that TCD hasn't received all of the legal services RFPs – deadline is July 27 – so there is no ticking clock and TCD might have the Attorney General's office provide representation
- Doug motioned to stick to agenda topics and look at RFP submissions at July 31st Board meeting since there is no need for an attorney at this time. Paul seconded. Unanimous approval.
- Paul wants his printed documents to be included in record because they are relevant to legal process for hiring contract workers
- Chair reviewed Paul's document and decided it was not relevant to agenda and moved for adjournment

AI - Staff to explore with the Attorney General's office possible representation with the Arthur West lawsuit

AI – Board Supervisors and staff to review legal services RFP submissions at July 31st Board meeting (or on potentially rescheduled date in August)

5. Adjourn, All

Eric moved to adjourn. Linda seconded at 2:11pm. Motion passed.

Respectfully Submitted,

Eric Johnson, Board Chair

FILED

JUL 02 2018

Superior Court
Linda Myhre Enlow
Thurston County Clerk

Washington State
Office of the Attorney General
Acknowledged Receipt, this 3 day
of July, 2018, Time: 4:05
in Olympia, Washington.
Signature: [Signature]
Print Name: Rick Beady
Assistant Attorney General

IN THE SUPERIOR COURT OF THE STATE
OF WASHINGTON FOR THURSTON COUNTY

ARTHUR WEST,

plaintiff,

Vs.

THURSTON CONSERVATION
DISTRICT, ERIC JOHNSON,
RICHARD MANKAMYER,
LINDA POWELL, STATE OF
WASHINGTON,

defendants

18-2-03305 34

No.

PLAINTIFF'S
SUMMONS

TO THE DEFENDANT:

A lawsuit has been started against you in the above entitled court by Arthur West, plaintiff. Plaintiff's claim is stated in the written complaint, a copy of which is served upon you with this summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and by serving a copy upon the person signing this summons within 20 days after the service of this summons, excluding the day of service, or a default

5 PLAINTIFF'S
ORIGINAL
COMPLAINT

ARTHUR WEST
120 State Ave NE # 1497
Olympia, WA. 98501

1 judgment may be entered against you without notice. A default
2 judgment is one where plaintiff is entitled to what he asks for because
3 you have not responded. If you serve a notice of appearance on the
4 undersigned person, you are entitled to notice before a default
5 judgment may be entered.

6 You may demand that the plaintiff file this lawsuit with the court. If
7 you do so, the demand must be in writing and must be served upon
8 the person signing this summons. Within 14 days after you serve the
9 demand, the plaintiff must file this lawsuit with the court, or the
10 service on you of this summons and complaint will be void.

11 If you wish to seek the advice of an attorney in this matter, you
12 should do so promptly so that your written response, if any, may be
13 served on time.

14 This summons is issued pursuant to rule 4 of the Superior Court
15 Civil Rules of the State of Washington.

16 Done July 2nd, 2018, in Olympia, Washington.

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ARTHUR WEST

6 PLAINTIFF'S
ORIGINAL
COMPLAINT

ARTHUR WEST
120 State Ave NE # 1497
Olympia, WA. 98501

FILED

JUL 02 2018

Superior Court
Linda Myhre Enlow
Thurston County Clerk

Washington State	
Office of the Attorney General	
Acknowledged Receipt, this <u>3</u> day	
of <u>July</u> , 20 <u>18</u> , Time: <u>4:05</u>	
In <u>Olympia</u> , Washington.	
Signature: <u>[Signature]</u>	
Print Name: <u>Ricki Brady</u>	
Assistant Attorney General	

IN THE SUPERIOR COURT OF THE STATE
OF WASHINGTON FOR THURSTON COUNTY

ARTHUR WEST,

plaintiff,

Vs.

No. 18-2-03305 34

THURSTON CONSERVATION
DISTRICT, ERIC JOHNSON,
RICHARD MANKAMYER,
LINDA POWELL, STATE OF
WASHINGTON,
defendants

PLAINTIFF'S
ORIGINAL
COMPLAINT
FOR VIOLATION
OF THE OPMA

I INTRODUCTION

1.1. This is an action for declaratory and injunctive relief concerning violation of the OPMA by the Thurston Conservation District, and the actions of the District's Board in deliberating and taking action outside the context of a duly constituted open public meeting.

1.2. The plaintiff alleges that, as reported by the media and as determined by the Washington State Conservation Commission, a quorum of the Board of the Thurston Conservation District apparently violated the Open Public Meetings Act.

II PARTIES AND JURISDICTION

2.1. Plaintiff West is "any person" as defined in RCW 42.30.130 with standing¹ to seek relief.

¹ See West v. Seattle Port Comm'n, 194 Wn.App. 821, 380 P.3d 82 (2016), West v. Pierce County Council, 197 Wn. App. 895 (2017)

1 PLAINTIFF'S
ORIGINAL
COMPLAINT

ARTHUR WEST
120 State Ave NE # 1497
Olympia, WA. 98501

1 2.2. Defendant Thurston Conservation District is administered by a "governing body" as
2 defined in RCW 42.30.020 that on June 7th, (and other dates that will be shown) violated the
3 Open Public Meetings Act by conducting an unlawful "meeting" and by deliberating and by
4 taking "action" as defined in RCW 42.30.020 outside of a duly conducted open public meeting or
5 legitimate executive session.

6 2.3. Defendant Thurston Conservation District Board members Eric Johnson, Richard
7 Mankamyer, and Linda Powell are members of a governing body of a public agency that violated
8 the OPMA by knowingly and deliberately taking "action" outside the context of a properly
9 scheduled open public meeting or legitimate executive session.

10 2.4. Defendant State of Washington is an entity required to abide by the requirements of
11 the Laws of the State of Washington, including the Open Public Meetings Act.

12 2.5. The Thurston County Superior Court has jurisdiction over the parties and subject
13 matter of this claim.

14 III ALLEGATIONS

15 3.1. On or about June 7th, (and on other dates that may be shown after discovery) a
16 quorum of the Thurston Conservation District Board took "action" as defined in RCW 42.30.020
17 (3)² in violation of the Open Public Meetings Act (OPMA). A quorum of the Thurston
18 Conservation Board members participated in the "meeting"³. (See letter appended as Exhibit I)

19 3.2. The "meeting" was deliberately conducted in the absence of proper notice or other
lawful compliance with the OPMA.

3.3. By their actions and omissions, Thurston Conservation District members Eric
Johnson, Richard Mankamyer, and Linda Powell knowingly and deliberately violated the
OPMA.

² "Action" means the transaction of the official business of a public agency by a governing body including
but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews,
evaluations, and final actions. "Final action" means a collective positive or negative decision, or an actual
vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion,
proposal, resolution, order, or ordinance.

³ "Meeting" means meetings at which action is taken. (See RCW 42.30.020 (3))

3.4. The District Board failed to provide adequate notice of the special meeting of June 7, 2018, and/or otherwise failed to act in conformity with the OPMA.

3.5. Plaintiff alleges that the named defendants have demonstrated a policy and pattern of creating a hostile work environment and conducting the people's business behind closed doors and in defiance of the OPMA.

3.6. A present case and controversy exists concerning whether the District violated the OPMA that is subject to adjudication under the Uniform Declaratory Judgments Act.

IV. CAUSES OF ACTION

4.1. OPMA CLAIM FOR PENALTIES, FEES, AND INJUNCTIVE RELIEF

By their acts and omissions defendants created a cause of action under RCW 42.30 for penalties, costs, fees, and injunctive relief in regard to violations of the OPMA by a quorum of the governing body of the Thurston Conservation District, and plaintiff is entitled, under RCW 42.30 and CR 65, to the relief sought below.

4.2. UNIFORM DECLARATORY JUDGMENTS ACT (RCW 7.24)

By their acts and omissions defendants, and each of them, created an uncertainty in the conduct of public officers and compliance with the OPMA, and a cause of action for a declaratory judgment in regard to whether the OPMA was violated by defendants' series of serial communications and/or meetings. Such declaration will conclusively terminate the controversy giving rise to this proceeding.

4.3. WRITS OF MANDAMUS AND PROHIBITION

By their acts and omissions defendants created a cause of action for statutory and constitutional writs of mandamus and prohibition for which there is no adequate remedy in the ordinary course of law, and for which plaintiff is entitled to the relief sought below.

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V REQUEST FOR RELIEF

5.1. That a declaratory ruling issue declaring that the a quorum of the Thurston Conservation District violated the Open Public Meetings Act.

5.2. That a declaratory ruling issue that defendants violated the OPMA by deliberately conducting a meeting (or series of meetings) personally, by telephone, Email, or by other electronic means.

5.3. That an injunction and/or a writ of mandamus or prohibition issue to all of the named defendants barring further such violations of the OPMA, and that any named district members found to have knowingly violated the OPMA be fined the princely sum of \$500 for each violation.

5.4. That plaintiff be awarded costs, and any applicable attorney fees.

Done July 2nd, 2018, in Olympia, Washington.


ARTHUR WEST

4 PLAINTIFF'S
ORIGINAL
COMPLAINT

ARTHUR WEST
120 State Ave NE # 1497
Olympia, WA. 98501

Statement of Paul Pickett and Doug Rushton
Supervisors, Thurston Conservation District

The Laws of the State of Washington require that, with few exceptions, the public's business be done in a public way. The legislature has repeatedly confirmed this with statutes such as the Public Disclosure Act, the Public Records Act and the Open Public Meetings Act. This is not a new idea. As long ago as 1914, Justice Louis Brandeis wrote: "Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants."

We are concerned that events during the Thurston Conservation District Board of Supervisors Special Meeting on June 7, 2018 – before, during, and after the Executive Session – rendered that Executive Session unlawful. Because we were present and participated in that executive session, our participation may have placed us and the District in legal jeopardy. We believe that the actions of Supervisors Linda Powell, Richard Mankamy, and Chair Eric Johnson violated the Open Meetings Act, Chapter 42.31 RCW; specifically RCW 42.31.110 (1)(f), (1)(g), and (2).

We have retained legal counsel, and on the advice of counsel, we are releasing this statement to remedy such unlawful action as we believe occurred. It is our understanding, confirmed by counsel, that the general remedy in Washington law for doing in the dark that which should have been done in the light is bring it into the light.

The following description is as accurate as our memories allow, but should be considered paraphrasing, since we can't guarantee that we recall the exact wording.

All five Supervisors were in attendance at the Special Meeting on June 7, along with Acting Executive Director (AED) Sarah Moorehead, staff from other agencies, and members of the public. A sign-in sheet was provided which can provide the names of the attendees. Copies of the agenda were also available for attendees.

The agenda called for an Executive Session that was listed on the agenda "To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee," which is a proper subject for executive session under RCW 42.31.110 (1)(g).

An audio recording of the meeting was made until the Executive Session began. The recorder failed to operate after the Executive Session. We have listened to the audio recording of this portion of the meeting, and this is what was said, as best as we understand the recording.

- When we reached the agenda item for the Executive Session, AED Sarah Moorehead stated: "I have a request to make that if it is to evaluate the performance of a public employee related to me, I'd like to have it in an open public meeting" This is an entirely appropriate request and must be honored under RCW 42.31.110 (1)(f).
- Supervisor Johnson announced that the Executive Session was about to begin to discuss the evaluation of an employee.
- AED Moorehead asked: "Is the public employee is to be evaluated myself?"

- Supervisor Johnson responded: "I don't believe so, no".
- Supervisor Pickett stated: "I thought we were discussing expectations for the executive director."
- Supervisor Johnson responded: "We will not be talking about her, but expectations for the position, correct?"
- Supervisor Pickett then stated: "True, if that's all we talk about. That doesn't have to be in executive session, though."
- Supervisor Johnson, responding to questions from Linda Powell, noted: "We get into more specifics on Sarah, then we might come out and go into public session".
- AED Moorehead then stated: "I believe that this use of executive session is supposed to evaluate specific performance of a specific employee, so talking generally about position expectations; I'm not sure that's a proper use of executive session."

One of our obligations and goals is for the District to operate legally. During the Executive Session, several events occurred that lead us to our need to make this statement:

- Supervisors Johnson and Mankamyer discussed a copy of a "Plaintiff's Reply Brief" from the case Eric Johnson vs. Washington State University (WSU) Energy Program Office. They quoted the brief with several statements that we interpreted as being critical of AED Moorehead. A copy of this brief is attached. The airing of complaints was inconsistent with the announced purpose of the meeting. In addition, we believe it would be improper to take any action based on one-sided statements or filings by a lawyer in ongoing litigation, particularly involving a Supervisor and an employee, and especially without being presented with opposing filings or hearing the evidence directly.
- Supervisor Mankamyer raised some of the issues in an April 24, 2018 draft "Letter of Direction". On June 4th Supervisor Mankamyer had emailed us this letter, and told us that he wanted the Board to discuss it. The letter outlined several expectations and included several complaints about AED Moorehead's performance. A copy of this letter is attached. This airing of complaints regarding AED Moorehead was also inconsistent with the announced purpose of the meeting.
- We asked several times to return to the topic of reviewing expectation as part of an evaluation process. Supervisor Pickett described the process that he felt was appropriate: first setting expectation, then completing an evaluation of the staff, and then describing areas of improvement for the staff. He tried to offer a draft list of expectations for discussion, but Supervisors Johnson, Mankamyer and Powell ignored him. Supervisor Rushton noted that he had redrafted the position description for the executive director position, as agreed at the March 27, 2018 board meeting. He had had the AED distribute it to the entire board on April 24, 2018 asking for comments from all supervisors – but received no response. Supervisor Rushton expressed support for Supervisor Pickett's suggested approach, and encouraged the others to follow that process. Both of us made good faith efforts to return the Executive Session to the announced topic, but we were rebuffed.

To us, the Executive Session seemed mostly to be an extended rant by Supervisors Johnson, Mankamyer and Powell about their perceived problems with AED Moorehead's performance in the past and the need to remove her from that position and find a consultant to take over as AED.

When we came out of the Executive Session, Supervisor Johnson reported that we had nothing to report and no action to take.

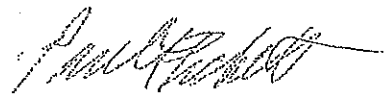
In conclusion, we believe the events of this meeting rendered it unlawful due to the following violations of state statute:

- RCW 42.30.110 (1) states that "Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:"
 - Subsection (f): "To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;"
AED Moorehead made a request for an open meeting if we were to discuss a complaint against her. Supervisor Johnson said that we were not going to discuss her. But the Executive Session actually mostly consisted of Supervisors Powell, Mankamy, and Johnson discussing complaints against AED Moorehead.
 - Subsection (g): "To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee."
This was the announced purpose of the meeting, but no discussion occurred regarding the evaluation of an employee.
- RCW 42.30.110 (2) states that "Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place". Considering what actually took place in the meeting, Supervisor Johnson, as Chair, provided false description of the purpose, and he and the other two Supervisors deviated from the announced purpose in a manner that he explicitly stated would not take place.

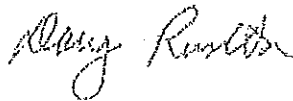
Because of the events in this meeting, we are taking actions consistent with our duty under Chapter 42.30 RCW regarding what appears to have been a violation of this statute. Supervisor Pickett contacted the Attorney General's Office, who advised him to consult the District's Counsel. Unfortunately, the District has no Counsel, who might have stopped the violations described here. We will be sending a copy of this statement to the State Auditor and the Washington Conservation Commission.

We take the confidentiality of executive sessions seriously but also take transparency of government operations in what we tell the public seriously. Therefore, because the meeting appears to have violated the law, pointing out and stopping that illegality supersedes executive session confidentiality.

Signed:



Paul Pickett, Supervisor



Doug Rushton, Supervisor

(Letter for discussion at executive session next special board meeting on 050718 for evaluation of public employee)

April 24, 2018

Sarah Moorehead
Acting Executive Director, TCD

Re: Letter of Direction

Dear Sarah,

This is a letter of direction, which is not a disciplinary action. As we have discussed, since your becoming TCD Acting Executive Director and observing your work, I have had several concerns about your performance. Specifically, the areas are: working overtime, teamwork, and following my directions. Therefore, I am setting forth below my expectations for you in these areas.

1. Overtime—As an overtime eligible employee, you are expected to work your assigned hours and no more unless authorized to do so by the Board Chair or the Board Auditor.

2. Teamwork—You, Sarah, and the Board of Supervisors (BoS) are a team and we expect you to share information, work collaboratively, maintain a high level of communication with us, assist others and back up others at times. To date, the BoS was not informed of the absence of Mara Healy and why she is off work. We were also not informed of the resignation of Amy Franks in a timely manner and had to hear about it from a member of the greater community. We were also not informed of the reason and why Ashley McBee is no longer here and those circumstances of her departure.

3. Staff Reports — it has been a continuous point of contention, not getting the weekly staff reports in a timely manner. I am constantly having to ask for and remind you to get these reports to the board. Sometimes there have been no reports for over a month.

4. I have repeatedly ask for updates on the budget and we had all agreed that the board needs to approve any budget changes. This was discussed with you as recently as April 17, 2018 at TCD office.

New Directions—Although we are a team, I, and the BoS, are your supervisor's and expect you to follow our directions. I want a written report to me and the BoS of the personnel questions raised in #2 above within one working week from the date of this letter.

Again, please understand this letter does not constitute disciplinary action; it is a letter of direction intended to clarify what I (BoS) expect of you. If you have any questions about this letter, please let me know.

Best regards,

Eric Johnson, Chair
TCD Board of Supervisors

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Copy Received

Clerk's Stamp

**SUPERIOR COURT OF WASHINGTON
IN AND FOR THURSTON COUNTY**

Plaintiff / Petitioner

vs.

Defendant / Respondent

No. 18-2-03305-34

SCHEDULING QUESTIONNAIRE SUBMITTED BY:

☐ Plaintiff/Petitioner/Appellant DUE: October 26, 2018

☐ Defendant/Respondent DUE: October 31, 2018

☐ Joint Submission or ☐ Other Party: _____

DUE: October 31, 2018

See Local Court Rule 40 to learn how the court schedules cases.

1. Will this be a ☐ bench trial, ☐ jury trial, or ☐ appeal from lower court or agency?
2. What type of case is this (for example, contract, tort)? _____
3. What is the trial setting date for this case? _____
4. How long do you estimate the trial or final hearing will take? _____ hour or _____ days.
5. If this is an appeal, has the appellate record (including any transcript) been delivered to the court clerk, or is there a separate certification that the record at this court is complete? ☐ Yes ☐ No
6. Have all the defendants or respondents been served? ☐ Yes ☐ No
7. When do you anticipate this case will be ready for trial? _____
8. When are you **unavailable** for trial in the next 24 months? (attach unavailable dates).
9. Is this case subject to mandatory arbitration? ☐ Yes ☐ No ☐ Don't know
10. Should this case be scheduled as a priority or does this case require special management by the judge? ☐ No ☐ Yes (explain): _____

Date: 2nd day of July, 2018.

SIGNED/Bar No.: _____

Name: _____

Address: _____

Telephone No: _____

E-mail Address: _____

SIGNED/Bar No.: _____

Name: _____

Address: _____

Telephone No. _____

E-mail Address: _____

SCHEDULING QUESTIONNAIRE (last updated 11.17.16)

THURSTON COUNTY SUPERIOR COURT
2000 Lakeridge Dr. SW, Bldg 2, Olympia, WA 98502
Phone: (360) 786-5430 FAX: (360) 753-4033

July 24, 2018

To: Thurston Conservation District Board of Supervisors
From: Paul J. Pickett, Supervisor, Thurston Conservation District
Subject: Hiring of HR consultant

For the record I am noting my concerns that the actions of the majority of the Thurston Conservation District Board in authorizing Supervisor Mankamyer to hire an HR consultant by does not appear to have met the requirements of the law. I am attaching my emails on this subject sent on July 15, 2018 and distributed to the Board by Interim Executive Director Sarah Moorehead.

In summary, RCW 89.08.210 authorizes that "supervisors may employ a secretary, treasurer, technical experts, and such other officers, agents, and employees, permanent and temporary, as they may require, and determine their qualifications, duties, and compensation." The Board, in open meeting, never determined the qualification, duties, or compensation of the position.

RCW 89.08.210 also states that " supervisors may delegate to their chair, to one or more supervisors, or to one or more agents or employees such powers and duties as it deems proper." The Board delegated the power to "hire", but did not specifically delegate the power to set qualifications, duties, and compensation.

Since the June 26th meeting other Supervisors have taken actions to hire an HR consultant, but they have not sent me information or documentation of their actions. I understand that they have also not sent any information or documentation to the Interim Executive Director.

I support the hiring of an HR consultant, but the full Board needs to take the actions described above in an open public meeting, with full disclosure and sharing of relevant documents and summaries of actions. Otherwise, the Supervisors involved run the risk of violating state law. This can be corrected by the Board at this meeting or the next regular meeting.

The same concerns apply to hiring a legal counsel and any other future hiring by the Board.

----- Forwarded message -----

From: **Paul Pickett** <paulpickett@conservewa.net>

Date: Sun, Jul 15, 2018 at 9:30 PM

Subject: Re: FW: HR Update 07.13.18

To: Sarah Moorehead <SMoorehead@thurstoncd.com>

Cc: Shana Joy <sjoy@scc.wa.gov>, "Halpern, Alison (SCC)" <AHalpern@scc.wa.gov>

Sarah,

I would like to provide some comments on Richard's email regarding the contracting of HR services. Please forward a copy of this message to the other Supervisors and to the representatives of Smart Talent that Richard has mentioned.

1. The motion was passed by the vote of Supervisors Johnson, Mankamyer and Powell. I voted nay. Supervisor Rushton was not at the meeting.
2. My notes on the meeting show the same motion as described in the draft minutes. The motion was for Richard to contract with a Human Resources firm for an HR specialist who would report to the Board.
3. RCW 89.08.210 states in its first sentence: "The supervisors may employ a secretary, treasurer, technical experts, and such other officers, agents, and employees, permanent and temporary, as they may require, and determine their qualifications, duties, and compensation." It is within the power of the Board to hire an HR consultant, although I believe by taking this action the Board's actions are contrary to its own policy.
4. I also note that this statement says that the Supervisors "determine qualifications, duties, and compensation." Supervisors is in the plural, so the Board must make these decisions. The Board has taken no action to determine qualifications, duties or compensation. Therefore I infer that the law requires Supervisor Mankamyer to report back to the Board regarding these three items, and the Board must approve them.
5. RCW 89.08.210 also states "The supervisors may delegate to their chair, to one or more supervisors, or to one or more agents or employees such powers and duties as it deems proper." The Board's motion delegated to Supervisor Mankamyer that he "hire a qualified HR person". They did not delegate the determination of qualifications, duties or compensation.
6. The hiring of an HR consultant is not in the Thurston CD Annual Plan nor in its budget. The Board provided no direction on the amount Supervisor Mankamyer could pay for consultant services. I believe that the Board needs to amend its budget to include this expense, and provide a firm amount to spend on this expense. Smart Talent needs to know that the Board has provided no authorization to spend Thurston CD funds on their contract, and has specified no scope of duties.

In summary, although the Board authorized Supervisor Mankamyer to "hire an HR consultant", based both on the discussion at the meeting and the law, he will need to report to the Board so the Board can determine "qualifications, duties, and compensation." In effect, Supervisor Mankamyer should provide the Board with a draft contract that recommends these three items so the Board can vote on it. At the same time the Board should vote on a budget amendment that identifies the sources of funds for the contract. Otherwise, I am concerned that both Thurston Conservation District and Smart Talent will be exposed to legal liability if Supervisor Mankamyer enters into a contract without Board authorization.

Thank you,

Paul Pickett
Supervisor, Thurston Conservation District

On Fri, Jul 13, 2018 at 2:14 PM, Sarah Moorehead <SMoorehead@thurstoncd.com> wrote:

FYI – To keep everyone in the loop, please see below.

Sarah Moorehead

Interim Executive Director | Agricultural Outreach Specialist

Thurston Conservation District

2918 Ferguson St. SW, Ste A Tumwater, WA 98512

(360) 754-3588 ext. 136

www.thurstoncd.com



*Legal Disclaimer:** The contents of all e-mail transmissions to and from this office may be considered public information and subject to the provisions of the State of Washington Public Records Act.*

From: Richard TCD [mailto:rmtcd6@gmail.com]
Sent: Friday, July 13, 2018 12:55 PM
To: Sarah Moorehead; Eric Johnson
Subject: HR Update 07.13.18

Please forward to the Board.

Hello Sarah,

Just wanted to let you know that I have scheduled the new contracted HR person, Diretha Hollenbaugh, with Smart Talent, to start Tuesday the 17 of June at 1PM at TCD. Approximately 12:30 pm of that same day, Tiffany Nevils, Business Development Manager, of Smart Talent, will arrive to do a quick walk through, work site inspection, of TCD. You indicated the other day during our phone conversation that you are familiar with this process. Paperwork for this is attached.

Ms. Hollenbaugh would like to meet with you and the staff at this time. Looks like you are having a staff meeting that day at 10 am and we hope this time will work out for all concerned.

As you may recall, at the board meeting on 06.26.18, a Motion was Passed directing the Board Auditor to Contract for/with (not Hire) an HR person that will report directly to the Board Auditor, as an independently contracted HR person, who then reports to the Board Chair and the Board. This HR person was to start ASAP. The meeting minutes of that board meeting have incorrectly stated the motion and the events that surrounded that Motion and the direction of that Motion. Section 10 B and the AI at the end of that section are in error.

I realize you have some questions about this process and I draw your attention to RCW 89.08.210 where it states the Board of Supervisors authority in Statute.

Thank you for helping make this transition a valuable step forward for the Thurston Conservation District.

Please let me know if there is anything else I can do to support you or the staff at this time.

Thank You for your attention to this.

Richard Mankamyer
TCD Board, Auditor
360-458-4333



Board of Supervisors
Monthly Board Meeting Minutes
Tuesday, June 26, 2018 (2:00pm)

Present at Meeting:

Eric Johnson, TCD Board Chair
Richard Mankmyer, TCD Board Auditor
Paul Pickett, TCD Board Supervisor
Linda Powell, TCD Board Vice-Chair
Alison Halpern, WSCC
TJ Johnson, Public
Martin McCallum, Public
Esther Kronenberg, Public
Dan Calvert, PSP

Sarah Moorehead, TCD Interim Executive Director
Heather Roskelley, TCD Staff
Chris Stearns, TCD Associate Board Supervisor
Shana Joy, WSCC
Joe Hanna, TCAAC
Madeline Bishop, Public
Vickie Larkin, Thurston BoCC
Gary Edwards, Thurston BoCC

Action Items:

1. Staff to submit June 19 Subcommittee meeting notes as minutes
2. Staff to send RFP to employment law firms and solicit proposals; Sarah will also provide courtesy copy to Enduris and invite commentary
3. Board Chair to review and sign minutes provided at meeting so they can be published on website in compliance with Action Plan
4. Staff to send out Doodle poll to change Board meeting date in August because of conflict with USFWS meeting in Boise (August 28)
5. Staff to ask for public meeting guidance for Supervisors from Attorney General's office
6. Staff to put DOH Grant on July 31 agenda for discussion and provide two hard copies for Supervisors
7. Staff will email quarterly payroll and staff reports to Board
8. Staff to send Doodle poll to Supervisors to schedule Work Session mid-July sometime between 3-6pm or 5-8pm
9. Staff to provide revised mid-year budget with additional information to Supervisors
10. Richard will contact HR temp agencies to hire a temp and will provide recommendations to Board during Work Session in mid-July
11. Staff to provide entire contract for WRIA 13 Lead Entity as hard copies for approval during July 31 Board meeting
12. Staff will provide Chehalis Outreach meeting announcements
13. Travel Policy to be discussed by Board in July Work Session
14. Linda will attend a staff meeting (date TBD) to co-create Code of Conduct with staff
15. Staff to put policy updates in books

1. Welcome, Introductions, Audio Recording Announcement and Pledge of Allegiance

- Eric Johnson called the meeting to order at 2:09pm. There was a quorum.
- Welcome, Introductions, & Pledge of Allegiance conducted
- Chair announced meeting is audio recorded

2. Public Comment (3 minutes per person)

- Persons who provided public comment:
 - TJ Johnson
 - Joe Hanna

54 **3. Agenda Review, All**

- 55 ▪ Include Supervisor Reports in Partner Reports – 6D
56 ▪ Include quarterly payroll and staff reports in Financial Report – 8E
57 ▪ Paul made a motion to move the Executive Session Statement earlier in the meeting. No
58 second.
59 ▪ VSP Technical Support MOU Addendum (B) and CREP Assignment of Payment Forms (C)
60 under Conservation Projects are tabled to July 31 Board meeting
61 ▪ Add Chehalis Outreach Grant Work Addendum to Conservation Projects as -11D
62 ▪ Discuss potential OPMA violations – 9B
63 ▪ Discuss HR/legal services as it relates to budget – 10B
64 ▪ Move #15 Protocol for Supervisor Requests to 13B
65

66 **4. Board Officer Elections, All**

67 Table until July 31 Board Meeting
68

69 **5. HR/Legal, Sarah Moorehead**

70 **A. HR/Legal Subcommittee Report**

- 71 • At subcommittee meeting, there was discussion about whether to move forward with
72 attorney first
73 • Sarah provided the names of two additional employment law firms in the Olympia area;
74 they provide free initial consultation
75 • Pierce CD has an interest and the capacity to provide some HR support after legal
76 issues are resolved
77 • Need to have budget discussion to decide whether we can afford legal or HR services
78

79 **B. Legal Services RFP**

- 80 ▪ Paul moved to use Richard's version of RFP and solicit proposals from employment law
81 firms. Linda seconded. Unanimous approval with the following amendments:
82 o Line 5: Thurston Conservation District Board of Supervisors (BoS)
83 o Lines 11 & 18: Mailed, hand-delivered or emailed to: Board Chair and Acting
84 Executive Director
85 o Page 3, Scope of Services, Description a, Line 77: Act as general legal counsel
86 to the TCD's Board of Supervisors

87 **AI – Staff to submit June 19 Subcommittee meeting notes as minutes**

88 **AI – Sarah to send RFP to employment law firms and solicit proposals; Sarah will also**
89 **provide courtesy copy to Enduris and invite commentary**

90 **6. Partner Reports**

91 **A. NRCS – No Report**

92 **B. WSCC, Shana Joy**

- 93 ▪ Introduced new Puget Sound Regional Manager, Alison Halpern
94 ▪ WSCC meeting July 18 and 19 in Shelton at Little Creek Casino and Resort; Mason CD tour
95 ▪ WSCC has concluded their investigation of TCD; drafting final report; report should be available
96 soon
97 ▪ Livestock technical assistance – WSCC is asking more questions of each CD so they can track
98 funding
99 ▪ Thurston CD will be audited this year – to be reimbursed through grant money; each district is
100 audited every three years
101 ▪ Legal requirements for TCD – still have 4 different elements not in compliance with
102 Conservation Accountability and Performance Program (CAPP - handout): open public
103 meetings act; keeping public informed through minutes; adherence to labor laws; unresolved
104 Human Rights Commission complaints
105 ▪ Shana will be reporting CDs in red (TCD) to the Commission and they make decision; there is a
106 new CAPP program so she is not sure what they will do

- It is up to TCD to provide evidence that they have complied by July 18
- Shana mentioned that it's OK to not post minutes for a couple of months, but not beyond two months
- C. **WACD/NACD** – Doug Rushton was not able to attend June 26 Board meeting but provided handouts that were included in Board Packet
- D. **Supervisor Meetings**
 - Eric and Richard have attended US Fish and Wildlife Service meetings; they would like to attend a meeting in Boise on August 28 that addresses how landowners are handling easements; other issues are problems with endangered species and making the building permit process easier
 - Meetings with Partners in Conservation
- AI – Board Chair to review and sign minutes provided at meeting so they can be published on website in compliance with Action Plan
- AI – Sarah to send out Doodle poll to change Board meeting date in August because of conflict with USFWS meeting in Boise (August 28)

Letter from Eric Johnson and his attorney read by Richard Mankamyar

- Letter states that closed door sessions are legal to discuss employees including Acting Executive Director; final action may be taken in public meeting
- AI – Staff to ask for public meeting guidance for Supervisors from Attorney General's office

Handout - Statement of Paul Pickett

- Re: sending emails for discussion to other Board Supervisors
- In the future, it is recommended that all Supervisors use bcc (blind copy) when communicating by email so that they can't all reply and create a discussion
- In addition, Shana advised not putting anything in email that's to do with Executive Session

Handout – Statement of Paul Pickett and Doug Rushton

- Because of potential legal liability regarding the June 7th Special Meeting Executive Session, Paul Pickett and Doug Rushton issued a statement

7. Board Meeting Minutes Review, All

A. April 24, 2018 Regular Meeting & Work Session minutes

Linda moved to approve minutes as amended in work session. Richard seconded. Eric, Richard, and Linda approved. Paul abstained. Motion passed.

B. May 29, 2018 Regular Meeting & Work Session minutes

Paul moved to approve minutes as amended in work session. Linda seconded. Unanimous approval.

C. June 7, 2018 Special Meeting & Work Session minutes

Paul distributed minutes through Sarah with his edits.

- Edits 64-69 – OK
- Remove 70
- Edits 80-82 – OK
- Take out D

D. February 27, 2018 Regular Meeting minutes

Linda moved to approve as amended. Richard seconded. Eric, Richard, and Linda approved. Paul abstained. Motion passed.

- Lines 79-81 – put on agenda for July 31 Board meeting

8. Financial Report

A. Monthly Financial Report

- If Richard would like different information provided, Sarah will implement
- Staff birth dates to be removed from Regence invoice/statement

160 **B. May Check Register**

- 161 ▪ Paul moved to approve checks 19602-19642 totaling \$104,171.78 with voided checks
162 19604, 19626, 19638. Linda seconded. Unanimous approval.
163

164 ***Break at 3:54pm. Meeting resumed at 4:07pm.***

165
166 **C. DOH Grant**

- 167 ▪ Ready for signature; Sarah emailed it to Supervisors during previous week (54 pages)
168 ▪ \$300,000 total
169 ▪ Approved in 2018 annual budget; through March 31, 2020
170 ▪ Provides for technical assistance – working with school and urban gardens, farm tours,
171 beginning farming training programs, riparian programs
172 ▪ Two hard copies requested for Supervisors

173 **AI – Staff to put DOH Grant on July 31 agenda for discussion and provide two hard**
174 **copies for Supervisors**
175

176 **D. Quarterly Payroll and Staff Reports**

177 **AI – Sarah will email quarterly payroll and staff reports to Board**
178

179 Linda moved to have Work Session scheduled mid-month to handle routine items and place
180 them on consent calendar. Paul seconded. Unanimous approval.
181

182 **AI – Staff to send Doodle poll to Supervisors to schedule Work Session mid-July**
183 **sometime between 3-6pm or 5-8pm**
184

185 **9. Executive Session Statement**

186 **A. Paul Pickett read statement earlier (refer to 6D)**

187 **B. Potential OPMA violations**

188 It was decided that emails sent by Paul and Doug were not in violation as they were not reply
189 all; as mentioned earlier in this meeting, it is best to blind copy other Board Supervisors or send
190 to Sarah and she will distribute
191

192 **10. Mid-Year Budget Revision, All**

193 **A. Budget and 2018 Mid-Year Staffing Needs**

- 194 ▪ Supervisors concluded they need more information to make budget decisions
195 ▪ TCD can subcontract out to Pierce, King, Mason and other districts; However,
196 permanent staff are needed to fulfill grant commitments; TCD needs to retain staff
197 ▪ Union labor negotiator will be contacting Board through Sarah

198 **B. HR/Legal Services**

- 199 ▪ Richard will provide recommendations to Board mid-July during Work Session
200 ▪ Shana Joy noted that TCD policy states the hiring is done by the permanent or acting
201 executive director, not Board Supervisors. TCD needs to know if there is budget to hire
202 HR and/or legal services.
203 ▪ Paul stated that the Board did not know where the money was to fund the position; he
204 would like to see a better budget first to ensure that the Board is doing this the right way
205 and not the wrong way
206 ▪ Sarah shared concerns about operating against TCD policy and the Board authorizing
207 expenses of unknown amounts. She recommended first ensuring there is sufficient
208 funding available and second following the District's policy on hiring staff.
209 ▪ Eric stated the HR position would not be supervised by Sarah and it was authorized by
210 the Board to contract an HR position

- Eric moved to authorize Board Auditor to contract with a qualified HR person through a temp agency who reports back to the Auditor and the Board. Linda seconded. Eric, Linda, Richard approved. Paul objected. Motion Passed.

AI – Staff to provide revised mid-year budget with additional information to Supervisors
AI – Richard will contact HR temp agencies to hire a temp and will provide recommendations to Board in Work Session mid-July

11. Conservation Projects, All

A. WRIA 13 Lead Entity Contract Renewal

- This is the next contract with RCO to continue TCD's commitment to operate as the fiscal agent for the WRIA 13 Lead Entity
- Staff recommendation is to approve this second half biennium contract with RCO (July 1, 2018 – June 30, 2019) and authorize the TCD Board Chair or Interim Executive Director to sign the final contract document upon receipt
- Billable time starts July 1
- Final contract not yet available
- Shana advised Board to vote to approve at July 31 Board meeting and backdate it to July 1
- Board would like entire contract (as hard copies) to be provided for approval
- Board Chair stated that there is to be no monetary expenditure by staff until contract is signed

B. VSP Technical Support MOU Addendum - Tabled

C. CREP Assignment of Payment Forms – Tabled

D. Chehalis Outreach Grant Addendum

- Staff working on this: Sarah, habitat team, education and outreach staff
- Chehalis Basin Strategy work – Skookumchuk – interested in working lands easements; flood mitigation, aquatic species restoration work; making sure that landowners have a seat at the table; Kathleen Berger has been a big advocate for landowners
- Paul moved to approve Chehalis Outreach Grant addendum. Linda seconded. Unanimous approval.

AI – Staff to provide entire contract for WRIA 13 Lead Entity as hard copies for approval during July 31 Board meeting

AI – Stop work on WRIA 13 Lead Entity contract effective July 1 until contract is signed

AI – Staff will provide Chehalis Outreach meeting announcements

12. Rates & Charges, Sarah Moorehead

Preparation for Board of County Commissioner's Briefing

- Meeting on June 27 9:30am-10am; second meeting scheduled for July 18 2:30pm-3pm in case more time is needed
- County has been supportive; all individuals who spoke at May 10 Public Hearing were supportive

13. Review of TCD Governance Action Plan and Protocol for Supervisor Requests, All

A. Action Plan Discussion

- Action Plan items – some have been accomplished and noted
- Travel Policy has not been approved
- Code of Conduct needs to be created; Enduris' Code of Conduct sent by Shana in January 2018 for reference; decided that one Board member, Linda, will attend a staff meeting to co-create Code of Conduct with staff

B. Protocol for Supervisor Requests

- Between meetings there are requests; Interim Executive Director can either 1) provide answer fairly quickly, 2) set a time frame for deliverable, or 3) defer to discussion in meeting because request requires extensive time commitment
- Sarah gets conflicting direction from Supervisors; need a broader discussion on priorities - how best to prioritize from a collective Board with one voice

AI - Travel Policy to be discussed by Board in July Work Session

AI - Linda will attend a staff meeting (date TBD) to co-create Code of Conduct with staff

14. Review of Policies & Procedures

AI – Staff to put policy updates in books

15. Adjourn, All

Paul moved to adjourn. Linda seconded at 6:33pm. Unanimous approval.

Respectfully Submitted,

Eric Johnson, Board Chair

**Statement of Paul J. Pickett
Supervisor, Thurston Conservation District**

Several email exchanges that involved me are mentioned in the statement regarding Executive Sessions. I am providing for the record a copy of the entire email threads and attachments.

The first set of exchanges began on May 31, when Supervisor Richard Mankamyer sent an email to Acting Executive Director Moorehead and copied me, and presumably the other supervisors, by blind CC. I responded by email on June 24th, offering "feedback", and noted that I had asked for time at the next board meeting to discuss the matter. Supervisor Mankamyer responded that this email by stating "you just held an illegal TCD Board of Supervisor meeting", suggesting that it might constitute a violation of the Open Public Meetings Act. He continued: "you are welcome to seek legal advice on this if you feel this is in error."

I believe that my email was not a violation, because it was informational only, and that I specifically suggested that the Board discuss the matter in open session. Nevertheless, I understand that one might construe it as soliciting a policy discussion prior to full public discussion, which might be a violation. In any case, as I stated at the outset, I now put the entire email string on the record to cure any real or perceived violation.

A second incident occurred on June 4th, when Supervisor Mankamyer sent a draft "Letter of Direction" to Supervisor Eric Johnson, with a blind cc to me. I presume other Board members received the blind cc.

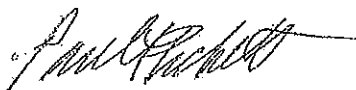
I responded with an email on June 4th, cc'd to the entire Board, where I stated: "I'll try to send a draft for your consideration before the meeting, or at least I'll share my ideas then." I then sent a draft document regarding expectations for the Acting Executive Director position to the Board on June 6th. In that email, I stated "attached are some ideas for our discussion tomorrow."

Supervisor Mankamyer again responded with the exact same wording as in the previous message, accusing me of holding an illegal meeting and suggesting I seek legal counsel.

Again, my email was informational and intended for a Board discussion in an open meeting. But to provide transparency for my communications and cure any real or perceived violation, I am also providing this email thread and my draft document for the record.

I have reviewed the rules regarding communication by email outside of public meetings and completed the training for new Supervisors. I will ensure that any email communication will be marked clearly "for information only" in the future, and avoid any discussion of issues by email outside of a public meeting.

Signed



Paul Pickett, Supervisor



Paul Pickett <paulpickett@conservewa.net>

MOU with WSU Energy 053118

Richard TCD <rmtcd6@gmail.com>

Wed, Jun 6, 2018 at 10:36 PM

To: Paul Pickett <paulpickett@conservewa.net>

Hello Paul,

Thank you for sharing your thoughts. #2

According to my understand of the rules, by sending this e-mail to the TCD Board as you did, you just held and illegal TCD Board of Supervisor meeting. There was no public notice or any of the notifications that I am aware of that are suppose to be given.

Of course, you are welcome to seek legal advise on this if you feel this is in error.

Thank you
Richard Mankamyer
TCD Board, Auditor

On Mon, Jun 4, 2018 at 9:55 PM, Paul Pickett <paulpickett@conservewa.net> wrote:

Richard,

I wanted to provide some feedback on this letter.

I understand your desire for good information. I share that desire and an interest in learning more on the subject of MOUs and other Partner agreements. The binder you suggest sounds like a good tool to help.

However, I'm concerned about the way you present your request in the email. There are several points I'd like to share:

1. Although you say "please", the email has a demanding tone and calls for several actions that could be significant workloads. In addition, the multiple cc's to WSCC staff and a local attorney can be interpreted as intimidation and seems excessive given the small request. Within the current context of the Human Rights complaints, I hope we can be extra careful in communicating in ways that are respectful and collegial. A simple friendly request posed as a question would have sufficed I believe.

2. Having five supervisors who can all make requests creates a difficult situation for Sarah. I'd like us to discuss protocols for requesting actions or information from Sarah between meetings. At the PUD we worked out a pretty reasonable approach, which for the CD might look like this:

- Supervisors can make requests between meetings of the Executive Director (Interim or permanent). The ED should feel safe to provide three possible responses: 1) no problem, not a big workload, can do; 2) will take some time - ok to get this to you at some future date; 3) significant workload - would like the full Board to prioritize this request against other work assignments.

If we are working together as a team, it should be easy to make polite requests and allow the ED to respond and manage her workload. This would be an approach applied fairly by all Supervisors.

I've asked for some time at the next Board meeting to discuss this topic.

3. In general, email creates some challenges in communication. We only read the words, and there is not voice inflection or body language. It's easy to misunderstand the tone or intent of an email, and I've experienced disagreements simply from this kind of misunderstanding. Emails are very good at sharing information but poor at sharing feelings. It's a good idea to pick up the phone and talk in person if the subject could be

misunderstood.

I'm probably violating my own suggestion by writing this email, but I wanted to share information to help our relationships. I'm not angry, and I'll add a smiley to prove it! :) I hope this simply leads to more discussion in person among the Board as a whole and some protocols we all agree with. It's one step to better relationships and rebuilding our team.

Thank you for your kind consideration of my thoughts.

Paul

On Thu, May 31, 2018 at 12:23 PM, Richard TCD <rmtcd6@gmail.com> wrote:

Hello Sarah,

You mentioned at the board meeting on 052918 that the MOU with WSU Energy had sunsetted?

Please explain how and why this happened and provide all relevant records concerning this assertion. I have a copy of the original MOU and there is no expire date on it.

Also, please have available a copy of all current and expired MOU's that TCD has organized into a booklet, like our 3 ring Policy and Procedure booklets, for at least the past 3 years, including to June 01, 2018, available for the next time the board meets.

Thank You for your attention in this matter.

Richard Mankamyar
TCD Board, Auditor



Paul Pickett <paulpickett@conservewa.net>

Confidential for Executive Session

Richard TCD <rmtcd6@gmail.com>

Wed, Jun 6, 2018 at 10:33 PM

To: Paul Pickett <paulpickett@conservewa.net>, mclark@scc.wa.gov, "Robinson, Kirk (SCC)" <KRobinson@scc.wa.gov>, "Shultz, Ron (SCC)" <rshultz@scc.wa.gov>, Shawn Newman <newmanlaw@comcast.net>

Hello Paul,

Thank you for sharing your thoughts.

According to my understand of the rules, by sending this e-mail to the TCD Board as you did, you just held and illegal TCD Board of Supervisor meeting. There was no public notice or any of the notifications that I am aware of that are suppose to be given.

Of course, you are welcome to seek legal advise on this if you feel this is in error.

Thank you
Richard Mankamyer
TCD Board, Auditor

On Wed, Jun 6, 2018 at 10:09 PM, Paul Pickett <paulpickett@conservewa.net> wrote:
Attached are some ideas for our discussion tomorrow.

Paul

On Mon, Jun 4, 2018 at 9:58 PM, Paul Pickett <paulpickett@conservewa.net> wrote:
Thank you for sharing this Richard. I'd like to propose an alternative approach that addresses these issues and provides Sarah with clear guidance on improvement. I'll try to send a draft for your consideration before the meeting, or at least I'll share my ideas then.

Paul

On Mon, Jun 4, 2018 at 12:33 PM, Richard TCD <rmtcd6@gmail.com> wrote:
Confidential for your eyes only.
(Letter for discussion at executive session next special board meeting on 050718 for evaluation of public employee)

April 24, 2018

Sarah Moorehead
Acting Executive Director, TCD

Re: Letter of Direction

Dear Sarah,

This is a letter of direction, which is not a disciplinary action. As we have discussed, since your becoming TCD Acting Executive Director and observing your work, I have had several concerns about your performance. Specifically, the areas are: working overtime, teamwork, and following my directions. Therefore, I am setting forth below my expectations for you in these areas.

1. Overtime—As an overtime eligible employee, you are expected to work your assigned hours and no more unless authorized to do so by the Board Chair or the Board Auditor.
2. Teamwork—You, Sarah, and the Board of Supervisors (BoS) are a team and we expect you to share information, work collaboratively, maintain a high level of communication with us, assist others and back up others at times. To date, the BoS was not informed of the absence of Mara Healy and why she is off work. We were also not informed of the resignation of Amy Franks in a timely manner and had to hear about it from a member of the greater community. We were also not informed of the reason and why Ashley McBee is no longer here and those circumstances of her departure.
3. Staff Reports – it has been a continuous point of contention, not getting the weekly staff reports in a timely manner. I am constantly having to ask for and remind you to get these reports to the board. Sometimes there have been no reports for over a month.
4. I have repeatedly ask for updates on the budget and we had all agreed that the board needs to approve any budget changes. This was discussed with you as recently as April 17, 2018 at TCD office.

New Directions—Although we are a team, I, and the BoS, are your supervisor's and expect you to follow our directions. I want a written report to me and the BoS of the personnel questions raised in #2 above within one working week from the date of this letter.

Again, please understand this letter does not constitute disciplinary action; it is a letter of direction intended to clarify what I (BoS) expect of you. If you have any questions about this letter, please let me know.

Best regards,

Eric Johnson, Chair
TCD Board of Supervisors

June 7, 2018

From: Paul J. Pickett, Thurston Conservation District Supervisor
To: Thurston Conservation District Supervisors
Subject: Recommended Evaluation Procedures

In response to the proposed Letter of Direction, I'm concerned that this action is being carried out in a way that is inappropriate, since it is being done in advance of a formal evaluation. The process I would recommend is:

1. Develop a set of expectations for the Interim Executive Director (IED), preferably based on Policy 1.3.1, which describes the Acting Executive Director's function, responsibilities, and expectations.
2. Provide an evaluation of the IED based on her performance in this position and the expectations.
3. Provide a set of future expectations describing areas of continuing high performance or areas needing improvement.

Based on Policy 1.3.1, here are suggestions for Expectations:

1. Supervision of District employees, including work force planning, hiring and promotion, merit raises, performance reviews, disciplinary actions, leave, training, and professional development
2. Communication with the public regarding meetings, policy and procedure changes, and other notices both required by law and consistent with effective public outreach.
3. Engagement with and satisfaction of District clients, partners, and the general public
4. Implementation of District mission, plans, policies, and budget
5. Execution of contracts and agreements
6. Management and implementation of District programs, functions, and services in accordance with all applicable laws, regulations, and District policies.
7. Compliance with all applicable laws, regulations, and District policies related to the IED's job duties and performance
8. Responsiveness in carrying out Board directions
9. Communication and consultation with the Board regarding:
 - a. Interactions with clients, partners, and the general public
 - b. Employment activities, including merit raises, disciplinary actions, and staff hiring and other changes
 - c. Modification or adoption of District procedures

**Statement of Paul Pickett and Doug Rushton
Supervisors, Thurston Conservation District**

The Laws of the State of Washington require that, with few exceptions, the public's business be done in a public way. The legislature has repeatedly confirmed this with statutes such as the Public Disclosure Act, the Public Records Act and the Open Public Meetings Act. This is not a new idea. As long ago as 1914, Justice Louis Brandeis wrote: "Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants."

We are concerned that events during the Thurston Conservation District Board of Supervisors Special Meeting on June 7, 2018 – before, during, and after the Executive Session – rendered that Executive Session unlawful. Because we were present and participated in that executive session, our participation may have placed us and the District in legal jeopardy. We believe that the actions of Supervisors Linda Powell, Richard Mankamy, and Chair Eric Johnson violated the Open Meetings Act, Chapter 42.31 RCW; specifically RCW 42.31.110 (1)(f), (1)(g), and (2).

We have retained legal counsel, and on the advice of counsel, we are releasing this statement to remedy such unlawful action as we believe occurred. It is our understanding, confirmed by counsel, that the general remedy in Washington law for doing in the dark that which should have been done in the light is bring it into the light.

The following description is as accurate as our memories allow, but should be considered paraphrasing, since we can't guarantee that we recall the exact wording.

All five Supervisors were in attendance at the Special Meeting on June 7, along with Acting Executive Director (AED) Sarah Moorehead, staff from other agencies, and members of the public. A sign-in sheet was provided which can provide the names of the attendees. Copies of the agenda were also available for attendees.

The agenda called for an Executive Session that was listed on the agenda "To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee," which is a proper subject for executive session under RCW 42.31.110 (1)(g).

An audio recording of the meeting was made until the Executive Session began. The recorder failed to operate after the Executive Session. We have listened to the audio recording of this portion of the meeting, and this is what was said, as best as we understand the recording.

- When we reached the agenda item for the Executive Session, AED Sarah Moorehead stated: "I have a request to make that if it is to evaluate the performance of a public employee related to me, I'd like to have it in an open public meeting" This is an entirely appropriate request and must be honored under RCW 42.31.110 (1)(f).
- Supervisor Johnson announced that the Executive Session was about to begin to discuss the evaluation of an employee.
- AED Moorehead asked: "Is the public employee is to be evaluated myself?"

- Supervisor Johnson responded: "I don't believe so, no".
- Supervisor Pickett stated: "I thought we were discussing expectations for the executive director."
- Supervisor Johnson responded: "We will not be talking about her, but expectations for the position, correct?"
- Supervisor Pickett then stated: "True, if that's all we talk about. That doesn't have to be in executive session, though."
- Supervisor Johnson, responding to questions from Linda Powell, noted: "We get into more specifics on Sarah, then we might come out and go into public session".
- AED Moorehead then stated: "I believe that this use of executive session is supposed to evaluate specific performance of a specific employee, so talking generally about position expectations; I'm not sure that's a proper use of executive session."

One of our obligations and goals is for the District to operate legally. During the Executive Session, several events occurred that lead us to our need to make this statement:

- Supervisors Johnson and Mankamyer discussed a copy of a "Plaintiff's Reply Brief" from the case Eric Johnson vs. Washington State University (WSU) Energy Program Office. They quoted the brief with several statements that we interpreted as being critical of AED Moorehead. A copy of this brief is attached. The airing of complaints was inconsistent with the announced purpose of the meeting. In addition, we believe it would be improper to take any action based on one-sided statements or filings by a lawyer in ongoing litigation, particularly involving a Supervisor and an employee, and especially without being presented with opposing filings or hearing the evidence directly.
- Supervisor Mankamyer raised some of the issues in an April 24, 2018 draft "Letter of Direction". On June 4th Supervisor Mankamyer had emailed us this letter, and told us that he wanted the Board to discuss it. The letter outlined several expectations and included several complaints about AED Moorehead's performance. A copy of this letter is attached. This airing of complaints regarding AED Moorehead was also inconsistent with the announced purpose of the meeting.
- We asked several times to return to the topic of reviewing expectation as part of an evaluation process. Supervisor Pickett described the process that he felt was appropriate: first setting expectation, then completing an evaluation of the staff, and then describing areas of improvement for the staff. He tried to offer a draft list of expectations for discussion, but Supervisors Johnson, Mankamyer and Powell ignored him. Supervisor Rushton noted that he had redrafted the position description for the executive director position, as agreed at the March 27, 2018 board meeting. He had had the AED distribute it to the entire board on April 24, 2018 asking for comments from all supervisors – but received no response. Supervisor Rushton expressed support for Supervisor Pickett's suggested approach, and encouraged the others to follow that process. Both of us made good faith efforts to return the Executive Session to the announced topic, but we were rebuffed.

To us, the Executive Session seemed mostly to be an extended rant by Supervisors Johnson, Mankamyer and Powell about their perceived problems with AED Moorehead's performance in the past and the need to remove her from that position and find a consultant to take over as AED.

When we came out of the Executive Session, Supervisor Johnson reported that we had nothing to report and no action to take.

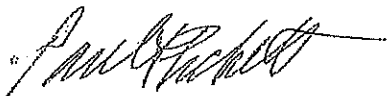
In conclusion, we believe the events of this meeting rendered it unlawful due to the following violations of state statute:

- RCW 42.30.110 (1) states that "Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:"
 - Subsection (f): "To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;"
AED Moorehead made a request for an open meeting if we were to discuss a complaint against her. Supervisor Johnson said that we were not going to discuss her. But the Executive Session actually mostly consisted of Supervisors Powell, Mankamy, and Johnson discussing complaints against AED Moorehead.
 - Subsection (g): "To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee."
This was the announced purpose of the meeting, but no discussion occurred regarding the evaluation of an employee.
- RCW 42.30.110 (2) states that "Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place". Considering what actually took place in the meeting, Supervisor Johnson, as Chair, provided false description of the purpose, and he and the other two Supervisors deviated from the announced purpose in a manner that he explicitly stated would not take place.

Because of the events in this meeting, we are taking actions consistent with our duty under Chapter 42.30 RCW regarding what appears to have been a violation of this statute. Supervisor Pickett contacted the Attorney General's Office, who advised him to consult the District's Counsel. Unfortunately, the District has no Counsel, who might have stopped the violations described here. We will be sending a copy of this statement to the State Auditor and the Washington Conservation Commission.

We take the confidentiality of executive sessions seriously but also take transparency of government operations in what we tell the public seriously. Therefore, because the meeting appears to have violated the law, pointing out and stopping that illegality supersedes executive session confidentiality.

Signed:



Paul Pickett, Supervisor



Doug Rushton, Supervisor

(Letter for discussion at executive session next special board meeting on 050718 for evaluation of public employee)

April 24, 2018

Sarah Moorehead
Acting Executive Director, TCD

Re: Letter of Direction

Dear Sarah,

This is a letter of direction, which is not a disciplinary action. As we have discussed, since your becoming TCD Acting Executive Director and observing your work, I have had several concerns about your performance. Specifically, the areas are: working overtime, teamwork, and following my directions. Therefore, I am setting forth below my expectations for you in these areas.

1. Overtime—As an overtime eligible employee, you are expected to work your assigned hours and no more unless authorized to do so by the Board Chair or the Board Auditor.
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3. Staff Reports -- it has been a continuous point of contention, not getting the weekly staff reports in a timely manner. I am constantly having to ask for and remind you to get these reports to the board. Sometimes there have been no reports for over a month.
4. I have repeatably ask for updates on the budget and we had all agreed that the board needs to approve any budget changes. This was discussed with you as recently as April 17, 2018 at TCD office.

New Directions—Although we are a team, I, and the BoS, are your supervisor's and expect you to follow our directions. I want a written report to me and the BoS of the personnel questions raised in #2 above within one working week from the date of this letter.

Again, please understand this letter does not constitute disciplinary action; it is a letter of direction intended to clarify what I (BoS) expect of you. If you have any questions about this letter, please let me know.

Best regards,

Eric Johnson, Chair
TCD Board of Supervisors

1 Hearing Set: June 15, 2018
2 Time: 9:00 am
3 Judge: Schaller
4
5
6
7

8 THURSTON COUNTY SUPERIOR COURT
9 IN AND FOR THE STATE OF WASHINGTON

10 Eric Johnson,	Plaintiff,	No. 18-2-00943-34
11		
12 vs.		Plaintiff's Reply Brief
13 Washington State University (WSU) Energy		Public Records Act
14 Program Office.		Liability Issue
15	Defendant.	

16
17 **I. Summary Reply:**

18 Contrary to WSU's argument that "the Public Records (PRA) does not require agencies
19 to be mind-readers,"¹ WSU simply needed to follow the law. According to WSU's own
20 NextRequest² file for Johnson's PDR, WSU "received" his PDR on "January 31, 2018 via
21
22
23
24

25 ¹ WSU Br. at 16:9.

26 ² According to the Dec. of WSU's Public Records Program Specialist, Sheri Glaesman, "NextRequest is a web-based application by which individuals can submit a PRA request to WSU and through which WSU can then respond and provide records to the requester." Glaesman Dec. at 1:23-26.

27 PLAINTIFF'S REPLY BRIEF
28 PRA LIABILITY ISSUE
29

Shawn Timothy Newman
Attorney at Law, Inc., P.S.
WSBA 14193
2507 Crestline Dr. NW
Olympia, WA 98502-4327
(P) 360-866-2322

1 email.”³ Despite NextRequest noting that Johnson’s PDR was “received” on “January 31, 2018
2 via email”, WSU did not formally acknowledge Johnson’s request until February 26, 2018.

3
4 It is undisputed that WSU-Energy Information Systems Department Manager James
5 Colombo told Johnson in person on January 31, 2018 that “it would take a few days to get the
6 information.”⁴ It is undisputed that Colombo’s assistant, Michael Pierson,⁵ began working with
7 TCD’s Interim Executive Director, Sarah Moorhead, on February 2, 2018.⁶ Pierson’s emails
8 refer to “Records request” and “PDR for Eric Johnson.”⁷ After Johnson emailed Colombo on
9 February 8, 2018⁸ regarding the status of his requests, Colombo informed Johnson that “We have
10 been instructed that all Public Information Requests must come through the Director of TCD.”⁹

11
12 Johnson never filed a PDR with the Director (Moorehead) because he and the Board
13 Auditor, Supervisor Richard Mankamy, were engaged in an investigation involving Ms.
14 Moorehead.¹⁰ Colombo knew this because Johnson told him in person on January 31, 2018 that
15 “he was doing an investigation of Ms. Moorehead.”¹¹

16 17 18 19 **II. Status: Too little too late.**

20 ³ Ex. O: Newman Dec. attaching full NextRequest printout for Request #18-115 [available online at:
21 <http://wsu.nextrequest.com/requests/18-115>]. WSU’s Public Records Coordinator, Stephanie Kalasz, only attaches a
portion of that file as Ex. 1 to her declaration.

22 ⁴ WSU Br. at 6:17.

23 ⁵ WSU-Energy IT Support Specialist. See Declaration of James Colombo at 2:6-8 [“Information Technology
Specialist Michael Pierson is the primary IT Specialist that assists our external clients, including TCD.”].

24 ⁶ See Pierson Dec. at 3.

25 ⁷ Ex. G and N. Therefore, WSU’s assertion that “Neither Pierson nor Colombo interpreted this email to be a public
records request” is absurd. WSU Br. at 7:13-14.

26 ⁸ Ex. D: Email from Johnson to Colombo (2/8/18 @ 11:30 am).

27 ⁹ Ex. E: Email from Colombo to Johnson, cc Moorehead (2/8/18 @ 12:19 pm); Colombo Dec. Ex. 4.

28 ¹⁰ Ex. B: Johnson Dec.; Colombo Dec. at 3:9-10.

29 ¹¹ Colombo Dec. at 3:9-10.

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PLAINTIFF’S REPLY BRIEF
PRA LIABILITY ISSUE

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1 As noted in Johnson's Opening Brief, WSU closed out his PDR on May 9, 2018 but did
2 not produce metadata specifically requested by him in his first request or produce the 1032
3 emails Pierson identified by name in response to Johnson's second request.¹² Surprisingly, after
4 filing his opening brief early on May 15, 2018,¹³ Johnson received notice from WSU's Public
5 Records Office on May 22, 2018, that WSU was "reopening" his public disclosure request.¹⁴
6

7 Subsequently, on June 1, 2018 WSU sent Johnson several new installments in pdf format
8 amounting to 2,079 additional records for a total of 6,864 records.¹⁵ WSU closed his PDR later
9 that same day (June 1, 2018) stating:

10 We have processed all records that were provided to us by WSU Energy
11 Program. We were previously provided a list of records that you believed were
12 missing from the search. It is our understanding that this list was provided by your
13 attorney, Shawn Newman, to the Attorney General's Office. We have located
14 some of the listed records. We were unable to identify some of the listed records
15 even after a thorough follow-up search. We have provided a list of the records
16 that identifies those unidentified records to the Attorney General's Office and
17 they will follow up directly with Mr. Newman.¹⁶

18 This is not discussed in the declaration of WSU's Counsel (Feulner).

19 Johnson and his counsel have not had the opportunity to sift through the document dump,
20 but WSU admits they were unable to provide all the requested records. This includes the
21 metadata in response to Johnson's first PDR. While the pdf associated with the metadata was
22

23 ¹² Ex. G: Email from Pierson to Moorehead (2/5/18) re: Records request and Eric Johnson [Emphasis added].

24 ¹³ The Scheduling Order set the deadline as May 18, 2018.

25 ¹⁴ Ex. O: See Email from Sheri Glaesman, WSU Public Records, to Johnson (5/22/18); WSU Br. at 10:2.

26 ¹⁵ WSU Br. at 10:3-4; Ex. P (Newman Dec.); compare WSU Br. at 9 (Kalasz Dec.) totaling 4779 but noting some
27 documents could not be converted.

28 ¹⁶ See Ex. O [Emphasis added].

1 provided and is attached to Mr. Feulner's Declaration of Counsel as Exhibit 3, the metadata was
2 not.¹⁷

3
4 Astonishingly, Mr. Feulner emailed Johnson's counsel (Newman) on June 4, 2018 (at
5 7:25 am), the date set for WSU's response, stating:

6 Sorry for the delay in responding to this email as I wanted to wait until my client
7 finished producing records. They completed that process on Friday, June 1. The
8 majority of the emails that Mr. Mankamyer identified in his list have been
9 produced to Johnson. There are some emails that we were unable to either
10 identify or find. Without seeing the actual emails, it is hard to give a definitive
11 answer. However, most of the emails appear to be between your two clients,
12 Mankamyer and Johnson. I believe that they use gmail email addresses. As I
13 understand it, such emails would not pass through the TCD email system that has
14 an email domain name of @thurstoncd.com and there would be no copy in TCD's
15 email system as a result. There is also one email that was listed that was outside
16 of the timeframe that Johnson provided. I'm attaching a list with each email name
17 that was provided by Mankamyer that contains where each email is located in the
18 various installments produced by WSU. Please let us know if you have follow up
19 questions.

20 Newman immediately responded at 7:57 am stating:

21 I'll forward to my client for his review.

22 As for what is in the system, please refer to the email from Pierson to Colombo
23 dated February 2, 2018 @ 12:30:31 PM [Bate Stamped as Johnson v. WSU DEFS
24 -000654] and Pierson's email to Amy Hatch-Winecka, dated March 6, 2018 [Bate
25 Stamped as Johnson v WSU DEFS -000665].

26 He has yet to receive the metadata regarding his first request.¹⁸

27 Feulner did not respond to that email and does not discuss the exchange in his declaration.

28 Contrary to WSU's assertion in its brief that it "has now produced all records that have
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¹⁷ See Opening Brief at 14:2-4.

¹⁸ Ex. R: Emails between Newman and Feulner (6/4/18).

PLAINTIFF'S REPLY BRIEF
PRA LIABILITY ISSUE

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1 been requested,"¹⁹ WSU closed Johnson's PDR (again) on June 1, 2018²⁰ and has yet to produce
2 the metadata in response to Johnson's first PDR. As noted in WSU's own brief, "A denial of
3 records occurs when it reasonably appears that an agency will not or will no longer provide
4 responsive records."²¹ Contrary to WSU's assertions,²² the relevant email does exist and was
5 provided by WSU in pdf format which stripped off the metadata.²³ It is attached to the Feulner's
6 as Exhibit 3 (pages 24-28). The original email and Word document along with associated
7 metadata should be available. According to Colombo, "Even if a staff person deletes the email
8 from a live account, the emails would still be stored on Barracuda."²⁴

9
10 **III. WSU's process argument ignores the facts and the law. *Parmelee* is distinguishable**
11 **on the facts and the applicable law. It predated recodification of the PDA and, specifically,**
12 **adoption of a new section: RCW 42.56.580.**

13 WSU claims that Johnson did not follow proper protocol when he made his PDRs
14 because he did not make it to WSU's Public Record's Officer. Johnson made his PDR to
15 Colombo because Colombo signed the MOU with TCD.²⁵ WSU argues that "Neither Pierson
16 nor Colombo interpreted this email²⁶ to be a public records request." This is absurd given the
17 emails characterizing Johnson request as a "records request" and as the "PDR for Eric
18 Johnson."²⁷ Moreover, according to WSU's Public Records Office response, Johnson's PDR
19 was "received" by WSU's Public Record's Office (NextRequest) on January 31, 2018 via
20
21

22 ¹⁹ WSU Br. at 20:12-13; 21:19.

23 ²⁰ Ex. O.

24 ²¹ WSU Br. at 20:19-20 [citing *Hobbs v. State*, 183 Wn.App. 925, 936 (2014)].

25 ²² WSU Br. at 23: 7-8.

26 ²³ The email at issue was specifically discussed in Johnson's opening brief at 13:15-21.

27 ²⁴ Dec. of Colombo at 2:9-12.

²⁵ Ex. Q; See also Colombo Dec. Ex. 1.

²⁶ Referring to Johnson's PDR dated 1/31/18, Ex. B, K and O.

²⁷ See, Ex. E, F and G.

1 email.²⁸ Yet, contrary to WSU's assertions regarding the NextRequest PDR program,²⁹ no
2 confirmation was sent until February 26, 2018. In the interim, WSU IT staff worked with and
3 took directions from Moorehead who was under investigation by TCD supervisors.
4

5 WSU relies upon *Parmelee v. Clarke*, 148 Wn.App. 748 (2008). That case concerned a
6 PRA suit by an inmate. The Court held that the Department of Corrections' failure to respond to
7 the inmate's requests in a timely fashion was excusable because the plaintiff had not submitted
8 his requests to the department's designated public disclosure coordinator. That case cites the old
9 public records statute prior to recodification which included adoption of a new PRA section
10 which became RCW 42.56.580. According to RCW 42.56.580 (2):
11

12 For state agencies, the name and contact information of the agency's public
13 records officer to whom members of the public *may* direct requests for disclosure
14 of public records and who will oversee the agency's compliance with the public
15 records disclosure requirements of this chapter *shall* be published in the state
web site for the duration of the designation.³⁰

16 RCW 42.56.580 provides that state agencies "*shall* appoint" a public records officer "to whom
17 members of the public *may* direct requests for disclosure." General rules of statutory
18 construction require avoidance of unlikely, absurd, or strained results.³¹ Where a provision
19 contains both the words "*shall*" and "*may*," it is presumed that lawmakers intended to distinguish
20 between them, "*shall*" being construed as mandatory and "*may*" as permissive.³² WSU also cites
21 WAC 504-45-020(2) which states that requestors "*should*" contact the university's public
22

23 ²⁸ Ex. O [NextRequest #18-115].

24 ²⁹ WSU Br. 3:5-6 ["NextRequest automatically sends an email to the requester acknowledging that the request has
25 been received."].

26 ³⁰ Emphasis added.

27 ³¹ *State ex rel. Evergreen v. WEA*, 140 Wn.2d 615, 632 (2000).

28 ³² See, e.g., *Scannell v. Seattle*, 97 Wn.2d 701, 704 (1982).

1 records office.³³ "Should" is the past tense of "shall" and is not normally synonymous with
2 "may."³⁴ The WAC cannot contravene the PRA by mandating something the PRA deems
3 permissive.³⁵ As stated above, Johnson sent his PDR to Colombo because Colombo signed the
4 MOU with TCD.³⁶ Moreover, according to WSU's own NextRecord file, Johnson's PDR was
5 transmitted to WSU's Public Records Office via email on January 31, 2018.³⁷ Contrary to
6 WSU's reference to "the form of a proper PRA request,"³⁸ the courts have held that there is no
7 official format for a valid request under the PRA.³⁹

8
9 Although WSU admits it stores TCD records, it argues it does not "retain" them for
10 purposes of the PRA.⁴⁰ WSU asserts that this is a case of "first impression."⁴¹ WSU ignores the
11 liberal construction in favor of disclosure⁴² and the broad definitions in the PRA. According to
12 RCW 42.56.010(3) "public record"

13
14 includes any writing containing information relating to the conduct of government
15 or the performance of any governmental or proprietary function prepared, owned,
16 used, or retained by any state or local agency regardless of physical form or
17 characteristics.

18 ³³ WSU Br. at 2.

19 ³⁴ Black's Law Dictionary.

20 ³⁵ "Agencies may exercise only those powers conferred on them expressly or by necessary implication. If an
21 enabling statute does not authorize a particular regulation, either expressly or by necessary implication, "that
22 regulation must be declared invalid despite its practical necessity or appropriateness." *Wash. Indep. Tel. Ass'n v.*
Telecomm. Ratepayers Ass'n for Cost-Based & Equitable Rates, 75 Wn. App. 356, 363, 880 P.2d 50 (1994). To
hold otherwise would be to "defer to an agency the power to determine the scope of its own authority." *In re Elec.*
Lightwave, Inc., 123 Wn.2d 530, 540, 869 P.2d 1045 (1994)." *Impoundment of Chevrolet Truck*, 148 Wn.2d 145,
156-157 (2002).

23 ³⁶ Ex. Q; Colombo Dec. Ex. 1.

24 ³⁷ Ex. O: NextRequest printout for Request #18-115 [available online at: <http://wsu.nextrequest.com/requests/18-115>]

25 ³⁸ WSU Br. at 11:16-25 [quoting WAC 504-45-020(1)].

26 ³⁹ *Hangartner v. City of Seattle*, 151 Wn.2d 439, 447 (2004).

27 ⁴⁰ WSU Br. at 19:4-5.

28 ⁴¹ WSU Br. at 18:6-10.

29 ⁴² RCW 42.56.030.

1 RCW 42.56.010(4) defines "writing" to include

2 every other means of recording any form of communication or representation
3 including ... magnetic or paper tapes ... discs ... and other documents including
4 existing data compilations from which information may be obtained or translated.

5 Moreover, the word "retain" is defined by Black's Law Dictionary as "to continue to hold, have,
6 use, recognize, etc., and to keep." According to WSU-Energy's website and Colombo,⁴³ having

7 WSU host accounts has several benefits, including:

- 8
- 9 • Daily backup of your data with snapshots captured throughout the day.
 - 10 • Nightly backup of your data with Disc-to-Disc and then Disc-to-Tape for secure
11 off-line storage
 - 12 • All processed Email is copied and stored on our Archive Server for a minimum of
13 seven years.
 - 14 • Data is stored on a Storage Area Network (SAN) device with multiple hard disks
15 in an array which allows for hard disk failures without loss of data.

16 Pierson explained to Johnson and Mankamyer how "we back up their systems to how we keep
17 TCD data from being lost."⁴⁴

18 There is no dispute that Johnson submitted a request for records retained by WSU.

19 Colombo acknowledged it was a records request when they met on January 31, 2018.⁴⁵

20 Colombo initially told Johnson he would get him the records in "a couple of days."⁴⁶ It was after
21 the PRA statutory 5-day time limit to respond had passed, that Johnson emailed Colombo on the
22 status of his PDR. Colombo emailed Johnson that same day stating: "We have been instructed
23 that all Public Information Requests must come through the Director of TCD."⁴⁷

24 ⁴³ <http://www.energy.wsu.edu/ComputerServices.aspx>; See also Ex. Q [MOU and Letter dated 6/16/14 from
25 Colombo to Whalen at TCD.]; Colombo Dec. Ex. 1.

26 ⁴⁴ Pierson Dec. at 2:23.

27 ⁴⁵ See, Ex. B: Johnson Dec.; Ex. E: Email from Colombo to Johnson (2/8/18).

28 ⁴⁶ Ex. B: Johnson Dec.; WSU Br. at 6:17 ["Colombo told him that it would take a few days to get the information."]

29 ⁴⁷ Ex. E: Email from Colombo to Johnson, cc Moorehead (2/8/18).

1 Unlike the situation in *Parmelee*,⁴⁸ Colombo did not direct Johnson to WSU's Public
2 Records Coordinator. Johnson never made a PDR to Moorehead. Yet, Pierson had already
3 begun⁴⁹ working with Moorehead on February 2, 2018 (within the 5-day statutory time limit⁵⁰) to
4 filter what would be provided to Johnson. Pierson specifically referred to Johnson's PDR in his
5 emails to Moorehead⁵¹ and Hatch-Winecka.⁵²

7 Finally, WSU's Public Records Office received Johnson's request on January 31, 2018.⁵³
8 Yet, WSU did not provide Johnson with acknowledgement until February 26, 2018.⁵⁴ WSU
9 closed the PDR on May 9, 2018 only to reopened it again on May 22, 2018, after Johnson's
10 Opening Brief was filed.⁵⁵ To date, WSU has belatedly provided over 6,864 documents – over
11 six times the number of documents (1032) initially identified by WSU to Moorehead.⁵⁶ WSU
12 has yet to provide the metadata in response to Johnson's first request.
13
14
15
16

17 **IV. WSU enabled Moorehead to censor records without seeking an injunction.**

18 On May 31, 2018, the Washington State Supreme Court issued its opinion in *Lyft, Inc. v.*
19 *City of Seattle*. In that case, the court considered whether the trial court properly granted an

20 ⁴⁸ Collins responded to Parmelee by letter dated March 1, 2005. She acknowledged receipt of the letter of February
21 25 and instructed Parmelee to submit his records request to the facility's public disclosure coordinator....” *Parmelee*
22 *v. Clarke*, 148 Wn. App. 748, 751 (2008).

⁴⁹ WSU's WACs provide that “The public records officer oversees compliance with the act, but another university
staff member may process the request.” WAC 504-45-020(3).

⁵⁰ RCW 42.56.520(1).

23 ⁵¹ Ex. F: Email from Pierson to Moorehead (2/2/18) [“Subject: PDR and board members”]; Ex. G: Email from
Pierson to Moorehead (2/5/18) [Subject: Records request and Eric Johnson].

24 ⁵² Ex. N: Email from Pierson to Hatch-Winecka (3/6/18).

25 ⁵³ Ex. Q: Request #18-115 Time Line

⁵⁴ Ex. K: Letter from WSU Public Records Office (Sheri Glaesman) to Johnson (2/26/18).

26 ⁵⁵ Ex. Q: Request #18-115 Time Line.

⁵⁶ Opening Br. at 14; Ex. P.

1 injunction to Lyft concerning certain "trade secrets." The State Supreme Court reversed the trial
2 court finding it had improperly applied the injunction standard. In so doing, the Court stated:

3 A "public record" "includes any writing containing information relating to the
4 conduct of government or the performance of any governmental or proprietary
5 function prepared, owned, used, or retained by any state or local agency
6 regardless of physical form or characteristics." RCW 42.56.010(3).

7
8 The PRA is "liberally construed and its exemptions narrowly construed to
9 promote this public policy [to keep Washington residents informed and in control
10 over the instruments they have created] and to assure that the public interest will
11 be fully protected." RCW 42.56.030.

12 *Lyft, Inc. v. City of Seattle*, 2018 Wash. LEXIS 350, 7 and 9 (May 31, 2018).

13 As noted in Johnson's Opening Brief at pages 5-6, WSU AAG (Adam Malcolm) advised
14 the TCD Interim Executive Director, Sarah Moorehead, that she should consult with legal
15 counsel and seek an injunction to stop disclosure.⁵⁷ According to Colombo, he was advised by
16 WSU-Energy Deputy Director Todd Currier to "make Ms. Moorehead aware of the request so
17 that she could consult with an attorney, if she wanted."⁵⁸ According to Colombo, Moorehead
18 told Pierson that "she had spoken to an attorney and that all requests for TCD information
19 needed to go through her."⁵⁹ The attorney is not identified.

20 Rather than seek an injunction, WSU - Energy staff deferred to Moorehead based on her
21 representation that she had spoken with an unnamed attorney on how to proceed. She did not
22 seek any injunction. She didn't need to since WSU IT staff were taking directions from her.
23 This is illustrated by her alarming directive to Colombo and Pierson regarding Johnson's

24
25 ⁵⁷ See Dec. of WSU Counsel (Feulner) Ex. 1, page 5.

26 ⁵⁸ Colombo Dec. at 4:6-7.

27 ⁵⁹ Colombo Dec. at 4:17-18.

1 Subpoena Duces Tecum for Amy Hatch-Wineka.⁶⁰ Moorehead directed WSU IT staff not to
2 respond to Johnson's subpoena. She wrote: "Please note that we are requesting that this is not
3 fulfilled by either party mentioned in the subpoena (Michael and Jim)."⁶¹
4

5 **V. Conclusion**

6 WSU makes various excuses why it violated the PRA. WSU's argument that it "had no
7 duty to respond"⁶² is absurd, contrary to the facts and public policy. WSU own NextRequest file
8 shows that Johnson's PDR was "received January 31, 2018 via email."⁶³ WSU's argument that
9 Colombo was confused⁶⁴ is contradicted by his own emails and that of his assistant, Pierson,
10 which specifically refer to a "records request".⁶⁵ WSU's argument that it was "understaffed" is
11 irrelevant.⁶⁶
12

13 WSU sat on Johnson's PDRs and opted to take directions from Moorehead, presumably
14 to preserve its contractual relationship⁶⁷ with the TCD. Colombo admits he and Pierson "wanted
15 guidance from TCD" (Moorehead) on how to proceed.⁶⁸ In so doing, they treated Moorehead as
16 their boss when Johnson was the requester and Moorehead's actual boss.⁶⁹ This enabled
17 Moorehead to intervene and filter what was provided to Johnson. Although WSU's AAG (Adam
18

19
20 ⁶⁰ See Dec. of WSU Counsel (Faulner) Ex. 1, pages 7-11.

21 ⁶¹ Id., page 10 [Email from Moorehead to Hatch-Winecka and IT Help Staff (4/24/18). Referring to Michael Pierson
and James Colombo.] Emphasis added.

22 ⁶² WSU Br. at 2:8-9.

23 ⁶³ Ex. O: Request #18-115 Time Line

24 ⁶⁴ WSU Br. at 12:12.

25 ⁶⁵ See, Ex. B, F and G.

26 ⁶⁶ WSU Br. at 4:3-7.

27 ⁶⁷ Ex. Q: MOU between WSU-Energy and TCD (Letters from Colombo to TCD Whalen dated 8/8/11 and 6/14/14);
See also, Colombo Dec. Ex. 1.

28 ⁶⁸ Colombo Dec. at 4.

29 ⁶⁹ See Colombo Dec. at 3:1. TCD Supervisors Johnson and Mankmyer told Colombo "they were Ms. Moorehead's
bosses."

1 Malcolm) advised Moorehead to hire an attorney and seek an injunction if necessary,⁷⁰ that was
2 unnecessary given WSU Energy IT staff was taking orders from her.

3 Finally, WSU's 11th hour document dump⁷¹ was after WSU closed the PDR and after
4 Johnson filed his opening brief. Despite providing over 6,800 records⁷², WSU has yet to provide
5 the metadata records responsive to Johnson's first request. Johnson specifically identified that
6 record⁷³ and it is attached as Exhibit 3 to Feulner's declaration. WSU provided the underlying
7 document as a pdf but not the metadata. This continued obfuscation is contrary to state law.⁷⁴
8

9 DATED: 6/6/18

10 Shawn Timothy Newman
11 Attorney at Law, P.S.
12 WSBA #14193
13
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21

22 ⁷⁰ Ex. H: Email from Malcolm (WSU AAG) to Moorehead (2/21/18); WSU Energy's Deputy Director (Todd
Currier) suggested to Colombo that he "make Ms. Moorehead aware of the request so that she could consult with an
attorney, if she wanted." Colombo Dec. at 4:6-7.

23 ⁷¹ See Ex. P [Newman Dec.]. WSU provided 2,079 records on June 1, 2018, via email. The total number of records
provided is 6,864.

24 ⁷² Ex. P.

25 ⁷³ Opening Br. at 13:15-21.

26 ⁷⁴ See Opening Br. at 11-12, 14. Discussing *O'Neill v. City of Shoreline*, 170 Wn.2d 138, 146-147 (2010). In that
case, the plaintiff requested copies of an e-mail chain which had been circulated among members of the City
Council and which contained certain allegations of governmental mismanagement.

27
28 PLAINTIFF'S REPLY BRIEF
PRA LIABILITY ISSUE
29

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CERTIFICATE OF SERVICE

I certify under penalty of perjury under the laws of the State of Washington that I served
a copy of Plaintiff's Reply Brief on the date below as follows:

TO: Thurston County Superior Court Clerk (Personally original)
TO: The Honorable Christine Schaller (Personally Bench Copy)
TO Timothy J. Feulner, WSBA #45396 [TimF1@ATG.WA.GOV]
Adam N. Malcolm, WSBA #32126 [adam.malcolm@wsu.edu]

VIA EMAIL PER AGREEMENT

Date: 6/6/18

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PLAINTIFF'S REPLY BRIEF
PRA LIABILITY ISSUE

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Paul Pickett <paulpickett@conservewa.net>

Question about OPMA and executive sessions

Krier, Nancy (ATG) <NancyK1@atg.wa.gov>
To: Paul Pickett <paulpickett@conservewa.net>

Mon, Jun 11, 2018 at 8:36 AM

Dear Mr. Pickett,

Thank you for your email below. I suggest you contact your agency's legal counsel to discuss the matter. I am not able to provide you legal advice or a legal opinion. If you or your legal counsel need general information about the Open Public Meetings Act (OPMA) at RCW 42.30, you can see the information we have posted on our website here (Lesson 3) or contact me.

I trust this assists you.

Sincerely,

Nancy Krier

Assistant Attorney General for Open Government
(360) 586-7842

From: Paul Pickett [mailto:paulpickett@conservewa.net]
Sent: Thursday, June 7, 2018 5:59 PM
To: Krier, Nancy (ATG) <NancyK1@ATG.WA.GOV>
Subject: Question about OPMA and executive sessions

I'm an elected Thurston CD Supervisor. I am concerned that a violation of the Open public meetings act occurred by improper use of executive session. Who should I discuss this with?

Paul Pickett

Thurston Conservation District



Board of Supervisors
Work Session Minutes
Tuesday, June 26, 2018
1:00pm

Present at Meeting:

Eric Johnson, TCD Board Chair	Linda Powell, TCD Board Vice-Chair
Richard Mankamy, TCD Board Auditor	Sarah Moorehead, TCD Interim Executive Director
Paul Pickett, TCD Board Supervisor	Heather Roskelley, TCD Staff
Shana Joy, WSCC	Ben Peterson, WFSE
Alison Halpern, WSCC	

Action Items:

None

Meeting not audio recorded

1. Review June 26th Monthly Board Meeting Packet, All

- Supervisors & Staff reviewed agenda items to allow questions/discussions prior to Monthly Board meeting
- No formal Board action was taken

Respectfully Submitted,

Eric Johnson, Board Chair



Board of Supervisors
HR/Legal Subcommittee Work Session Minutes
Tuesday, June 19, 2018
2:00pm

Present at Meeting:

Richard Mankamy, TCD Board Auditor	Sarah Moorehead, TCD Interim Executive Director
Linda Powell, TCD Board Vice-Chair	Heather Roskelley, TCD Staff
Doug Rushton, TCD Board Supervisor	Ben Peterson, WFSE
Tony Wilson, Public	TJ Johnson, Public
Melinda Holman, Public	Esther Kronenberg, Public
Lisa Riner, Public	

1. Welcome and Agenda Review

- Doug Rushton called the meeting to order at 2:01pm
- Meeting was not audio recorded

2. Review and Discuss HR and Legal Services Options

- Sarah updated memo re: HR and Employment Law Firms, providing hourly rate and services information
- Sarah contacted 12 HR firms and several law firms and narrowed list down to 3 HR firms and 2 law firms as provided in memo
- Subcommittee consensus: Hire employment law firm and then rebuild HR capacity
- Contact Oriana Lewis at Dispute Resolution Center; they provide mediation services at a reduced rate to state government entities and might have law firm recommendations
- Number one recommendation from Enduris is to get legal advice; therefore, procuring an employment law firm should be a priority
- Sarah mentioned that we don't have the budget to cover much of either legal or HR services; a document showing unrestricted funds will be provided in the June 26th Board meeting; the election and audit are also unintended expenses for 2018
- Doug said he believes TCD should first hire an Executive Director and then this person will oversee HR and Legal
- Employment Law Firms:
 - Firm used previously (Phillips Burgess) indicated they were not interested in providing further service
 - Ledger Square Law is recommended by Pierce CD; Inslee Best Doezie & Ryder P.S. is recommended by northern Puget Sound CDs
 - Board Supervisors would like law firm recommendations from Olympia and possibly Centralia/Chehalis
 - A citizen recommended Avvo.com as a source
 - Can WSFE (union) recommend law firms?
- HR Consultants:
 - Other CDs contacted will provide HR support to TCD; HRC complaints and unionization could have legal ramifications
 - HR firms want more detail about scope of work before they give flat rate for 3-6 months consulting, especially given legal issues with TCD
 - DES (Washington State Dept. of Enterprise Services) is cheapest option and worth considering; still determining Thurston CD eligibility; Sarah provided a document with a list of their HR services

54
55 **3. Recommendation for June 26th Board Meeting & Next Steps**

- 56 1. Focus on legal services first, then HR
57 2. Sarah will provide RFP for Employment Law firms in June 26th Board packet; Richard will
58 also provide RFP edits to Sarah for Board packet
59 3. Sarah to provide additional employment law firms in Olympia/Centralia/Chehalis and
60 possibly firms recommended by Oriana at Dispute Resolution Center and listed on
61 Avvo.com; can TCD get pro bono legal help?
62 4. Look for temp HR hire, perhaps just 2-3 months (part-time), highly experienced
63 ▪ Sarah will find out eligibility for HR services with DES
64 ▪ Staff will research other HR temp agency options
65 ▪ Develop Scope of Work (SOW) for HR services
66 ▪ Access investigation findings by Enduris – Board would need to release info
67 ▪ Consulting/training
68 ○ Long-term idea to hire and train staff and build capacity
69 ○ Training for FMLA
70 ○ Ongoing activities and past practices
71 ○ Review P+P
72 ○ Labor negotiations with union
73 5. Goals for June 26 Board Meeting:
74 A. Finalize RFP for legal services
75 B. Explore additional HR options
76

77 **4. Adjourn**

78 Meeting ended at 3:12pm
79

80 Respectfully Submitted,
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Eric Johnson, Board Chair
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Board of Supervisors
Special Meeting Minutes
Thursday June 7, 2018
2:00pm

Present at Meeting:

Eric Johnson, TCD Board Chair
Richard Mankamy, TCD Board Auditor
Doug Rushton, TCD Board Supervisor
Linda Powell, TCD Board Supervisor
Paul Pickett, TCD Board Supervisor
Tony Wilson, Public
Lisa Riner, Public
Madeline Bishop, Public
Ben Peterson, WFSE

Sarah Moorehead, TCD Interim Executive Director
Joe Hanna, TCAAC
John Stuhlmiller, WFB
Amy Shier, WFSE
Madeline Bishop, Public
Samantha Fleischner, Public
Karla Heinitz, WSCC
Tim Tharp, WFSE

Action Items:

1. Subcommittee meeting **June 19, 2pm-4pm** to discuss HR and legal options; contact firms and set parameters; to include Richard, Linda, Doug and Sarah
2. July meeting – VSP; 30 minutes with WSFB
3. HRC – Board presentation
4. Staff to contact Sheryl Brandt or Enduris representative for a phone conversation during the June 26 Board Meeting Executive Session regarding letter and rate increase and how to remove it
5. Staff to schedule meeting with State Auditor's office – possibly include Enduris

1. Welcome, Introductions, Audio Recording Announcement and Pledge of Allegiance

- Eric Johnson called the meeting to order at 3:35pm. There was a quorum.
- Welcome, Introductions, & Pledge of Allegiance conducted
- Chair announced meeting being audio recorded

2. Public Comment (3 minutes per person)

- Persons who provided public comment:
 - Madeline Bishop
 - Tim Tharp
 - Lisa Riner
 - Tony Wilson
 - John Stuhlmiller

3. Agenda Review, All

- Sarah requested Executive Session be held in an open public meeting if it relates to her performance as a public employee per RCW 42.30.110

4. Executive Session: To evaluate the qualifications of an applicant for public employment or to review the performance of a public employee.

5. Protocols for Supervisor Requests – Tabled to June 26 Board Meeting

6. Report Out on Work Session Items – Action Items

- Doug presented information on the Dispute Resolution Center
- Paul moved to create a subcommittee (Doug, Linda, Richard, and Sarah) to review HR Consultant question and Legal Services RFP (revise if necessary), with primary focus on HR

54 **A. Subcommittee Scope of Work to discuss HR and Legal Services:**

- 55 1. Review things now and provide TA with ongoing activities
- 56 2. Review past practices and resolve mistakes for future; review policies for legal and revise if
- 57 necessary; carry out Governance Action Plan and advise on issues to resolve such as HRC
- 58 complaints and discuss how to prevent in future
- 59 3. Compliance – conflict resolution and negotiations between management and employees
- 60 4. Support in labor negotiation with certified union
- 61 5. Review budget and decide which options are affordable
- 62 6. See if other CDs have staff to share (including Pierce, King, Spokane)
- 63 7. Look for temp HR hire, 6mo – 1yr (1/2 time)
- 64 ▪ Consulting/training
- 65 ○ Hire and train staff and build capacity for the future
- 66 ○ Training and technical assistance for ongoing practices such as Governance Action
- 67 Plan, resolving Human Rights Commission Complaints, and FMLA
- 68 ○ Review past practices and suggest improvements
- 69 ○ Review Policies and Procedures for consistency and legality
- 70 ○ Conflict resolution
- 71 ○ Labor negotiations

72 AI: Subcommittee meeting **June 19, 2pm-4pm** to discuss HR and legal options; contact firms

73 and set parameters; to include Richard, Linda, Doug and Sarah

74 AI: July meeting – VSP; 30 minutes with WSFB

75 AI: HRC – Board presentation

76 **B. Executive Session Phone Conversation with Enduris**

77 Linda moved to have an Executive Session phone conversation with Sheryl Brandt or Enduris

78 representative in regards to letter and rate increase and how to remove it. Paul seconded.

79 Unanimous approval. Items to discuss:

- 80 ▪ Current premium and the amount of the increase
- 81 ▪ Explain the co-pay
- 82 ▪ What can we do to avoid increase before Sept 1 or bring the rates back down
- 83 ▪ Exact occurrence that instigated rate increase
- 84 ▪ Claim history

85 AI: Staff to contact Sheryl Brandt or Enduris representative for a phone conversation during the

86 June 26 Board Meeting Executive Session regarding letter and rate increase and how to

87 remove it

88 AI: Staff to schedule meeting with State Auditor's office – possibly include Enduris

89 **C. April 24, 2018 Meeting Minutes** – To be reviewed during June 26 Board Meeting

90 **D. May 29, 2018 Meeting Minutes** – To be reviewed during June 26 Board Meeting; take out

91 section re: removing Sarah Moorehead based on HRC complaint – no one recalled that

92 statement being made

93

94 **7. Adjourn, All**

95 Paul moved to adjourn. Linda seconded at 5:30pm. Unanimous approval.

96

97 Respectfully Submitted,

98

99

100 _____

101 Eric Johnson, Board Chair



Board of Supervisors
Special Meeting Minutes
Monday, March 5, 2018
2:00pm

Present at Meeting:

Eric Johnson, TCD Board Chair	Linda Powell, TCD Board Vice-Chair
Richard Mankamy, TCD Board Auditor	Samantha Fleischner, TCD Board Supervisor
Doug Rushton, TCD Board Supervisor	Sarah Moorehead, TCD Interim Executive Director
Joe Hanna, Public	Tony Wilson, Citizen

Action Items:

1. Staff will research emergency voting procedures for potential inclusion in Policy 5.1
2. Staff will send updated draft policy #5.1 to Shana Joy and Bill Eller (WSSC) for review before TCD 3.27.18 meeting.
3. Staff will provide examples of Board Travel policies at 3.27.18 meeting
4. Staff will provide quarterly updates on Board Supervisor Travel Budget

1. Welcome, Introductions, Audio Recording Announcement, and Pledge of Allegiance

- Eric Johnson called the meeting to order at 2:00pm. There was a quorum.
- Welcome, Introductions, & Pledge of Allegiance conducted

2. Public Comment (3 minutes per person)

- If public comment submitted in written form, attached
- Persons who provided public comment:
 - Joe Hanna

3. Agenda Review

4. Policy 5.1: Travel Policy (Updated) – Action Item

- Updates were made by group; Revised draft will be presented for considered adoption at 3.27.18 TCD Monthly Board Meeting

AI - Staff will research emergency voting procedures for potential inclusion in Policy 5.1

AI - Staff will send updated draft policy #5.1 to Shana Joy and Bill Eller (WSSC) for review before TCD 3.27.18 meeting.

AI - Staff will provide examples of Board Travel policies at 3.27.18 meeting

AI - Staff will provide quarterly updates on Board Supervisor Travel Budget

5. Policy 1.2.1: Board Supervisor Remote Attendance (New) – Action Item

Doug moved to approve Policy #1.2.1: Board Supervisor Remote Attendance policy, as amended. Samantha seconded. Vote: In favor: Doug & Samantha. Opposed: Eric & Richard. Abstained: Linda. Motion died.

6. Policy 3.3.6: Tele-community and Off-site Work (New) – Action Item

Doug called for the question. Linda Seconded. Vote: In favor: Eric, Richard, Linda. Opposed: Samantha & Doug. Motion passed.

7. **Executive Session: RCW 89.08.110: To receive and evaluate complaints or charges brought against a public officer or employee**

- Executive Session commenced at 5:33pm for 30 minutes, with Board Supervisors and Sarah Moorehead in attendance
- Board exited Executive Session at 6:03pm and announced 15 minute extension; Back in Executive Session at 6:04pm
- Board exited Executive Session at 6:19pm and announced a short meeting break
- Executive Session commenced again at 6:33pm for 20 minutes, with Board Supervisors and Sarah Moorehead in attendance
- Board exited Executive Session and returned to public meeting at 6:53pm and announced no decisions were made

8. **Associate Supervisor** - *Action Item*

- Discussed future review of current TCD Associate Supervisors

9. **Determine Next Steps**

10. **Adjourn**

Respectfully Submitted,

Eric Johnson, Board Chair



**Board of Supervisors
Special Meeting Minutes
Tuesday, January 9, 2018
1:00pm**

Present at Meeting:

Eric Johnson, TCD Board Chair	Linda Powell, TCD Board Vice-Chair
Richard Mankamy, TCD Board Auditor	Samantha Fleischner, TCD Board Supervisor
Doug Rushton, TCD Board Supervisor	Amy Franks, TCD Staff
Nora White, TCD Staff	Sarah Moorehead, TCD Interim Executive Director
Joel Hansen, TCD Assoc. Supervisor	Chris Stearns, TCD Assoc. Supervisor
Joe Hanna, Public	Paula Holroyde, League of Women Voters (LWV)
Esther Kronenberg, LWV	Susanna Pearlstein, Citizen
Cynthia Stewart, Citizen	

Action Items:

1. Staff to send Board Supervisors list of 2017 TCD Contracts and Agreements

Eric Johnson called the meeting to order at 1:00pm. There was a quorum.

1. Welcome, Introductions, Audio Recording Announcement, and Pledge of Allegiance

2. Public Comment

3. Agenda Review

4. Action Item: Policy and Procedures 1.4: Delegation of Authority to District Treasurer, All – Action Item

5. Action Item: Policy and Procedures 1.3.1: Delegation of Authority to Acting Executive Director, All – Action Item

Eric moved to drop comments in red (on draft) and remove lines 3-14. Linda seconded. Vote: Richard, Eric, & Linda in favor. Doug opposed. Samantha abstained. Motion passed.

Linda moved to go back to reviewing the document only where there are proposed changes. Richard seconded. Vote: All in favor. Motion passed.

Eric moved to approve Policy 1.3.1 with grammatical changes / corrections. Linda seconded. Vote: All in favor. Motion passed.

6. Action Item: Policy and Procedures 6.1.8: Check Writing, All – Action Item
Motion 11-010918: Check Writing

7. Action Item: Policy and Procedures 5.1.1: Board of Supervisors Travel and Reimbursement Policy, All – Action Item
Motion 16-010918: Board of Supervisor Travel & Reimbursement

- 47
- 48 8. Action Item: Policy & Procedures 2.1: Establishing Thurston Conservation District Policy and
49 Procedures, All – Action Item
50
- 51 9. Action Item: Policy & Procedures 7.1: Delegation of Authority to Make Policy and Procedure
52 Changes, All – Action Item
53
- 54 10. Action Item: Thurston CD Response to RCO, Sarah Moorehead
55
56
- 57 11. Discussion on December 4th, 2017 TCD Staff Letter to Community, Sarah Moorehead
58 A. December 5th, 2017 Revised Letter to Community
59 B. Acting Executive Director Response
60
- 61 12. Thurston CD Elections Update, Nora White (Elections Supervisor)
62
- 63 13. Action Item: Develop Executive Director Job Description and Recruitment Plan
64
- 65 14. Action Item: Discussion on WSCC November 1st, 2017 Letter re: District Operations and
66 Behavior
67
- 68 15. Action Item: Discussion on WSCC December 20th, 2017 Letter re: Options for Board
69 Governance
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- 71 16. Motion 12-010918: Out of County Travel
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- 74 17. Motion 13-010918: Telecommuting
75
- 76 18. Motion 14-010918: Freeze on Hiring, Bonuses, Step Increases, COLAs, etc.
77
- 78 19. Motion 15-010918: Reduce Full Time Employees to 24 hrs/week
79
- 80 20. Motion 17-010918: No Travel Per Diem Payments Prior to Events
81
- 82 21. Motion 18-010918: Board Approval for Mileage Reimbursement
83
- 84 22. Motion 19-010918: Include Full Names When Using Acronyms
85
- 86 23. Motion 20-010918: Creation of Board Supervisor Training Program
87
- 88 24. Salmon Recovery: WRIA 13 Lead Entity Monthly Meetings

89

90 25. **Adjourn**, All

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92 Respectfully Submitted,

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Eric Johnson, Board Chair

2017



**Board of Supervisors
Monthly Meeting Minutes
Wednesday, November 1, 2017
1:00pm**

Present at Meeting:

Eric Johnson, TCD Board Chair	Samantha Fleischer, TCD Board Auditor
Richard Mankamy, TCD Board	
Amy Franks, TCD Staff	Madeline Goodwin, Public
Steve Hallstrom, GHCD	Joe Hanna, Public
Shana Joy, WSCC	Dean Longrie, WSCC
Ashley McBee, TCD Staff	Sarah Moorehead, Acting Executive Director
Linda Powell, Public	Jeff Swotek, NRCS
James Weatherford, TCD Staff	

Action Items:

1. Sarah will get update on Thurston County's online voting tool
2. Sarah will doodle poll Board on availability for a November meeting
3. Amy F will email Board clarification on Staff reimbursement in October Check Register
4. Richard will communicate with Michelle Fossum to clarify if advised to seek legal counsel for the Board of Supervisors only or for the District as an organization
5. Sarah will email previous TCD RCPP grant proposal to Board

Eric Johnson called the meeting to order at 1:00pm. There was a quorum.

1. Welcome, Introductions, Audio Recording Announcement, and Pledge of Allegiance

- Welcome, Introductions, & Pledge of Allegiance conducted
- Eric announced meeting is audio recorded

2. Public Comment

- Dean: Thinks it is great TCD does the Pledge of Allegiance

3. Agenda Review

- Samantha: Suggested rescheduling interviews, due to not being a full Board and do not have 4th Board Supervisor present to make appropriate decisions about interviews; Unfair to 4th Board Supervisor who is not present; If going forward with interviews, would like to eliminate Agenda Item #7 (Appointment of Candidate); Richard: Unfair to the candidates; Thinks we should move forward to respect their time and effort; Does not want to eliminate Agenda Item #7; Eric: Agrees with Richard and would like to come to mutual agreement on #7; Samantha: Cannot come to mutual agreement without full Board present; Eric: Does not require full Board to make decision; Samantha: Does not feel fair to eliminate a Supervisor from participating in the process; Eric: Duly noted; Already rescheduled twice; In recent Staff position interviews, have lost a candidate due to rescheduling; Need to move forward to be fair to candidates
- Eric: Next Board meeting Date added between Agenda Items #11 & #12

4. Executive Sessions: To Evaluate the Qualifications of a Candidate for Appointment to Elective Office

- Executive Session commenced at 1:09pm for 20 minutes, with Board Supervisors, Shana Joy, and Sarah Moorehead in attendance (Sarah for 5 minutes)

- Board exited Executive Session and returned to public meeting at 1:29pm and announced no decisions were made

5. **Candidate Interviews**, All

A. Linda Powell

1. What would you like to accomplish as a Thurston Conservation District Supervisor?
 - Most excited to see the Thurston County Conservation District CCD headquartered at ... (Audio recording inaudible) with master gardeners, demonstration farms, etc.; Education and inspiration to increase stewardship; Counters urban development impacts
2. Describe any work you have done with agriculture, conservation, and natural resources.
 - Managed her property for 39 years; Forest, orchard, livestock with natural methods of soil building and ... (Audio recording inaudible) on her property ; Master gardener and recycler/composter
3. What kind of autonomy do you have over your calendar? How will you accommodate the needs of Thurston Conservation District, your regular job, and/or your agricultural operation?
 - Very busy with all kinds of things but does have complete control of schedule; As long as has reasonable notice, can make it happen
4. What are the skills you believe you bring to the Thurston Conservation District board and organization?
 - Team player, critical thinking and creative problem solving, sees big picture and details required to achieve it
5. Describe a situation in which you were involved in a conflict and what was your role? What happened, and how did you resolve the conflict?
 - Property manager: Two situations of non-payment of rent; One situation able to maintain productive communication and help individual to come up to standards; Other case, were not open to truthful communications and they were evicted
6. Please share with us one of your strengths and one of your weaknesses.
 - Strength: Readily able to understand both sides of a situation; Weakness: Fear of public speaking
7. Please describe your experience with participation in boards or other governing organizations.
 - None
8. Do you have any questions for us?
 - A lot to learn before questions; Looking over papers - What is a doodle poll? Samantha: Electronic link sent to your email, click on it and choose dates that work for you; Way to schedule meetings

B. Madeline Goodwin

1. What would you like to accomplish as a Thurston Conservation District Supervisor?
 - Background in climate change (CC) adaptation; See Thurston County and rural areas, adapted to climatic changes that are occurring, including fire and drought and be able to continue being productive working lands despite these changes
2. Describe any work you have done with agriculture, conservation, and natural resources.
 - Lived in rural southern Oregon for 8 years; Half of that time working with local orgs on similar issues such as CC adaptation, forest conservation, farming; Working with them on

- 92 CC adaptation and ways to partner to advocate for local action on CC; Includes hunters and
93 fishermen/women/salmon
- 94 3. What kind of autonomy do you have over your calendar? How will you accommodate the needs
95 of Thurston Conservation District, your regular job, and/or your agricultural operation?
- 96 ■ Have a 'regular job'; Part-time; Have 3 hours week that are pre-scheduled to do online
97 teaching; Can alter schedule after spring to work with TCD calendar; Paying job would come
98 first; Would put professional responsibilities as priority over personal life
- 99 4. What are the skills you believe you bring to the Thurston Conservation District board and
100 organization?
- 101 ■ Experience working with people in rural and urban areas on contentious issues; Strong
102 critical thinking and creative problem-solving; Spends most of time doing that; Been
103 involved in policy for multiple years; Written and oral communication skills; Good at finding
104 common ground with people she disagrees with
- 105 5. Describe a situation in which you were involved in a conflict and what was your role? What
106 happened, and how did you resolve the conflict?
- 107 ■ Using broad definition of conflict - Southern Oregon, a lot of people denied CC and she was
108 a CC advocate; More values conflict vs. interpersonal conflict; Able, through listening to
109 their concerns and hearing what and why they believed, and determined actions that were
110 positive for them, rather than directly CC focused; Such as, building renewable energy,
111 conservation practices; Able to bridge gap b/t climate orgs and communities she worked with
- 112 6. Please share with us one of your strengths and one of your weaknesses.
- 113 ■ Strength: Good at taking both sides of an argument; Weaknesses: Unhappy when people treat
114 others as less than people or indicate beliefs that show that; Able to remain professional but
115 not pleased
- 116 7. Please describe your experience with participation in boards or other governing organizations.
- 117 ■ Serve on Lacey Historical Commission; Working on new lacey museum projects, and other
118 events and outreach projects; On Executive Committee for Gifted Homeschoolers Forum and
119 program director for online classes
- 120 8. Do you have any questions for us?
- 121 ■ What are you looking for in a candidate that is not in the written description? Richard:
122 Looking for someone who understands the climate issues and some of things we can do to
123 work together as a team to address conservation issues in community; Samantha: Seeking
124 someone who will bring value to TCD and not just Board; Someone who will allow us all to
125 function as a team, as a whole; Someone who has willingness to listen before they speak; To
126 engage and find solutions to problems; Eric: Someone who can get along with Staff and
127 Board; Be a team player and help get the easement program moving forward

128 C. Joe Hanna

- 129 1. What would you like to accomplish as a Thurston Conservation District Supervisor?
- 130 ■ Would like to work with the Staff and Board to move forward on a lot of the projects that
131 appear to have been stagnant for years; Easements would be one of top priorities because
132 creates opportunity for our ag community to continue keeping those lands in ag; Thurston
133 County Board of County Commissioners (BOCC) is looking for ways to help farmers; TCD
134 having a home/demonstration farm; Tenino property under discussion would be an ideal

- answer; TCD has missed some opportunities with the parcel in Tumwater, along I5; If easement process was in place, parcel would have been paid for; Want to see District move forward and not be stagnant
2. Describe any work you have done with agriculture, conservation, and natural resources.
 - Been on a farm all his life, with exception of military; Runs Dad's farm; Will take over the farm; Currently managing an WAGU 150 momma cow heard; In process of contracting for distribution; Conservation: Brother is the former Director for Environmental Affairs of Starbucks and drilling him (Joe) on their natural resource and farm practices; Conservation values run in family
 3. What kind of autonomy do you have over your calendar? How will you accommodate the needs of Thurston Conservation District, your regular job, and/or your agricultural operation?
 - Calendar is flexible; Works for state; Has excess of 300hrs of sick and vacation time; Supervisor supports being on Board and will adjust schedule to accommodate
 4. What are the skills you believe you bring to the Thurston Conservation District board and organization?
 - Organization skills are great; Thinks outside of the box and between the lines, which is important in any organization; Picks up on things others do not; Example: Raised issue on necessity to have public hearing for Rates & Charges (R&C)
 5. Describe a situation in which you were involved in a conflict and what was your role? What happened, and how did you resolve the conflict?
 - Lead position with state, sat on many panels and always gets asked this question; Linda's short answer is best he ever heard; Training new officer at job and he was not getting it; Discussed with Supervisor, Discussed with him, what improvements he needed to make; Notified he had a time window; No improvement, discussed and gave him opportunity to move on to another job
 6. Please share with us one of your strengths and one of your weaknesses.
 - Strengths: Outside of box thinking and between the line analysis; Good analytical skills; Able to articulate those thoughts is the weakness; Can analyze and jump to conclusion very quickly but struggles to explain process of how he came to that conclusion
 7. Please describe your experience with participation in boards or other governing organizations.
 - Mary Briggs Children's hospital's advisory board for family-centered care; Festival of Trees fundraising and board; St Peter's tree festival organizing committee; Organizing committee for first annual celebrity golf tournament; President of non-profit fighting development from open space to high density apartments; PCO for Thurston Republican Party; Applicant for TC Ag Advisory Committee; Participated as citizen in meetings
 8. Do you have any questions for us?
 - None

6. **Executive Sessions: To Evaluate the Qualifications of a Candidate for Appointment to Elective Office**

- Executive Session commenced at 2:06pm for 20 minutes, with Board Supervisors in attendance
- Board exited Executive Session and returned to public meeting at 2:26pm and announced no decisions were made

177
178 7. **Thank You & Appointment of a Candidate**, All

- 179 ▪ Chair thanked candidates for participation
180 ▪ Chair called for poll of Supervisors choice in candidates; Richard: Making a motion to appoint or
181 appointing a Supervisor? Shana: Making a motion to appoint a Supervisor; Richard: Not his
182 understanding
183 ▪ Samantha: Asked Dean if he could provide clarification; Dean: You have quorum; If two or more
184 agree on one candidate, that is what your motion would indicate; You already know from your
185 executive session which candidate each of you would choose; Move forward with appointment
186

187 **Richard moved to appoint Linda Powell to the TCD Board of Supervisors. Eric seconded. No**
188 **discussion. Vote: All in favor. Motion passed.**
189

190 8. **TCD Board Officer Elections**, All
191

192 **Richard moved to appoint Eric as the TCD Board Chair. Linda seconded. No discussion. Vote:**
193 **Richard & Linda in favor. Samantha opposed. Motion passed.**
194

195 **Eric moved to appoint Linda as TCD Board Vice-Chair. Richard seconded. No discussion. Vote:**
196 **Eric & Richard in favor. Samantha opposed. Motion passed.**
197

198 **Eric moved to appoint Richard as TCD Board Auditor. Linda seconded. Vote: Richard & Linda**
199 **in favor. Samantha opposed. Motion passed. Discussion: Samantha: Uncomfortable with rapid**
200 **change of TCD roster with apparent discussion before Board meeting; Does not believe this item**
201 **that has moved very quickly is reflecting any input or thought from (her)self at all; Currently in**
202 **Auditor position and has been no discussion on asking her to leave that position; Eric: Board is**
203 **voting; Not asking you (Samantha) to leave position; Did not know she anticipated a different**
204 **process; Linda: Is there a customary timeline when Board elects officers; Eric: Yes, and that time**
205 **has passed; Sarah: Board elects positions in May/June after WSCC elections are certified.**
206

- 207 ▪ Sarah: Position descriptions are available in policy
208

209 9. **Executive Session: To Evaluate a Complaint against a Public officer or employee(s)**

- 210 ▪ Executive Session commenced at 2:47pm for 20 minutes, with Board Supervisors and Shana Joy in
211 attendance
212 ▪ Board exited Executive Session and returned to public meeting at 3:02pm and announced and
213 additional 15 minutes were needed
214 ▪ Board exited Executive Session and returned to public meeting at 3:18pm and announced and
215 additional 15 minutes were needed
216 ▪ Board exited Executive Session and returned to public meeting at 3:35pm and announced and
217 additional 10 minutes were needed
218 ▪ Board exited Executive Session and returned to public meeting at 3:46pm and announced and
219 additional 10 minutes were needed
220 ▪ Board exited Executive Session and returned to public meeting at 3:57pm and announced and
221 additional 10 minutes were needed
222 ▪ Board exited Executive Session at 4:06pm and announced no decisions were made
223
224
225

226 **10. Discussion of District Path Foard**

- 227 ▪ Chair requested Rates & Charges update: Sarah – We are moving forward with 11.6.17 (1-2pm)
- 228 TCD Public Hearing; Public will comment on the R&C proposal; Telephone option for
- 229 Supervisors to call in if unable to attend; Followed statute precisely for advertising - Paid to post in
- 230 area newspapers, and required to post notice in 5 locations throughout District; Posted to 17
- 231 locations, Published in e-newsletter and others avenues
- 232 ▪ After Public Hearing; TCD Board of Supervisors will consider action to re-adopt R&C Resolution;
- 233 Should that happen, will immediately submit Resolution to BOCC to request scheduling of BOCC
- 234 Public Hearing and they will consider taking action; BOCC could choose to hold Public Hearing,
- 235 take action, or not take action; Richard: Are they (BOCC) required to hold Public Hearing? Sarah:
- 236 Yes.
- 237 ▪ In conjunction with that, working with cities whose 1947 boundaries were not incorporated into
- 238 District; Have all shown some interest in annexing to join District; Will be working with those
- 239 cities to incorporate by Jan 2018 meeting; Richard: Common for cities to annex? Shana: Becoming
- 240 more common; Dean: When District formed, that boundary as of 1947 is not included; Areas cities
- 241 have expanded to are included; Small subset of city boundary
- 242 ▪ Sarah: Worked with them and their leadership over last year; Process will move forward in tandem
- 243 with Rates & Charges
- 244

245 **11. 2018 TCD Elections Process Discussion**

- 246 ▪ Shana: Coming up on election season; Every spring in first quarter; 1st step to choose a District
- 247 Board meeting where they will approve an election resolution with election details; Richard: By
- 248 end of year? Shana: Do not have to do by end of year, but longer you delay, less cushion in
- 249 timeline if incur any issues
- 250 ▪ Eric: Last election cycle, advertising for elected and appointed started in November, would have
- 251 had to have already had that done? Would have had to have that done, correct? Shana: Can
- 252 advertise that you will have open seats coming up; Eric: Would match advertising to prior years
- 253 process? Shana: Do not have to; Can advertise there is an election upcoming; Eric: Would like to
- 254 start advertising in Nov/Dec; Board consensus; Will advertise general information starting now
- 255 and will get specific as election details decided
- 256 ▪ Sarah: Clarification – Eric asking about advertising in election in general and Shana talking about
- 257 advertising specific election details post-Board due process meeting
- 258 ▪ Shana: Will need to make decisions about who will be election supervisor; Eric: Board or Staff?
- 259 Shana: If it is a Board Member, you are going to have a learning curve; Need to be able to put the
- 260 time into it; Eric: County staff? Shana: No, they would be paid; Dean: Have had old Staff, former
- 261 employees; former WSCC employees; Was someone who understands the process; Linda: Is the
- 262 election supervisor considered to be an appointment? Shana: Yes. Board appoints position
- 263 ▪ Eric: Using online absentee voting program; Had demonstration last year; Sam: Do not know if
- 264 implemented; Sarah will check into it
- 265

266 **AI – Sarah will get update on Thurston County's online voting tool**

267 **AI – Sarah will doodle poll Board on availability for a November meeting**

268

269 **Next Board Meeting Date**

- 270 ▪ Chair would like to meet 11.28; Doug unavailable to poll; Linda will not be in town; Samantha
- 271 unavailable as well; Sarah: At previous Board Meeting, Board combined Nov/December meetings
- 272 into one meeting on December 12th; Eric: Too much on Agenda to cover in one meeting
- 273 ▪ Sarah: Reminder we moved review of Shellfish proposals to December 12th meeting; Participating
- 274 organizations submitting proposals planning to attend on that date

- Board discussed date options; Sarah: Will send doodle poll for November 17th, 20th, & 21st @ 1pm

12. Partner Reports

A. NRCS, Jeff Swotek

- Environmental Quality Incentives Program (EQIP): 2018 has two sign up periods; First deadline is Nov 17th; Second deadline is March 16th; Easement program applications open through February 2nd

B. WSCC, Shana Joy

- Reminder election season coming up; WSCC Policy Initiative delay with Ron's absence; Figuring out how to Long term funding does have committee formed and work is continuing; Handed out letter from WSCC to TCD Board of Supervisors; It is to get things out in open to be addressed by the District; Happy to provide assistance and access to resources; Preparing for WSCC Annual Meeting on November 30th in Kennewick

C. WACD, Steve Hallstrom

- WACD has new Executive Director; Seeking new lobbyist to replace Jim Jesernig; First year finance committee has covered both the PMC and WACD staff and that is coming together well; Attended today to see if anything TCD would like brought to attention of WACD Board; TCD Board did not identify anything to pass forward to WACD Board

13. Continuation of Board Work Sessions Discussion, All

- Shana: Recommends cancelling and rescheduling (if Board so chooses) November 8th Work Session, since Doug is and unable to participate, Samantha is unavailable, and we have a new Supervisor to include (Linda); Shana: Do you want anyone else involved? Samantha: Ray Ledgerwood and Michelle Fossum; Shana: Staff? Eric: Not this time, maybe at next one
- Sarah: Staff provided one hour prior (to Board meeting) work session at a previous meeting to answer questions and be able to move forward with agenda/action items in the Board meetings; Is this something board wants to do moving forward, if that was valuable for folks?: Richard: Yes, valuable. Eric: Valuable, do not know if can make it all the time; Sarah: Optional, does not require quorum because no decisions are made; Linda: Asked when Board meetings are held; Sarah: Typically Board meetings are last Tuesday at 1pm; Eric: Longer agendas leads to moving up time to earlier in day; Richard: Likes moving meetings to 1pm; Effects Eric's work schedule; Let's move forward and will figure it out; Sarah: Will continue to be available; Board consensus to continue holding pre-meeting Work Sessions
- Ashley: WSCC & MRSC advised we have some form of summary minutes or notes from those work sessions, if there is a quorum present

14. Board Meeting Minutes Review, All

A. Review of September 26, 2017 Regular Meeting Minutes Review, All

Line Edits: None; Minutes not reviewed

Samantha moved to approve September 26, 2017 meeting minutes. Richard needs more time to go through these minutes. Eric: Table to next meeting; Samantha: Good example of importance of brief meeting minutes, with electronic recording if needed; If minutes kept to motions and action items, makes for easier approval and limits need to review multiple times. Linda: If Richard had questions, would he review audio recording and then discuss? Samantha: To avoid miscommunication and interpretation issues, brief minutes are easier to approve; If Supervisor want to know details of discussions, can check audio recording. Eric: Board may need to come back to this at a Work Session to determine path forward with minutes.

B. September 26, 2017 Work Session Minutes Review, All

Line Edits: None

Eric: Do minutes provided in packet meet requirements? Ashley: Yes.

Samantha moved to approve September 26, 2017 Work Session Meeting minutes. Richard seconded. No Discussion. Vote: Eric, Sam, & Richard in favor. Linda abstained. Motion passed.

C. October 2, 2017 Special Meeting Minutes Review, All

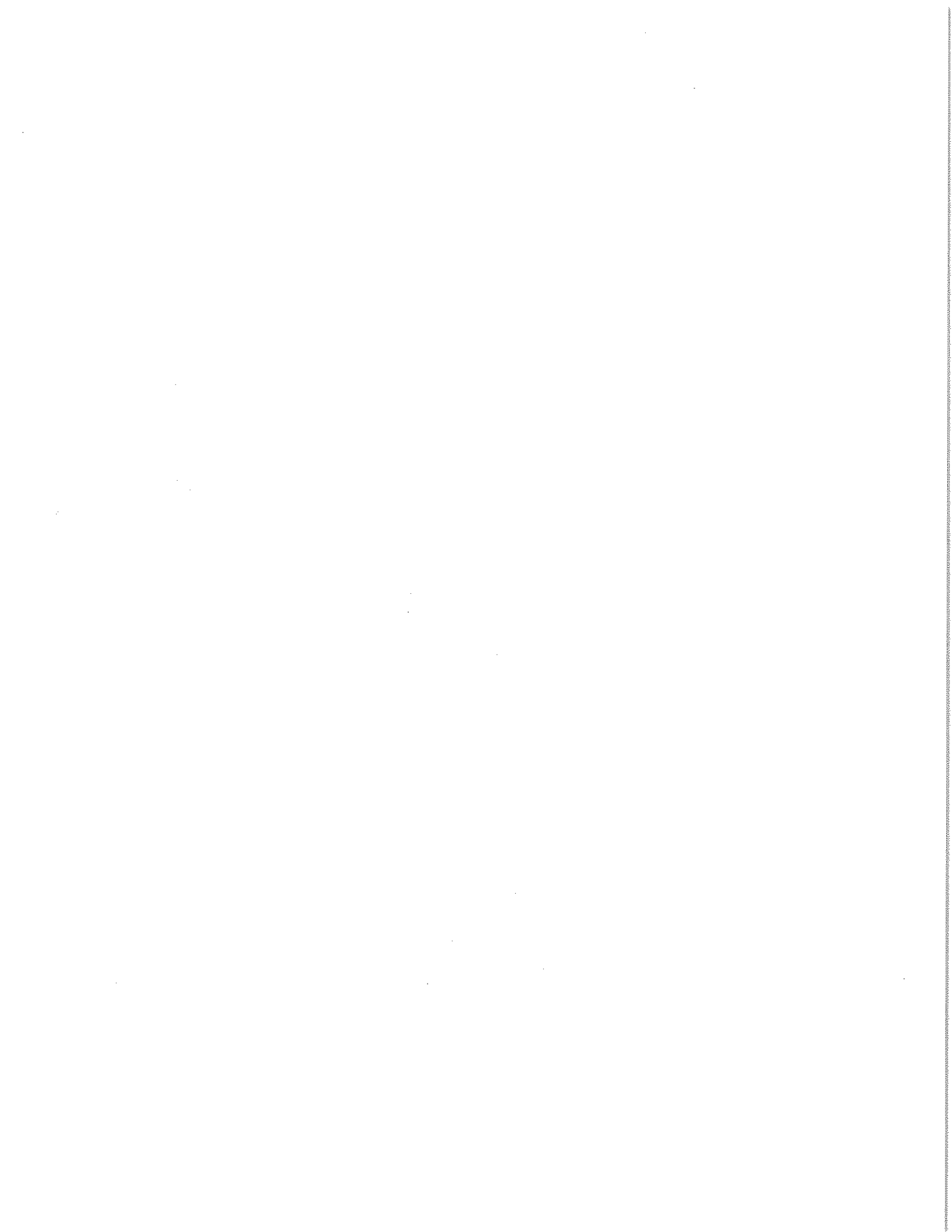
Line Edits:

Samantha moved to approve October 2, 2017 Special Meeting minutes. Richard seconded. No Discussion. Vote: All in favor. Motion passed.

15. Financial Report, Amy Franks

A. Monthly Financial report

- Amy distributed 3rd Quarter payroll reports to Supervisors; Introduced reports and asked if Board had any questions
- Richard: Did not make it to Amy's work session but would like to know more about it (subject not stated); Eric: Can motion to table it
- Eric: Check to Steve Davis – Accounting oversight; Two of his invoices combined because he lost one check from earlier this year; 8 months of work; Eric: Billable by hour? Amy: Yes. Hourly rate
- Chair asked Richard if he had any input: Richard – This is something he would like to see formal training on; Amy F: On the check register? Richard: The whole thing; Do one section at a time, maybe an hour each; Asked if everything looks good and has no idea what it is; Ashley: What specifically are you requesting training on? Richard: The whole thing. Ashley: The financial packet? Samantha: The confidential payroll reports you (Richard) are looking at now are separate, not in conjunction with check register; Need to request more information outside of public meeting; Richard: Yes, That's what I'm (Richard) talking about; Amy: Asking for training on the Payroll Report? Richard: Yes, to have a better understanding of it
- Eric: Check to Enduris – Liability insurance for 12 months; This is different than what was budgeted; Who authorized additional payment?; Sarah: As public entity, do not have option not to have insurance to be legally functioning and operating entity; Not an optional expense; Eric: Who authorized? Sarah: As a regular billable invoice, not a payment that requires authorization; Eric: Still want to know who authorized payment? Amy: Three layers of review & approval: Purchase Order (Sarah), Board Auditor (Samantha), and Steve Davis (Private CPA) for a necessary service; Eric: Not disputing that; Richard: They sent an invoice? Yes. Richard: Auditor approved that to be paid? Samantha: Auditor (she) approved when signed check. Eric asked who authorized payment; was told she would have to get back to him.
- Eric: Check to Amy HW - Does it say in details if that is mileage or per diem because Board has asked it to be labeled and it is not; Amy F will look it up
- Sarah: Coming back to Richard's request for more training related to financials; Seeking specifics from Richard on components he would like to receive more training on so we can follow-up; Linda: Would like to understand as well; Richard: All pieces; Work our way through them; Amy F: Pieces of what? Sarah: Of the monthly financial reports? Richard: Yes; Sarah: Okay, have Payroll Reports and Financial Packet; Want to ensure we collect this information so we can respond
- Eric: Requested follow-up from email from Amy to clarify if Staff payment in check register was for mileage or per diem; Eric: Board decision a couple years ago that all employee expenses



needed to be listed out under mileage or per diem and it is not in here; Amy F: Is split out that way in QuickBooks; Eric: Can we get it in here in the future? Amy: Yes. Will not be in the pages you are reading from but will be in cover sheets for check registers

- Eric: Check to Lift; Amy: Stephanie shared transportation for conference in Northern California
- Chair polled Board; No further questions

B. October Check Register

Eric moved to approve October Check Register, with check#s 19376-19397 totaling \$74529.79, with no voiced checks, pending additional information Chair requested. Samantha seconded. Eric & Samantha in favor. Richard and Linda abstained. Motion passed.

AI – Amy F will email Board clarification on Staff reimbursement in October Check Register

C. 2018 District Operations Budget & Staffing Plan Development

- Amy introduced draft 2018 District Operations Budget and draft 2018 Staffing Plan; Open to questions/feedback; Richard: Starting process now, when does it need to be done?; Amy: Good to go into year with approved budget, so would typically approve in December meeting
- Gathering program & grant budgets from program/grant leads; Will share those with Board via email or in the November packet
- Worked well last year and offered again to hold one-on-one meetings with individual Board Supervisors, to assist in digesting all information in draft budgets
- Eric: Is this page an actual or... Amy F: This is proposed District Operations budget; Includes overhead expenses, rent, office supplies, utilities, administrative Staff salaries - Anything not billed to grants
- Eric: (Line 64) Lodging budget? Amy F: WACD and NACD expenses
- Eric: (Line 65) Travel Mileage: Covers all mileage outside grants? Amy F: Yes. Eric: No funding for ferry trips? Amy F: Not out of R&C budget; When that occurs, it has been applicable/charged to grants
- Eric: Airfare budgeted at \$650? Amy F: For one Supervisor and one Staff to attend NACD annual meeting in 2018 (Nashville); Eric: \$650 for two people? Sarah: Note there is a separate column for Supervisor funding; usually Doug and Kathy attend
- Eric: No Supervisor mileage/meals/per diem/ferry rides/parking fees/airfare as of yet?; Sarah: What's included is NACD and WACD related pieces that we have done in past; Working with board travel sub-committee to establish that policy and inform that budget moving forward
- Eric: (Line 82) Equipment rentals? Amy: Printer and postage meter
- Amy F: Will get grant budgets in from other program managers and then will schedule meetings with Board Supervisors
- Richard: How do we continue putting budget together if we are only going to have one/two more meeting(s) before end of year?; How do we accomplish that? If we have November meeting, can talk about the Grant budgets, will hold one-on-one sessions to go over budgets, and that was enough last year to equip us to approve budget at end of year; Here and available if you want to call or talk about any of this, anytime
- Richard: Capital Budget (CB) update in regards to Draft Operations budget? Amy F: These pieces do not assume Capital funds for beginning of 2018, except for RCO farm pad funds because will be there as soon as CB passed; Not including Capital funds in form of shellfish/non-shellfish cost-share/TA or CREP, which may come through later; Richard: If CB funds come through, would you have to redo budget? Amy: Yes, Would have to amend the budget
- Eric: What does it look like if we do not get R&C? Sarah: Connecting with folks on that; At this point, premature discussion on 'if we don't get R&C' today; Will have clarity in next couple of

weeks to enable a proactive response for next Board meeting; Eric: Hypothetically, if we have Public Hearing meeting on 11.6.17, and have a TCD Board motion by 11.9.17 to approve R&C again, when does BOCC need to approve by, because funds run out on end of December; Sarah: If TCD Board decides to take action on R&C Resolution for 2018 and it does pass, will immediately re-submit proposal to BOCC; They (BOCC) will then schedule BOCC Public Hearing; Eric: That would takes two weeks, you think? Sarah: Would have to work with County Manager on scheduling; BOCC will also make a decision on whether they want to take action or not; We re-submit the proposal and they will inform us re: their timeline; For our R&C process, need to get our information to the Treasurer's office by December 15th, per statute; It is ready to go; FCS working with Treasurer's office and Thurston County, and everything is ready & prepared for them; Can prepare a budget scenario for a future Board meeting, if we know we are not moving forward with R&C for 2018; Too early to tell and do not want to put speculation out there at this time

- Eric: Hopefully will have another November meeting after 11.6.17 meeting and have a better idea of what is going on

16. Legal Services RFQ Discussion

- Sarah introduced; Board has been working with Sarah, WSCC, & MRSC on Legal Services RFP for an attorney or law firm to be present at Board meetings and to advise the District moving forward; Have created a draft and reached point where Board needs to have some discussion re: moving forward and what they would like present in the RFP; Provided most recent draft (with all Board input incorporated), as well as comments Sarah received; Seeking further direction on the RFP
- Eric: Not seeking motion/vote right now, but seeking final comments? Sarah: Up to Board; Eric polled Board for input; Richard: His understanding, attorney advised Board to get their own attorney; It had nothing to do with District or Staff, but strictly for Board, to guide them in their policy; When reviewing RFP, does not say that
- Samantha: Her recollection of what our lawyer advised, to have legal representation to be here on behalf of the District; Not just the Board because the Board and the District are one entity, not two entities
- Eric: Hearing conflict between two people; Need clarification from Michelle/Enduris on her recommendations; Can we email her? Sarah: After Sarah, Eric, & Richard met (can look back at meeting dates) and discussed this and Sarah printed them off hard copies of RFP – Asked that Sarah email latest draft to Michelle and that Richard was going to follow-up with her about that concern specifically, 'Does it need to be an attorney for the Board of Supervisors or for the District, advising the Board of Supervisors?'; Eric: You understood that Richard was going to call her/follow-up with her; Sarah: At that time, that was what you asked; Richard: Was waiting for the copy you were going to send; This is the first he has seen it; Sarah: This is the same draft provided that day and emailed to Michelle as well; Same copy; Eric: To Richard, Want to get in contact with Michelle and get clarification? Richard: Yes.
- Samantha: Need to make sure that when putting out an RFQ or RFP, with regards to using public funds to represent something, need to ensure representation is for District because if asking for public funds to represent Board, need to be responsible for that for ourselves; There is a big difference in requesting public funds on behalf of the entire District versus just on the Board of Supervisors; Huge differentiation; Eric: Requested Richard makes sure it is clarified when he talks with Michelle

AI – Richard will communicate with Michelle Fossum to clarify if advised to seek legal counsel for the Board of Supervisors only or for the District as an organization

471
472 17. **Discussion of WSCC Policy Initiatives**

- 473 ▪ Shana: Comments are currently open through November 17th; Suggests reviewing those; More will
474 come out as work continues on each of those policy issues
475 ▪ Sarah: Was emailed out to Board per Doug's request and included in packet in Doug's notes from
476 area meetings
477

478 18. **Resource Technician Position Hiring Update**

- 479 ▪ Amy F: Concluded first round of interviews; Have doodle poll out to sub-committee to discuss
480 those candidates and decide on who to bring back for interviews; Will be in touch on those dates;
481 Eric: Understanding 3 of 7 sub-committee members were present at last meeting; First meeting
482 Amy HW was not there; 2nd meeting she was; Last meeting, only 3 people there
483 ▪ Sarah: Got great candidates, well qualified folks, and looking forward to second round of
484 interviews and moving forward in process
485

486 19. **TCD Relocation Discussion and Path Forward**

- 487 ▪ Sarah: Item Doug requested because it was standing Agenda Item; Allocated 10 minutes to set
488 goals and path forward for relocation; Priority that has been discussed and Doug has alluded to
489 wanting to share more, as he has been to Area Meetings lately; Does Board want to discuss more
490 or wait for Doug?
491 ▪ Eric polled Board for input; Samantha: One of his (Doug's) notes on this was that we have as a
492 Standing Agenda Item but have not discussed in last 4-5 meetings, so should it continue to be a
493 Standing Agenda Item? Eric: Thinks it is important and should continue to allocate time to discuss
494

495 20. **Working Lands Easement Update**

- 496 ▪ Eric: No new updates? Nothing's happened? Sarah: Has been a little bit of percolating
497 development; Most Staffing capacity has shifted towards budgeting, working with legal services
498 RFP, which has not left much time for continuing to develop the Working Lands component
499 ▪ Sarah: Noted that Richard, Eric, & Sarah met with USFW to discuss organizational priorities and
500 how to work together in future and supporting working lands as a component of that; Put out there
501 that District has interest in pursuing easements
502 ▪ Sarah: Reported in September Acting Director Report that she met with Ryan Mello (Pierce CD) to
503 discuss their RFPP process; Got interesting feedback on moving forward; Happy to discuss when
504 Board ready; Board consensus to wait for future date/time to discuss
505 ▪ Eric: Going on four years with no easements at this time; Would like to see paperwork, possibly
506 pulled from NRCS; When met Staff at USFW, they were looking for a TCD easement program to
507 discuss/work from and we were not able to provide that; Would like to have documentation to set
508 us down that path; Would like Staff work on that and bring back to Board sometime in January
509 ▪ Sarah: Noted in September Acting Director Report, RCPP is broad and collaborative program and
510 might benefit District to do grant writing to increase capacity, both financial resources and Staffing
511 resources in order to have a Program Manager to dedicate time and expertise to this initiative
512 ▪ Eric: We still have money available in the 'Unfunded Needs' we have barely touched; Say we
513 should put Staff time into some documentation we can hand over, after Board review; Sarah: We
514 are running on a lean Staff; Capacity is maxed out; Want to make sure that we do this
515 appropriately and make it successful; Would like to see us have capacity to write more grants,
516 secure more funds to use as match, to get a well-developed program, and then have opportunity to
517 use as leverage to get larger grants
518 ▪ Eric: (to Sarah) Thinking January would not be a good deadline for some kind of paperwork?
519 Sarah: Paperwork meaning what? An enrollment packet? Eric: Yeah; Something; We have nothing

right now; Sarah: What we need are the funds secured to do the easements...Eric: We have Unfunded Initiatives account with \$4,500-5k remaining; We are 4 years in, so by January he would like to see some kind of paperwork that would be a start that we would hand somebody; Board would like to review that possibly; No other Board Supervisors provided input

- Sarah: Sharing that we need funding to actually do the easements; Eric: Let's get the paperwork done first; Can go on NRCS website; They have forms already done; We just need Staff to pull those and bring back to Board after Staff's looked at it, for approval; What do you (Sarah) think? Sarah: Can certainly bring NRCS forms for Board to review and see what they would like to move forward with out of that; Would encourage Board to work together with Staff to create a fully functioning program, with Staffing capacity behind it so we can hit ground running and be able to operate the program; The form is a mechanism but if we do not have funding or Staffing capacity; Eric: It is like, which came first, chicken or egg; Sentinel Lands is \$100 million available for Thurston County but if we have no forms to go forward, how do we get the \$100 million?; Richard: Clarifies – *potential* \$100 million in funding available
- Richard: Meeting with USFW went very well; Happy to have us there because did not know a lot about what the District does; Learned a lot about both organizations; Personally thought it was a very good great meeting and a big step forward for us
- Eric: (to Richard) Didn't a certain NRCS employee speak about how if possibly the District is dropping the ball because there is nothing done yet and they are going to look to outside sources besides the District to push that money too; Make sure you (Ashley) get that on the record; We are here, asking you to do it, you responded, and then we go to meetings, and there is money available; People in the meetings say, 'You guys are dropping the ball. We are not going to give you the money'; Here in this meeting to say we are dropping the ball, so let's work together and get it done; Sarah: Absolutely; And, let's be really clear we have had a lot of changes in the District in the last couple of months; And she is fully and totally supportive of making a Working Lands Easement initiative happen at Thurston CD; Gonna work her hardest to make sure that it is done right; So it is a successful program for District that is sustainable; She is happy to work together with the Board and Staff
- Richard: In another meeting, they said if we cannot get it together, they are already looking for other partners; Sarah: Who is? Richard: NRCS; Sarah: Who is it at NRCS? Richard: In a recent meeting; Sarah: It would help her as a coordinating Staff member for this initiative to be involved and be able to be in contact with these people so that can respond to their requests; Richard: Keep in mind that is what they are saying; There is a lot of money potentially available to us
- Shana: Needs to clarify that NRCS does not award money to Conservation Districts for easements; Eric: They do for RCO stuff; Shana: RCO has nothing to do with NRCS; There is RCPP but you have to apply; It is a competitive process; Eric: Jeff shared the date; Why don't we put an RCPP proposal together? Would like to see the District put an RCPP proposal together, possibly for the Deschutes Watershed
- Samantha: Reiterate what Sarah is saying; There are a lot of changes happening in the District; Asking her to put together a program is great, but very supportive of her wanting to put together the right kind of program; We have had issues with other programs that we have rolled out that have not been fully prepared in the past and she is trying to help us by making sure that it is fully prepared
- Eric: Want to say we have been here for 4 years, not necessarily under her (Sarah's) authority...Samantha: Sarah has not; Eric: We have been here for 4 years and literally have nothing right now
- Sarah: Recognize and hear frustration on that; More than happy to make momentum and progress; Eric: Saying he wants us to have some momentum; Not outrageous to have something to look at by January; Whatever you bring us; Sarah: Absolutely; Thanked Eric for his acknowledgement and

she is committed to supporting the Board; Need to make sure they are fully prepared before it is rolled out; Eric: Knows she is; Let's make the first step in progress
▪ Sarah: 1st: Cannot change past, but excited to work together in the future; 2nd: Excited to hear you (Eric) are interested in the Deschutes watershed because Amy HW prepared a RCPP grant proposal to do working easements in Deschutes Watershed a couple of years ago; That should be an easier thing to resurrect; Eric: It was under fish though, not working lands; Sarah: It was to do both; It was to do working lands easement with a conservation value, which is common with all of them

AI – Sarah will email previous TCD RCPP grant proposal to Board

21. **Adjourn**

Richard moved to adjourn. Linda checked in with Samantha to see if she wanted to continue meeting; Samantha: Just making sure that everyone was aware that do not have to end meeting because Chair is leaving; As Vice-Chair, Linda can take over hosting the meeting; Linda: If we are done, we are done; You (Eric) can finish the meeting because she does not know how to finish the meeting; Linda seconded. No discussion. Motion passed.

Meeting adjourned at approximately 5:45pm.

Respectfully Submitted,

Eric Johnson, Board Chair



**Board of Supervisors
Monthly Meeting Minutes
Tuesday, September 26, 2017
2:00pm**

Present at Meeting:

Eric Johnson, TCD Board Chair	Samantha Fleischer, TCD Board Auditor
Richard Mankamy, TCD Board	Doug Rushton, TCD Board
Robin Buckingham, TCD Staff	Michelle Fossum, Enduris
Amy Franks, TCD Staff	Joe Hanna, Public
Amy Hatch-Winecka, TCD Staff	Mara Healy, TCD Staff
Shana Joy, WSCC	Ashley McBee, TCD Staff
Sarah Moorehead, Acting Executive Director	Linda Powell, Public
Chris Stearns, Associate Supervisor	Nicole Warren, TCD Staff
James Weatherford, TCD Staff	

Action Items:

1. Include TCD Relocation on next regular Board meeting agenda
2. Increase Staff Reports to at least 8 minutes each in future
3. Ashley will review August 21st audio recording to determine who voted on WCS membership
4. Staff will followup with Doug to see if he has any notes on who voted on January check register, in Feb 28th Board Meeting

Eric Johnson called the meeting to order at 2:04pm. There was a quorum.

1. Welcome, Introductions, Audio Recording Announcement, and Pledge of Allegiance

- Welcome, Introductions, & Pledge of Allegiance conducted
- Eric announced meeting being recorded

2. Public Comment

- None

3. Agenda Review

- Samantha: Concerned not enough time for Agenda Items #6,7, & 8; Agenda Item #6: Executive Session extended to 30 minutes; Michelle Fossum: Time allotted for Agenda Items #7 & 8 should be enough, dependent on questions/discussion; Eric: Can run long on those agenda items if needed
- Sarah: Seeking clarification on Delegation of Authority & conflict with Policy #1.1; Would be good to cover before Agenda Item #s13-16; Created Agenda Item #12A: Delegation of Authority Discussion
- Doug: TCD Relocation is standing agenda item but not on agenda; Requires Board decision on whether or not to keep as standing agenda item; Suggests removing as standing item, unless current activity to report; Amy F: Contacted municipal advisor to evaluate financial feasibility; Would need time to followup/update info; Sarah: Relevant to include in next meeting b/c developing 2018 budget and Board can identify priority; Board decision to put on next regular meeting agenda

AI – Include TCD Relocation on next regular Board meeting agenda

4. Partner Reports

- A. NRCS, Jeff Switek**

- Not present; Amy Hendershot joined meeting after Executive Session; Board did not return to Partner Reports

B. WSCC, Shana Joy

- Thurston CD will host March 2018 WSCC meeting; Not large cost to district; Partial funding coverage through implementation grant; Elections Webinar on Friday; Note to Staff: Kathy was election supervisor, someone else will need to take on to get started on time
- No updates on Capital Budget; Delayed roll out of CPDS – No new date for release set; Continue to input projects and will roll over to new system; Area Meetings upcoming
- Sarah: Participated in Elections webinar; Will discuss updates under Agenda Item #9; Preparing email on pertinent updates; Will be on track for 2018 elections

C. NACD/WACD, Doug Rushton

- Updates provided in Board packet
- Provided (unofficial) notes from Puget Sound Caucus meeting
- Hopeful all Supervisors and several Staff will attend Southwest Area Meeting

5. Staff Reports

A. Mara Healy

- As part of flood work in Chehalis Basin, working with Scott Lake community on their flooding issues; 600 houses in tight development in rural area; 1500 humans living there; Hydrology and terrain unique and contributes to flooding; Good area to work as sub-basin has not received a lot of Chehalis Basin flood attention or help; Connected with landowners in flood outreach listening sessions; Big issue is Allyn creek culvert; Fish passage barrier; Surveyed last year by WSFW; Big issue that came out in developing relationship with community is creek overtops road; No road passage for about half of community, sometimes for days; No other paved exit in community for residents or emergency response vehicles and water system is on that side; 2008 County started pilot study of groundwater and flooding; Prelim results but nothing to help community; Community created Scott Lake drainage district board; Founded originally to treat invasive aquatic species in lake; Primarily funded for this purpose and started with this priority; Then began taking on flooding issues as well; Volunteer board est. 2005; Landowners doing all the right things; In 2013, started designs with a CD engineer but lost traction; Have not been able to fold in another engineer; Everyone on board; Modeling, surveying and developing designs this Fall to increase flow, move sediment, and prevent this level of flooding; In addition to severe flooding events, also long-term and reoccurring flooding that waterfront landowners are having to mitigate
- Great learning opportunity for Mara and building relationships with County; Meets a need that has not otherwise been met and will create continued outreach opportunities for TCD
- Richard: Main thing is bigger culverts to move water out? Mara: Yes, culvert clearly undersized for low flow and high flow events; Engineer will survey and model to determine size and structure to best increase outflow
- Doug: Resources for information and potential funding: North Thurston Groundwater Management Area; Three ditch districts around Scott Lake - DOE will have info; DFW/DNR for culvert; County, FEMA & DOT as potential funding sources; Mara: Have money now for prelim designs and will look into these ideas for funding for implementation
- Richard: Age of development? 1962 – 80s; Not much new growth

B. Nicole Warren

- Works a joint position for TCD and WSU extension; Working on characterization project in Deschutes watershed through Extension with Stephen Bramwell; Currently lack data on extent ag is contributing to non-point source (NPS) water quality issues in Deschutes watershed; With finalization of Deschutes TMDL, need to identify and quantify ag impact; Project started in March and still in preliminary phases; Have developed protocol and methodology to review local

studies/data with emphasis on fecal coliform, total nitrogen, and total phosphorus b/c can directly correlate to ag activity; Second part is to develop protocol for gathering data; Presenting to VSP soon; Goals: Identify opportunities and priorities for outreach and quantify potential so we can pursue funding; Objective is intersection between identifying what is going on, on the ground and how to best address natural resource management; First phase is to collect data and create protocol in Reichel sub-basin; Will then apply to basins throughout Deschutes watershed; Working with VSP and Deschutes Advisory Group (and other partners in time) to identify overlap and synergy in data collection needs and funding opportunities; Do not have published data yet; Developing summarized reports; Pointed to handout to show methodology, sources of data, and preliminary results; Attached grant deliverables to further explain objectives; Creates opportunities for partnerships as we figure out what data we collect and how we use it; Chris: Can provide Fecal Coliform water data; Nicole: Currently, utilizing DOH data

- Richard: Big project; Nicole: Yes, chose Reichel partially b/c it is a small basin to pilot in; Developing protocol and determining how to apply to other/larger sub-basins
- Doug: Interested from public funding standpoint – once ag data is collected, ensuring applying funds strategically to the spectrum of actions causing water quality issues; For instance, septic systems and how will their impact be folded in?; Nicole: Really difficult to determine NPS sources; Participating in a project with Thurston County and NPS partnership group on Pollution Identification & Correction (PIC), developing protocol which includes septic and other NPS pollution; Goal of WSU project to bring forth clarity on where and how ag is contributing
- Board decision to increase Staff Reports up to at least 8 minutes in future

AI – Increase Staff Reports to at least 8 minutes each in future

6. Executive Sessions: To Evaluate a Complaint/Charge & Potential Litigation and Performance of a Public Employee

- Executive Session commenced at 2:40pm for 30 minutes, with Board Supervisors, Shana Joy, and Michelle Fossum in attendance
- Board exited Executive Session and returned to public meeting at 3:10pm and announced an additional 15 minutes were needed
- Board exited Executive Session and returned to public meeting at 3:26pm and announced an additional 15 minutes were needed
- Board exited Executive Session and returned to public meeting at 3:42pm and announced an additional 15 minutes were needed
- Board exited Executive Session and returned to public meeting at 3:58pm and announced no decisions were made

Amy Hendershot joined meeting from NRCS

7. Conflict of Interest Report, Michelle Fossum

- Background: July 25th Board Meeting Joe Hanna raised issue of potential conflict of interest arising from Amy HW being Lead Entity Coordinator and Lance Winecka is Executive Director of South Puget Sound Salmon Enhancement Group, which is one organization, along with others, who submits proposals to the Lead Entity for salmon recovery projects; Findings: Lead Entity solicits proposals from organizations, organizations submit proposals, and they are reviewed by a technical committee to evaluate benefit and project feasibility; Then forwarded to a citizens committee, who ranks proposals; Highest ranked proposals sent to Salmon Recovery Funding Board (SRFB) through the Lead Entity, who then decides what projects are funded and the amounts of funding; SRFB made up of 5 voting members appointed by WA State Governor and

confirmed by Senate & five non-voting members; Once funding decisions made, Lead Entity acts as the fiscal agent to “make sure what they have said actually occurs”; Conflict of interest covered in both state law and TCD policies; Under RCW 42.23, municipal officer cannot have a beneficial interest in contract awarded through the officer, but in this case Amy HW is not the person awarding contracts; SRFB decides what contracts are going to be awarded and for how much; With respect to TCD policy, Amy HW does not decide who gets money; Notion of appearance of conflict of interest which is important as well; Important Lead Entity Coordinator does not take any action that influencing or voting in favor of husband’s company’s projects; Worth noting the funding goes to the group, not to her husband directly; Be careful to separate those issues out; Suggests having a separate signatory for those specific contracts

8. Report on Investigation, Michelle Fossum

- Prior Board meeting, letter read to Board that raised various issues; As result, Board hired investigator who interviewed Staff, Board, and others; Goal was fact finding to determine what kind of things had/had not been occurring; Based on findings of those interviews, Michelle gave legal advice to Board; For example, one thing she recommended the Board look at having general legal counsel present at Board meetings; Thinks work is being done in that regard; Also, to look at developing rules of engagement; In her experience, very time you have new Board members, personality of Board changes and those people need to learn to work together; Board taken steps with one meeting with WSCC, and guesses a couple others are scheduled; Expressed she is hopeful

9. Mid-Term Elected Seat Appointments, Eric/Sarah

A. Applicant & Timeline Review

- Candidate application period closed at 5pm yesterday; Received two applications; Board scheduled October 2nd Special Meeting to conduct interviews; Need to delegate someone to conduct reference checks; Richard will conduct reference checks

B. Review of Interview/Reference Check Questions

- Board decision to use interview and reference check questions from last year
- Once Board selects candidate, TCD submits AF2 form to WSCC; WSCC reviews to ensure candidate is eligible
- Shana: Recommends Board clarify request/process to Richard, as he was not present to participate last year; Richard to ask questions on form and fill in answers as provided; Doug: Would like to receive reference checks in advance; Samantha: Can allot time at beginning of Special Meeting for Board to review together if needed

10. Board Meeting Minutes Review, All

(August 21st & August 29th Action Item Report – Informational Only)

A. Review of August 21, 2017 Regular Meeting Minutes Review, All

Line Edits:

August 21 Action Item Report Line 21 - Doug: Not decided by Board; Decision should be made at full Board level; Amy: At request of Eric & Richard created ‘Alternative Budget Revision’ & provided in Board packet; Incorporated Eric & Richard’s feedback; Sarah: Clarified sequence of events; Amy brought sub-committee feedback to full Board at last meeting; Did not receive any Board comments to incorporate or inform making a policy; In check register review meeting, Eric requested alternative projection for budget revision be brought to this meeting, in addition to budget original budget revision; Doug: Samantha & Richard are on sub-committee; Sarah: Direction came out of a meeting to answer Eric & Richard’s questions about check registers; Topic came up and they requested Amy create additional cost projections; Can rephrase Action Item update to state this

is another version being brought to the Board and being incorporated into final draft; Joe: Action Item reports not posted on website

253-259 If Richard had exited meeting, how did Richard vote; Check tape

AI – Ashley will review August 21st audio recording to determine who voted on WCS membership

Samantha moved to approve August 21, 2017 meeting minutes, pending verification of voting of WCS membership and Richard's exit time. Discussion: Doug: Process is painful. Vote: All in favor. Motion passed.

B. August 29, 2017 Board Meeting Minutes Review, All

Line Edits: Remove Doug from attendance list; Word search his name

February Meeting minutes review followup – Samantha: Did not have any notes on Feb 28th meeting that pertained to question; Does not have any notes that refer to check register motion; Did Board connect with Doug? No, Will do offline

AI – Staff will followup with Doug to see if he has any notes on who voted on January check register, in Feb 28th Board Meeting

Samantha moved to approve August 29, 2017 meeting minutes, as amended. Richard seconded. No Discussion. Vote: Richard & Samantha in favor. Doug abstained. Motion passed.

C. September 5, 2017 Special Meeting Minutes Review, All

Line Edits:

Doug moved to approve September 5, 2017 Special Meeting minutes. Samantha seconded. No Discussion. Vote: All in favor. Motion passed.

11. Financial Reports, Amy Franks

A. Monthly Financial Report

- Bank Statements/Reconciliations: No Board questions; Doug: Anything stand out? Amy: No; Amy reviewed financial statements in lieu of a written report; Eric: What are 'Other' expenses? Anything other than supplies; Includes mileage; Grants that don't allow overhead; Anything other than supplies or salaries

B. CREP Funding Addendum

- Received funding for maintenance and staff time for currently active 4 projects

Doug moved to authorize Chair to sign CREP addendum for \$9,955.00. Samantha seconded. Discussion: Richard: Is all the money coming from the commission? Amy: Yes. Vote: All in favor. Motion passed.

C. July Check Register

Questions:

- None

Doug moved to approve the July 2017 check register for checks #s 19269-19309 totaling \$107,412.53; Voided check #19294 for \$585.60. Richard seconded. No discussion Vote: All in favor. Motion passed.

D. August Check Register

Questions:

- None

Doug moved to approve the August 2017 check register for checks #s19311-19329 totaling \$73,882.87; No voided checks. Richard seconded. No Discussion. Vote: All in favor. Motion passed.

E. September Check Register

Questions:

- None

Doug moved to approve the September 2017 check register for checks #s19351-19375 totaling \$90,314.34; No voided checks. Richard seconded. No Discussion. Vote: All in favor. Motion passed.

F. Mid-Year Budget Update

- Amy presented mid-year budget update; Includes 'Alternative Budget' which incorporates additional funds for Board travel expenses
- Budget Update: Lack of capital budget (CB) has large impact; Includes FCS consultant fees incorporated after Board decision to pursue rates & charges (not in 2017 budget); Also events such as Kathy's leave - other Staff working on her tasks moves some costs from grants and onto assessment funding; Doug: Do we have a plan for not getting a CB?; Amy: Not planning for it for rest of 2017
- Eric: #11; Going to use WSCC for new manure spreader?; No longer realistic b/t now and end of December
- Board Travel – 'Alternative Budget': Revised with addition of a Board Travel budget; Funding dependent on - No manure spreader; No funds going into cash reserves or other financing uses (line 99) – money set aside for easements, re-branding; These funds are not depleted but can't spend on it for next three months
- Budget update: Positive \$1,974 due to income from smaller grants; Adjustments would come from Assessment; Negative budget could be controlled with cash flow control
- Budget for Board Travel includes backlog of reimbursements that were submitted but not yet approved; Shana: Have not changed policy; So cannot adopt alternative budget; Fix policy and then update budget for travel reimbursement; Eric: Policy is that Supervisors can be reimbursed for all expenses; Shana: That's the statute; Need to establish a TCD policy; Can say whatever you want in policy; Recommend not looking at 3rd column like Board is approving today b/c not ready; Sam: Mid-year budget revision, not approval; Goal today is to see where we are at vs. where we predicted where we would be
- Doug: Need to be flexible/adaptable for no CB after December
- Samantha: As Shana said, sub-committee needs to reconvene and establish a policy before we make an amendment to already approved budget
- Shana: Revenue at top does not reflect full implementation grant; Only reflects District operational budget; Amy: That is in overhead; Sarah: Covered in original budget revision

- Doug: Doug's airfare for NACD last year, and used personal funds; Amy: Budgeted \$900 b/c 3 Supervisors were going to go; Sarah: Actual cost included b/c not anticipating any more airfare through December
- Amy: Suggestion for Board to absorb analysis/budget revision; Starting 2018 budget in October; Keep trends in mind as we work on 2018 budget to allow more clarity
- Doug: Suggests generic scenarios for what to do with delay of CB (In Jan, In Feb, etc.); Shana: Lots of scenarios being used by other CDs; Largely reduced Staff hours

G. Travel Reimbursement

- Travel budget expended earlier this year; Received several requests without any budgeted funds to reimburse
- Eric: WADE & WACD – Lodging and sign up included in original budget; Mileage not covered; Doug: Could be addressed by taking a company vehicle
- Sarah: Seeking direction on how to address outstanding and how moving forward
- Samantha: Need to hold reimbursements until we have a policy; Doug: Unless there is an outside funding source that will cover it

#12A: Delegation of Authority Discussion

- Sarah: July change on Policy section #1.1 stated corporate powers were returned to Board. Administrative powers remain with Executive Director (ED), and ED works at direction of Board
- Clarity has been requested several times on what roles and responsibilities the ED or Acting Director (AD) has; Particularly, has stalled progress on several projects to allow contracts to come to Board for approval, as ED or AD cannot sign any contracts under the new #1.1 policy; Existing policy (#1.3) authorizes ED to authorize contracts below \$30k; Policies in conflict with each other and seeking Board direction to clarify process/delegation/policy conflicts
- Richard: Board advised and attempting to engage local attorney to help redesign policy; Samantha: Understanding Enduris recommendation was legal representation for attending meetings; Richard: Suggested by Michelle to do this; Doug: Not what he heard; Eric: Need to put thought into this
- Sarah: Which policy do we operate under if they are in conflict? Doug: Sarah recommendation? Sarah: Continue with existing structure before policy #1.1 change; If Board would like to revisit delegation of authority policy, and then make amendment as a whole and when adopted into policy, be clear and consistent among policies
- Amy: Under FMLA, change in job and/or authority should not occur when Kathy is absent
- Sarah: As Staff, requesting what operating parameters are in this position; Doug requested Shana recommendation; Shana: Policy #1.3 is clear in what Sarah can do; Policy #1.1. is apparently meaningless; Makes no sense to Staff trying to implement day-to-day
- Samantha: Has concern with Sarah not able to sign things right now; Especially considering fact that we don't have CB funding; Potential to lose contracts reflects negatively on us on Board;
- Amy: Changing anything that ED used to do that will be different when she comes back; Under FMLA, Board has granted her a protected leave so position is supposed to be the same when she returns; Doug: Good point; Shana: Valid question for Michelle; Shana: Sarah having a hard time responding timely to things on her desk; Too many Board meetings inhibits Board; Inhibiting business looks bad on TCD in community
- Doug: Suggests board consensus to operate under policy #1.3, while evaluating/comparing the two policies and not making any changes effecting ED
- Shana: Recommends checking with Michelle
- Doug: Board needs to consider additional compensation to interim ED commensurate with level of duties; Not asking for action but reflections

- 341 ▪ Joe: Question to Sarah- line 321 – is that the only section we have issue with?; Sarah: That is the
- 342 most present contradiction that is causing problems in short-term AD position; Likes that policy
- 343 #1.3 is well thought out and provides specific set of guidelines; Causing confusion and contract
- 344 delay
- 345 ▪ Eric: Not do anything until attorney reviews
- 346 ▪ Sarah: Happy to work under whatever parameters are set; Conflicting direction making it hard to
- 347 move forward; Doug: Important for Board to grant authority to access funding; Sarah: Grants are
- 348 closing out, plantings ending, finishing last of deliverables; Lack of process/clarity negatively
- 349 effecting implementation
- 350 ▪ Eric: Would like to go to outside legal counsel; Said we would do that; Samantha: Didn't we say if
- 351 Michelle wasn't available; Eric: Not his recollection; Shana: Without making any permanent
- 352 changes to current Policy #1.3, can Board pull out lines 321-331 and motion as Board that AD can
- 353 act under those parameters until Kathy returns?; If not comfortable with everything in policy #1.3,
- 354 would that help? Temporary measure to get through until legal counsel and Kathy's return; Shana:
- 355 Can put question to Ron, just won't be official legal advice
- 356 ▪ Richard: Ask Michelle; Get a local attorney set up; Keep policy same as it was yesterday
- 357 ▪ Sarah: If that is case, that's fine; Needs clarity on what those parameters are
- 358 ▪ Eric: Tough situation; Do not want to change without legal review; Richard: Cannot make decision
- 359 today; Doug: Did you have legal counsel when you changed Policy #1.1? Question unanswered
- 360 ▪ Samantha: While waiting for legal counsel, still have immediate issue of signing of contracts; Can
- 361 have special meetings to address them but may not have quorum; Will be best interest to give
- 362 Sarah authority for lines 321 – 331 that allow to sign contracts in interim
- 363 ▪ Eric: What about having two supervisors to sign also? Doug: Have had trouble getting meeting
- 364 quorum or two Supervisors in the past; Samantha: Does not see any issue with allowing Sarah to
- 365 sign for under \$30k; Richard: Do we have contracts to sign right now? Samantha: There are four in
- 366 this packet and what happens when we get more and cannot sign them until October board
- 367 meeting?; Have to look at operations of district; Doug: 6-7 weeks until Kathy returns; Eric:
- 368 Available to meet every Thursday; Richard available every Thursday as well; Shana: If you do
- 369 that, two would make quorum; Richard & Eric: Can do teleconference; Sam: May not be able to
- 370 get a quorum
- 371

372 **Doug moved to authorize under Policy #1.3, the Interim ED fully function as per direction in lines**
 373 **321-331 until permanent ED returns. If needed, to be reevaluated on November 25th. Samantha**
 374 **seconds. Doug & Samantha in favor. Richard & Eric opposed. Motion failed.**
 375

- 376 ▪ Sarah: Still leaves us open to confusion and conflict and potentially dangerous situation to be in as
- 377 an organization, where we do not have clear expectations on this position; Makes it challenging to
- 378 function without clear guidelines; If moving forward that all contracts signed by Board, could have
- 379 clear process; Eric: Meeting on Monday, see if we can have legal representation; Sarah: Tight
- 380 timeline to collaboratively generate a RFQ
- 381

382 **Doug exited meeting at 5:46pm**
 383

384 **12. Resolution #08-2017: Cost Share Rate of Reimbursement, Sarah Moorehead**

- 385 ▪ Sarah reviewed history and context for iterations of cost share policy
- 386 ▪ Eric: Recommendation? Sarah: Setting rate is up to Board; Merit to less funding, for accountability
- 387 but increasing funding would increase access for landowners
- 388 ▪ Richard: Robin? Robin: See benefit for all reasons Sarah laid out; Good outreach tool; In future,
- 389 more nuance in cost share rate to reflect priority in practices; Overall, 85% is good

Richard: Like for them to have some investment in it; Eric: Thinking increase for water quality or nutrient management; Would want to talk it over more to see what other folks are doing

Richard moved to approve Resolution #08-2017: Cost Share Rate of Reimbursement, with implementation percentage at 85% and education at 90%. Eric seconded. No discussion. Vote: All in favor. Motion passed.

13. Flow-Through Farm Pads for Floodwater Protection. RCO #16-2805C Amendment, Sarah

- Sarah provided context; Grant through RCO; Capital funded project, with lack of CB funds.. Eric: Do we have any say in this? Sarah: No.; Eric: We have to sign or we have to take it? Sarah: Mostly that Board signing that we have received this amendment to our original award; No funding to fill award at this time; Samantha: Basically, same as signing WRIA 13 amendment

Samantha moved to approve flow through farm pads for floodwater protection, RCO #16-2805C amendment. Richard seconded. No discussion. Vote: All in favor. Motion passed.

14. Professional Services Contract Re: NEP Grant, Robin Buckingham

- Sarah provided context; Fencing project for \$4500
- Robin: Landowner in Spurgeon Creek; NEP funding; Funding for fencing along creek with fall planting

Richard moved to approve professional services contract for NEP project. Samantha seconded. Discussion: Shana: Item 4b - Last sentence, funding sequence backwards; Samantha: Friendly amendment: Motion approve with 4B correction on payment sequence. Richard seconded amendment. Vote: All in favor. Motion passed.

15. Shellfish Protection District Cost-Share Agreement, Robin Buckingham

- Robin provided context; Access control fencing for sacrifice area, armor around watering facilities, and runoff control structures; Eric: What is cost share rate for fence? Robin: NRCS payment rate for heavy use area fencing; Payment issued on receipt so this is estimated cost

Samantha moved to approve Shellfish Cost Share Assistance Application agreement for Wendy Stevens. Richard seconded. No discussion. Vote: All in favor. Motion passed.

16. MOU: South Puget Sound Salmon Enhancement Group RE: Eld Inlet Planting Project Contract, Sarah Moorehead

- Sarah began providing context; Partner project with SPSSEG..
- Eric: Wants to adjourn and revisit at Monday's special meeting
- Sarah requested Board consideration of contract now, as grant is ending very soon and really time sensitive; Eric: Can include in Monday's meeting

Eric exited meeting at 6:07pm.

- Meeting concluded due to lack of quorum

17. Resource Technician Position Subcommittee Update, Sarah Moorehead

18. System of Rates & Charges Update, Sarah Moorehead

439 19. Easement & RCPP Update, Sarah Moorehead

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441 20. Review WACD Resolutions, All

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443 21. Roundtable & Adjourn

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445 Respectfully Submitted,

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Eric Johnson, Board Chair



Board of Supervisors
Work Session Minutes
Tuesday, September 26, 2017
1:00pm

Present at Meeting:

Eric Johnson, TCD Board Chair
Richard Mankamy, TCD Board
Amy Franks, TCD Staff

Samantha Fleischner, TCD Board Auditor
Doug Rushton, TCD Vice Chair
Sarah Moorehead, Acting Executive Director

Action Items:

None

Eric Johnson called the meeting to order at 1:00pm.

1. Welcome & Introductions

- Welcome & Introductions conducted
- Meeting not recorded

2. Agenda Review

- No edits/comments

3. Review September 26th Regular Board Meeting Packet, All

- Supervisors & Staff reviewed agenda items to allow questions/discussions prior to Regular Board meeting
- No formal Board action was taken

Respectfully Submitted,

Eric Johnson, Board Chair

