

**POINT ROBERTS WATER DISTRICT NO. 4  
79 TYEE DRIVE, SUITE 4  
POINT ROBERTS, WA 98281**

**RESOLUTION NO. 608**

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF POINT ROBERTS WATER DISTRICT NO. 4, WHATCOM COUNTY, WASHINGTON, RESCINDING RESOLUTIONS NOS. 591 AND 597 RELATING TO THE ISSUANCE OF WATER AVAILABILITY NOTIFICATIONS THROUGH A WATER ALLOCATION PROCESS; AND ESTABLISHING POLICIES AND PROCEDURES RELATING TO THE ISSUANCE OF WATER AVAILABILITY NOTIFICATIONS AND ASSOCIATED WATER DEVELOPER EXTENSION AGREEMENTS BY THE DISTRICT.**

**WHEREAS**, Whatcom County ("County") requires parties undertaking certain land use actions such as the subdivision of, development of and construction upon real property to obtain water availability notifications from a public purveyor of such utility services as a condition of the County's consideration and approval of various permits and approvals relating to such land use actions; and

**WHEREAS**, Point Roberts Water District No. 4 ("District"), as a purveyor of water service, receives requests for water service and requests to certify to Whatcom County the availability of water utility service for certain land use actions; and

**WHEREAS**, the District allocates water supply to certain properties identified by the District through service applications, previously approved/issued Water Availability Notifications, Developer Extension Agreements and other service agreements; and

**WHEREAS**, the District experienced significant growth during the last five years and imposed a moratorium on the issuance of additional connections to the District's water system and the issuance of Water Availability Notifications by the adoption of Resolution No. 573 on July 20, 2005, because its ability to provide water supply under its long-term wholesale water supply agreement ("Water Supply Agreement") with the Greater Vancouver Regional District ("GVRD") is limited to 3,182.2 cubic meters per day and the State of Washington Department of Health ("DOH") previously limited the number of connections the District may have to its water system to 2,212 equivalent residential units ("ERU") based on the District's water system and the transmission and treatment water system located in Canada providing such water supply; and

**WHEREAS**, the District by the adoption of additional resolutions thereafter continued and extended such moratorium; and,

**WHEREAS**, by the adoption of Resolution No. 591 on July 20, 2007, the District rescinded the moratorium and established policies and procedures relating to the issuance of Water Availability Notifications through periodic water allocations (“Water Allocations”) and established a reserve requirement of 12 ERUs (the “Reserve Water ERUs”) prior to the Water Allocation held on September 10, 2007; and

**WHEREAS**, RCW 57.16.010 authorizes and requires the District to adopt a general comprehensive water system plan and state law and administrative regulation, including WAC 246-290-100, require that the District's comprehensive water system plan be updated periodically; and the District Board of Commissioners previously approved an updated and revised comprehensive water system plan entitled "Point Roberts Water District No. 4 Water System Plan" dated March 8, 2007 ("Comprehensive Plan") which was prepared by Hammond Collier Wade Livingstone, the District's consulting engineers ("Consulting Engineer") by the adoption of Resolution No. 586 on March 20, 2007; and

**WHEREAS**, the Comprehensive Plan was approved and adopted by the District Board of Commissioners subject to the approval of the Comprehensive Plan by Whatcom County, the Washington State Department of Health ("DOH") and other public agencies with jurisdiction as provided and required by law; and

**WHEREAS**, DOH thereafter approved the Comprehensive Plan by letter dated July 28, 2008 and approved the District's water system for 2,953 equivalent residential units ("ERUs"); and the Whatcom County Council also approved the Comprehensive Plan as approved by DOH by the adoption of Resolution No. 2008-064 on September 23, 2008; and

**WHEREAS**, the District Board of Commissioners by Resolution No. 607 adopted on October 14<sup>th</sup>, 2008, readopted and reapproved the Comprehensive Plan as approved by DOH, Whatcom County and other public agencies with jurisdiction, and the District now has 741 additional ERUs available for connection to and service from the District's water system; and

**WHEREAS**, the District Board of Commissioners finds that the infrastructure is in place to distribute the additional water supply to District customers in compliance with local, state and federal water quality regulations; now therefore,

**BE IT RESOLVED** by the Board of Commissioners of Point Roberts Water District No. 4, Whatcom County, Washington, as follows:

1. Resolution No. 591, as amended by Resolution No. 597, is hereby rescinded and the use of the periodic Water Allocations to identify and determine parties that will have an opportunity to have water service allocated through the issuance of Water Availability

Notifications and/or the approval of water service requests is hereby terminated.

2. The Reserve Water ERUs are hereby released, and all District water supply of approximately 770 ERUs as of the date of this Resolution shall be available for new water service requests and requests for Water Availability Notifications.
3. Water supply shall be made available to parties applying to the District for water service on the terms and conditions set forth in and consistent with all other applicable District rules, regulations, policies and procedures, including the Comprehensive Plan; and for water service to be considered allocated to an Applicant by the issuance of a Water Availability Notification or provision of water service to an Applicant, the Applicant shall comply with all District policies and procedures for such actions.
4. The administrative process as set forth on **Exhibit "A"** attached hereto and incorporated herein by this reference for applying for water service from the District and for the issuance of Water Availability Notifications by the District, and for entering into District water developer extension agreements, is hereby approved and adopted.
5. An application in the form attached hereto as **Exhibit "B"** and incorporated herein by this reference for a Water Availability Notification and any associated water developer extension agreement is hereby approved and adopted.
6. Standard conditions to Water Availability Notifications attached hereto as **Exhibits "C"** and **"D"** and incorporated herein by this reference, imposing additional terms and conditions thereon for applications for water service requiring either (a) a water developer extension agreement, or (b) not requiring a water developer extension agreement are hereby approved.
7. Water Availability Notifications shall be issued by the District on the following terms and conditions:
  - a. Parties desiring such Water Availability Notifications shall be required to pay a non-refundable administrative fee to the District in the amount of \$250 per availability notification, together with a charge of \$500 per ERU requested by such party to be credited against the total Water General Facility Connection Charges owing the District relating to the notification as a precondition to its issuance by the District;

- b. Any Availability Notification issued by the District requiring a developer extension agreement as provided herein relating to Whatcom County's consideration and approval of various permits and approvals relating to land use actions/development proposals shall expire, be null and void, and have no further validity and effect if the party receiving the notification fails to apply for the designated land use approval/development proposal to Whatcom County within one (1) year of the issuance of such notification by the District.
- c. Any party applying to the District for the issuance of a water availability notification for any land use action/development proposal requiring Whatcom County approval and/or the issuance of permits relating to such land use action/development proposal requiring (i) the extension of the District's water system, (ii) the subdivision of property, and/or (iii) as otherwise required by the District, shall also be required to enter into a water developer extension agreement with the District as a condition of the issuance of any such water availability notification. When the land use action/development proposal receives its first County approval for the land use process/procedure for which the Availability Notification was issued, or when the extension design phase of the project for the water extension begins, whichever is sooner, the remaining General Facility Connection Charge shall be paid by the applicant to the District; provided that if the General Facility Connection Charge is revised by District resolution after the water developer extension agreement has been entered into and before the water extension improvements have been granted final acceptance by the District for ownership, the General Facility Connection Charge in effect at the time of final acceptance shall apply and shall be paid by the applicant to the District. The resolution establishing the General Facility Connection Charge shall be available at the District office.
- d. In the event any party receiving a notification as referenced in Paragraph 7(b) above fails to apply for the designated land use approval to Whatcom County within one year of the issuance of the notification and the notification is thereafter invalidated as referenced in Paragraph 7(b) above, such party shall only be entitled to a refund of \$250.00 of the charge of \$500.00 per ERU paid to the District for the notification; provided, however, in the event the District expended all or a portion of the \$500.00 per ERU in an amount greater than \$250.00 per ERU, the party shall only be entitled to receive that portion of the charge paid not expended by the District up to a maximum refund of \$250.00 per ERU.

e Any party applying to the District for the issuance of a water availability notification for a single tax lot which (i) is not proposed by the party to be subdivided, (ii) only requires the water availability notification for water service for only one equivalent residential unit, and (iii) does not require extension of the District's water system to serve the real property shall not be required to enter into a developer extension agreement with the District as a condition of the issuance of a water availability notification. Any Availability Notification issued by the District as provided in this subsection relating to Whatcom County's consideration and approval of various permits and approvals relating to land use actions/development proposals such as a building permit application shall expire, be null and void, and have no further validity and effect if the party receiving the notification fails to apply for the designated land use approval/development proposal to Whatcom County within one (1) year of the issuance of such notification by the District. When the Availability Notification has been accepted by the County as part of a land use application, such as a building permit application, the Notification shall remain valid with the land use application. The party or applicant shall be required to pay, within thirty (30) days of the County approval of the land use application, all required District fees and charges, including but not limited to, water service application, meter installation and all Water General Facility Connection Charges owing relating to the Availability Notification; provided that if the General Facility Connection Charge is revised by District resolution after the Availability Notification is issued by the District and before the party or applicant is required to pay such General Facility Connection Charge to the District as provided in this subsection, the revised General Facility Connection Charge shall apply and the applicant shall pay such revised charge to the District. The resolution establishing the General Facility Connection Charge shall be available at the District office.

8. The policies and procedures set forth in this resolution shall be effective October 17th, 2008 and shall supersede and modify all prior District resolutions, policies and procedures to the extent such resolutions, policies and procedures are inconsistent with this resolution.

**ADOPTED** at a Special Open Public Meeting of the Board of Commissioners of Point Roberts Water District No. 4, Whatcom County, Washington, held on the 17th day of October, 2008.

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William H. Meursing, Secretary

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Scott Hackleman, Commissioner

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N. Madeleine Anderson, Chairperson