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Mission Statement: Meeting the challenge of protecting the environment and providing quality sewer service to the community.

MINUTES OF SPECIAL MEETING BOARD OF COMMISSIONERS

**August 28, 2018
Utility Committee**

Attendees: Commissioners Dan Lorentzen, Mariah Low and Kevin Kosche; Administration Manager Tonya Christoffersen, Collections Manager Johnathan Dix and Tara Bighouse. District Attorney Brad Cattle, District Engineers Barry Baker, G&O.

Guests from the City of Lake Stevens: Councilmembers Gary Petershagen and Marcus Tageant, Mayor John Spencer, City Administrator Gene Brazel, Public Works Director Eric Durpos and Kathy Pugh, City's Attorney Grant Weed

1. **Called to Order** at 3:57 PM by Commissioner Kosche. Commissioner Kosche moved into the meeting agenda item "Utility Committee Meeting". John Spencer moved to excuse Kim Daughtry, Gary Petershagen seconded the Motion. On vote the Motion passed.
2. **Utility Committee Meeting** – The Committee discussed mutual projects and planning for the Lake Stevens UGA and study areas.
 - A. **Approval of Meeting Minutes of May 22, 2018** – John Spencer moved to approve the May 22, 2018 minutes. Kevin Kosche seconded the Motion. On vote the Motion passed.
 - B. **Revisit Sewer Unification Agreement and Role of Sewer Utility Committee** – Gene Brazel explained he and Tonya Christoffersen have had a few discussions on this. He believes this is a good time to do a reset. Article 7 of the ILA is the focus and how the City should be a part of the decisions. Brad Cattle had a discussion with Chris Knapp, the District's former Attorney, about what Article 7 means. He explained the context then and now. Brad noted the City and District are not currently working as a normal Sewer and City agreement. It's a relationship where there is not a full assumption, rather a hybrid causing the Utility Committee to be born. It's in that context on how the Utility Committee can be used, not however how it has been used. Brad noted the language calls for a committee that is comprised of equal power with the three District Commissioners and three Councilmembers to create the quorum. The Committee is intended to give oversight and recommendations for the unified sewer system. What this indicates is the committee is to provide direction to how the unified sewer system is managed and that is step 1. Until step 2 is accomplished, there is a timeline established in the agreement, however can be adjusted and amended to the agreement. There are provisions that talk about the Utility Committee has a mandated frequency and it has chosen to meet more frequently. His understanding in Article 7 the Sewer Utility Committee is to look at the oversight, planning and coordination of the unified system. It is a significant role in the unification. Brad stated

it is a significant part and depends on how much energy is put into utilizing the committee. He would like to open it up for discussion and he and Grant Weed can give feedback. Kevin Kosche asked what the actual issue is and why it's being brought up. Gene explained the reason it's being brought to the committee is because it's the place that items should be discussed, such as the Old Treatment plant property and the input from the City on how that should be utilized as well as easement decisions currently made without City input. Kevin suggested having items on the agenda that pertain to the current issues. Kevin added how he reads the agreement, its equal and not one sided. John Spencer agreed and suggested the District work on putting items on the agenda and added there are items that could be added that the City knows nothing about. John continued there is a responsibility on the Cities part to bring items forward as well. John Spencer asked on section 7.5 and how it plays a role within the committee and how it fits in section 7. Brad Cattle stated his concern on how much of the agenda would grown in detail if we concentrate on the minutia. He believes there is a need for detail on the City side, he suggests a way to filter before it gets to the table, so meetings continue to move efficiently. There are agreements that don't need to be discussed in depth and explore how much detail is needed, there are many items this committee can give input on. Brad gave his opinion on sections 7, it gives a reference on section 7.3 and indicated that this board, a committee, has the opportunity to take some actions as well as recommendations. When this committee takes actions, the District would be subject to ratifying the actions. Grant Weed commented he believes the verbiage in 7.3 contradicts 7.5. as 7.3 states the committee can make recommendations and 7.5 states actions brought under 7.3 must be ratified by the District. He believes you also have to read it in the very first paragraph in 7.1, which is very broad on what recommendations can be made on. Grant stated he does not believe it strips the District Board of making all decisions. John Spencer asked in the context of this agreement that the District shall ratify the action given by this committee? He asked about the committees vote of 4 in favor and 2 against, would it mean the District must act. He believes this was created to give structure. He suspects there are items that would not be brought through the committee, this is a hybrid agreement that would allow the City and District to work together to make decision. Kevin asked again what are we trying to solve? He asks what is the previous challenge or issue that needs to be solved or looking forward will there be things that will trip us up. Marcus added he believes the City should have input on rates and capital improvements and whether or not they fit with the City's plan, because the District is evolving and the City has gone through a lot of change. Kevin noted that makes sense, he asked to look back at the last few items on the District agenda and asked for what the City would want input on. The City wants input on the DEAs, the bio solids removal; Kevin noted these are helpful examples. Tonya asked about section 4.2 an what the District is solely responsible for. Brad Cattle responded subject to section 7 and the hybrid of the Utility Committee with the District managing the day to day operations. He believes the City needs to decide to what extent they want involvement and screen the list to discuss more specific items to deal with. The Utility Committee's time is valuable and he doesn't believe it was comprised to focus on day to day matter but to deal with the more comprehensive plan and the kinds of items that two entities working together that they need to manage. Brad understands the City is frustrated. Grant added there are two entities that need trust where in 2005 the City transferred their sewer system over the District to handle for over 20 years with the agreement of eventually transferring over the sewer back to the City. He added if there isn't some hand in the day to day operations it can make it difficult later. Marcus added the City should have some finger

on the pulse since the City assumes the debt when it comes back to the City. Kevin used the Kane DEA as an example and making developers wait for the Utility Committee to get back together before being able to move on it. He asked, how do you choose what items are important but doesn't keep delays and hurdles. Dan commented he would agree, everything both the City and District do is open to the public and open to discussion. He believes both items should be both ways and the District isn't always in on the discussions when land use changes, there was a need to grow and let the District manage it as they had a handle on sewer and fix issues in the downtown area. There needs to be working together, there is invested interest and to have to say to developers they have to wait for utility committee meetings for 6 months, etc. Marcus noted 6 months in that scenario is not realistic and he would like to delegate that to the City mayor or manager. Kevin would like to know what is the next step. Gene stated he agrees with exactly what Dan stated and it is stated in section 4.0. He believes when it comes to big projects and who designs them as well as the plans, the City should have input. Gene stated this reset is for who comes behind us and the intent is to reset and to clarify authority. John Spencer isn't under any illusions and is set back by the comments about being minutia. He goes back to what Grant Weed stated, this is a hybrid and it's the job of the committee to make decisions on moving forward on the unification and to look at it in that context and to make sure it works and works well with competent staff. He is sure there will be issues on both sides but we can get there and the actions of this committee need to be elevated. The District needs to do the same thing. He agrees with Kevin and that the City and District need to work together. Kevin added going back to the resolution and the one-year time agreement. He recalls from the conversation a year later there is no risks and benefits defined. There needs to be a focus on early unification, or not, and based on the risks and benefits do we accelerate. Kevin suggested the option of reinstating the resolution that expired in July and giving a deadline of November. He added there has been some good work, and he stated he is open to whatever the decision is. Marcus stated he would like to restart the resolution. Gene stated what he remembers of the resolution is having a firm brought in to do the risks and benefits. Kevin stated he is not casting blame it just needs to get done. Tonya recommended working on the ILA first and the rest might fall into place. Marcus doesn't agree, he believes we need to get the resolution complete first. Kevin stated he believes they are both important and the ILA becomes more important if the unification doesn't happen. Tonya added she and Gene met with Karen Reed, she costs \$10,000 per month. Tonya talked about the auditor and their recommendation about staying with cash or accrual. John stated its difficult to talk about the risks and benefits and the various items that needs looking at, he believes there are a lot of benefits out there. Everything from benefits and salaries of employees move straight across and the city will put them all in a memorandum, there are no risks but several benefits. John stated this comes down to governance and the enterprise function by city council, also the bargaining unit. The other issue is growth, more so on the City side and has more inquiring on why infrastructure isn't keeping up with growth. He stated he does need to see this come forward and he would like an open letter from the Committee on a year, 7 years or whatever is chosen.

John Spencer commented on the sewer spill in front of his house. He stated, he and his neighbor were out looking at the lake 45 minutes before the spill happened commenting how crystal clear the lake is. John added he is not upset about the spill noting the District

staff responded quickly and got the spill contained fast and he understands this is embarrassing.

Marcus asked about the topics for the next meeting items for the September 25th meeting. John added the Hwy9/204 project needs to be discussed as it's a big hit to the Districts capital plan. Johnathan Dix added there is only one gravity line that will be impacted, and the flow will be redirected on Vernon Road. Gene noted by next meeting have a resolution put together, John added he hopes it to be the same resolution. Kevin would like it time bound to November. Marcus would like to see a longer meeting for discussion possibly on November 14th at 3:00 PM. Marcus would like to see projects that need to be discussed. Gene added he will be at a conference on Sept 25th

3. **Conclude** – There being no further business, the Special Meeting was concluded at 4:58 PM

Signed at a regular open public meeting this 13th day of September 2018





Dan Lorentzen, Commissioner



Mariah Low, Secretary and Commissioner



Kevin Kosche, President and Commissioner

VISITOR SIGN-IN

If you would like to address the Board of Commissioners, it will be necessary for you to sign in. Thank you.

Print Name	Signature	Address	Phone	Purpose
Gene Brazel		city		
Eric Douglas		city		
Kathy Pugh		city		
Ron Hoole	Ron Hoole			
Micki Cape	Micki Cape			
CAREY K. MULLINS	Carey K. Mullins			
Tammy McAnist				
Michelle Bauman	Michelle Bauman			



**Utility Committee Meeting Minutes
August 28, 2018 4:00 pm**

City of Lake Stevens / Lake Stevens Sewer District
1106 Vernon Road, Suite A, Lake Stevens, Washington

1. **Called to Order:** 3:57 p.m. by Commissioner Kevin Kosche and Councilmember Marcus Tageant

2. **Roll Call:**

Attendees Representing the District: Commissioners Kevin Kosche, Mariah Low and Dan Lorentzen; Staff: Tonya Christoffersen, Jonathon Dix, Tara Bighouse, and Brad Cattle, Attorney for Sewer District.

Attendees Representing the City of Lake Stevens: Councilmembers Marcus Tageant and Gary Petershagen, Mayor John Spencer, City Administrator Gene Brazel, Public Works Director Eric Durpos, City Clerk Kathy Pugh and Grant Weed, Attorney for City.

MOTION: Moved by John Spencer, seconded by Gary Petershagen to excuse Kim Daughtry from the meeting. On vote the motion carried.

3. **Action Items:**

- a. **Approval of Meeting Minutes of May 22, 2018:** Moved by John Spencer, seconded by Kevin Kosche, to approve the May 22, 2018 meeting minutes. On vote the motion passed.

4. **Public Forum:** No comments.

5. **Discussion Items:**

- a. **Revisit Sewer Unification Agreement and Role of Sewer Utility Committee** – Gene Brazel opened the discussion, saying that the purpose of the meeting today is to revisit the Unification Agreement with a focus on Article 7, which defines the role of the Sewer Utility Committee. He added that the attorneys for both the City and Sewer District are present.

Brad Cattle, attorney for the Sewer District, reviewed the history of the Unification Agreement and said it is important to keep in context the

relationship of the two parties. Article 7 is intended to provide a process for recommendations, oversight and direction as the two parties move to unify, and there are specific requirements which the parties must adhere to. The Sewer Utility Committee has a significant role in the unification process.

Discussion ensued and Gene Brazel commented the Sewer Utility Committee should be entrenched and aware of the operations of the Sewer District, and that the City needs to be included in discussions, such as water easements in plat development, which will ultimately impact the City.

Kevin Kosche commented it is important to build the agenda to drive the discussion and create an opportunity for equal and open communication.

John Spencer responded that the agenda is important, and that there is an extra onus on the Sewer District to bring forward agenda topics, just as the City is responsible to communicate with the Sewer District.

Attorney Cattle suggested the agenda may need to be filtered in detail so that meetings are efficient. He added that the language in paragraph 7.5 means that the Sewer Utility Committee can take actions.

Attorney Weed, representing the City, commented paragraphs 7.3 and 7.5 cannot be entirely reconciled and that paragraph 7.1 is very broad.

John Spencer noted given the structure of this committee it is not easy to take action, as a quorum of both the Sewer District and City representatives is required.

Responding to Kevin Kosche's question, Marcus Tageant said the City wants to be made aware of developer extension agreements, interlocal agreements, bid reviews regarding biosoils removal, etc.

Responding to Tonya Christofferson's question, Attorney Cattle suggested the Sewer Utility Committee is not comprised for day-to-day actions, but for more comprehensive planning.

Attorney Weed said the two entities need to develop trust. The Unification Agreement was entered into in 2005 and provides for the transfer of assets from the Sewer District to the City. The Sewer Utility Committee was designed to provide continuity and the plan always envisioned that the Sewer District would return to the City.

Marcus Tageant added that the 2005 language also provides that the City will assume the Sewer District's debt.

Dan Lorentzen said both the Sewer District and City are public entities and the need for communication cuts both ways. In 2005 the City needed the Sewer District. Both parties need to understand the respective comprehensive plans and there is a vested interest in getting the Sewer District involved at the beginning of the Sewer Utility Committee.

Marcus Tageant commented a lot can be delegated, but the sharing of capitol actions is important.

Gene Brazel believes he and Tonya Christofferson can filter what is necessary to come to the Sewer Utility Committee, but financial big ticket matters do need to be brought forward to the committee.

John Spencer added that the conversation is about how to move forward. The Unification Agreement is in place and there is a mutual responsibility to make it work.

Kevin Kosche commented there are both risks and benefits of acceleration of the Unification Agreement, and that the mutual resolutions to move forward are expiring. He is open to a new resolution, but believes the risks and benefits of acceleration need to be articulated. Both sides need to elevate.

Gene Brazel commented a consultant could be used but the bulk of the work can be done in-house.


Marcus Tageant said a deadline needs to be set and met so that decisions can be made.

Tonya Christofferson has met with both Gene Brazel and John Dix, as well as the consultant. Cost decisions need to be made, including whether to use a cash or accrual basis of accounting.

John Spencer said this has been discussed internally and that labor salaries and benefits would come straight across. There are no significant risks to moving forward and there are some benefits. This comes back to governance. Another concern is growth.

6. **Schedule the Next Meeting** – September 25, 2018 at 4:00 p.m.
7. **Adjourn** – Moved and seconded to adjourn the meeting at 4:58 p.m. On vote the motion carried unanimously.

2018 Utility Committee Chair:



Marcus Tageant, Councilmember
City of Lake Stevens