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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 6, 2019
Utility Committee**

Attendees: Commissioners Dan Lorentzen, Mariah Low and Kevin Kosche; Staff: Tonya Christoffersen, Johnathan Dix and Tara Bighouse.

Guests from the City of Lake Stevens: Councilmembers Gary Petershagen, Mayor John Spencer and Gene Brazel.

1. **Called to Order** at 4:00 pm by Commissioner Kosche. He moved into the meeting agenda item "Utility Committee Meeting".
2. **Utility Committee Meeting** – The Committee discussed mutual projects and planning for the Lake Stevens UGA and study areas.
3. **Conclude** – There being no further business, the Special Meeting was concluded at 5:12 pm

Signed at a regular open public meeting this 12th day of September 2019





Dan Lorentzen, Commissioner

Mariah Low, Secretary and Commissioner



Kevin Kosche, President and Commissioner

MEETING DATE: Aug 6, 2019

TYPE: Special Mtg - Utility

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 |
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**LAKE STEVENS
SEWER DISTRICT**
Serving You Since 1957

**Utility Committee Meeting Minutes
August 6, 2019 4:00 pm**

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

1. **Called to Order:** 4:10 PM by Commissioner Kevin Kosche
2. **Roll Call:**

Attendees Representing the District: Commissioners Dan Lorentzen, Mariah Low and Kevin Kosche; Staff: Tonya Christoffersen, Johnathan Dix and Tara Bighouse.

Attendees Representing the City of Lake Stevens: Councilmember Gary Petershagen, Gene Brazel and Russ Wright. Mayor John Spencer arrived at approximately 4:30 PM.
3. **Action Items:**
 - a. **Approval of Meeting Minutes of July 9, 2019** – Gary Petershagen moved to approve the July 9, 2019 minutes. Mariah Low seconded the motion. The Motion passed unanimously.
4. **Public Forum:**
5. **Information Sharing:**
 - a. **LSSD Recognition** – Kevin Kosche wanted on record the recognition the District has received. Kevin read a list; 2018 WWEP Outstanding Performance Award from the Dept of Ecology, put LSSD in the top third of the state. Recognized savings with the PUD at \$90,918.18, the Wastewater Energy Cohort (WEC) at \$11,471.72 in savings, the Dept. of Commerce at \$45,000, decommissioning of the old treatment plant is at just over \$200,000 down from an original amount of almost \$2 million. Performance Audit, the District has completed all suggestions from extensive performance audit completed in 2012. Following up audit 2016/2017 was by all accounts extremely clean. State audits have been excellent across all areas for both accountability and financial every year. Savings across all departments has the District's starting cash for next year at over \$1 million more than forecasted. The Districts outreach of education in our schools and community being a guest speaker for Rotary and Lions; education classes with Snohomish, Lake Stevens and Arlington schools. Included are the art students and Lake Creates booth with over 1,000 attendees, even with the increased work load the Customer Service/Accounting Teams have same number of employees. He would like a Motion to formally recognize the District for their recognition. Mariah Low moved to approve formally recognizing the Districts staff for the significant and material recognition received largely from third parties, external to both the District and City. Gary Petershagen seconded the Motion. The Motion passed unanimously. Gary noted he hoped the contractor that came in 2 million over cost is taken off the approved vendor list. Kevin added he believes it's the same contractor as Lundeen Park, short answer is yes.
 - b. **Bond Discussion** – Kevin Kosche asked if in the past month the City has found a path forward that would provide sufficient comfort regarding a Unification Amendment, so we can move forward in an aligned fashion, to save the rate payer approximately \$10 million in interest. Gene noted the City Attorney passed his comments on to their bond council

and is waiting to hear back. He wants to make sure it doesn't tie the City's hands to merger in 2032. Dave Tregeser recalled a conversation. Mariah made a motion to encourage the Lake Stevens Sewer District to move forward with Build America Bond refinance, anticipating rate payer savings of approximately \$10 million dollars. To address the City's concerns regarding amending the Unification agreement, the District will shorten the term of the refinanced bonds to conclude, prior to Unification occurring in 2032. The District will be encouraged to agree to disclosures and financial reviews as necessary to maximize the marketability of the refinanced Bonds. Dan Lorentzen seconded the Motion and noted the savings is subject to the bonds and this would be a path forward. Gary Petershagen commented he doesn't know if he can support this with two city members missing and would it hinder the merger happening sooner. Kevin questioned, is the potential to the disclosure for the City worth more than the savings. Gary replied in the current state of rates he believes it can wait; knowing it's a crystal ball comment. Kevin noted interest rates are at a 40-year low and he doesn't want to see a missed opportunity. Gary replied he understands but missing two members he can't speak for them. Gene asked about an additional component stating bond council having a say in merging whether its sooner or later. If that goes away, then he doesn't see why a way forward can't be reached. Kevin noted he is comfortable with any and all disclosures. He asked for a vote; Kevin, Mariah and Dan voted yes, and Gary voted opposed.

6. Utility Agreement:

- a. **Mediation: Article 10** – John Spencer arrived. Kevin would like a pause on the mediation. John Spencer doesn't believe mediation is going back and reviewing he believes the utility committee has much more authority on oversight of the district and it comes down to a mediator to determine the authority; the District should bring all actions to the committee to make comments and the committee has the authority to ratify and the District acts on it or steps down. John stated, let's get a mediator to make the decision and be done with it. Gary believes this is how to move forward and past it, not past histories if a third party has to set the roadways then so be it; having a third-party interpretation. Kevin noted so far over \$13,000 has been spent on this by the District this year and every time there is an issue its been addressed in post haste and continues to; he believes a pause would be in the rate payers' best interest. Mariah would like to see it pushed off until the fourth-quarter meeting. Kevin proposed we have met multiple times this year and the meeting in the fourth quarter to be pushed somewhere around the financial update possibly in November. Tonya added today is supposed to be about the conversation of mediation, which is why it's on the agenda at the request of the City. Gary asked what's wrong with mediation. Kevin replied as previous stated we went over all the 16 issues from last Christmas, where do we disagree; for example, the old plant. The District responded great let's move forward. DEA lists, great let's add it to the agendas. We went point by point and addressed them. We have a path and it doesn't have to hang on section 4.2 and 7.1 of the ILA. To say it's in the rate payers' interest to spend more money seems silly, when there is a concern, we have addressed it. Tonya added once Kinnon asked Greg what is the dispute, why are we going to mediation. John Spencer commented on the point of dealing with 16 issues, it's a good point, it's a matter of we hear you, but we don't agree and then we are back to ground zero, we are not there. It's good, they have been outlined for example the old treatment plant. What about when there is a disagreement to which Kevin responded once we get to ground zero, we go to mediation. Gary asked is there an idea of what it would cost. Kevin

replied it probably depends on how much effort goes into discovery. Gary would like to explore that. Dan added it's a process of whittling it down, it will take some time to do that with the tension in the room it doesn't appear it will get much better, given we are into August with vacations etc. let's table this until later. To pick a mediator everyone agrees on will be back to ground zero again. Gene replied both attorneys have already agreed to a mediator at only \$720/hr. with dates to choose from. He noted our attorney has communicated this to us in emails. Tonya stated we have not seen those emails and asked to look at the emails Gene had in front of him that he was referring to. She noted Kinnon is not on this email thread. Kevin replied it's more like \$2000/hr., including both attorneys and the mediator, and is not in the rate payers' best interest. Kevin stated he retreats on this until he can speak to Kinnon. John Spencer added it states when there is a dispute you go to mediation; each side lays out their case and the mediator renders a decision and at that point each side accepts or not and then you go a different direction. This is a fundamental dispute and needs to be resolved. Kevin asked other than contractual interpretation what is the dispute. John Spencer stated it's the management of the utility committee. Kevin asked for examples. John replies for example the appointment of the interim General Manager and then moving her to General Manager, that should have been brought to the Utility Committee. Kevin asked at what point did the City bring this forward as an issue. John replied the city didn't have a say, it was stated it had been done. If the utility committee disagrees and the board says no then the board has a judiciary responsibility to act. Dan asked what is an example where utility committee made a decision and the District is in violation. He stated he is trying to understand where an elected official cannot make those decisions. John Spencer replied capital investments decisions, for example if the vote is 4 agree and 2 commissioners don't then it should be passed. Kevin replied he is fuzzy where the line is. Mariah noted the Utility Committee meeting was on Tuesday before the District Board meeting and it was stated at the Utility Committee meeting the plan to promote Tonya to General Manager. John replied he believed it was already done and it's not because he would say no, but he may have said why don't you check to see who else is out there. John Spencer is asking to go to mediation, Kevin would like it on record, he doesn't have an example of a practical piece in dispute, rates were mentioned but pulled back, capital was mentioned you pulled it back. Other than clarifying some language of how the Utility Committee can contractually argue language for a Utility committee meeting. We will look at it at the next meeting in quarter four. John Spencer noted it seems to him with this ILA, if there is a disagreement you go to mediation, it's not a question to vote on, it has been asked to go, we have identified a mediator and we have dates. He believes the District has to say that is where we are its not getting resolved. Kevin asked is the mediation for contractual clarity on 4.2 and 7.1 and is it allowed in the ILA without a dispute. How he reads it there needs to be some fault, Gary replied the dispute is the interpretation. Dan noted if a mediator has been selected and dates have been picked the District has not seen this and need to talk with Kinnon, there needs to be discussion on the District side and asks is contractual verbiage grounds for mediation. He believes it's an unfortunate use of rate payer funds. Kevin recapped the District will speak to Kinnon and the Utility Committee will meet back in October.

John Spencer commented on the bonds; he spoke to their attorney and the City can take all responsibility. Kevin replied the District will shorten the term to 2032 and provide any and all disclosures that will maximize the bonds. Gary added but the caveat is the bond council can thumb up or down to merger approval prior to 2032. John Spencer added let their bond council know the city would be willing to accept all covenants on the bonds and that is why they wanted the ILA fixed to the current RCW; agreeing to all debts and obligations; if it needs to be done differently and with a longer term it can be done. Kevin noted the District has found a path forward.

7. Project Review:

a. DEA List of Developments – Kevin Kosche asked for any questions on the DEA list provided by the District. Johnathan Dix noted the 2-year inspection date was added since that is when its actually closed out. Some have exceeded beyond the date; title transfer date is when the warranty bond date states. Some have had 5-year bonds dates due to warranty defect; no inspections, etc. Some the developers have dropped off and there is no one to release the bond to as the punch list items have not been complete. Gary asked if there is a bond, why hasn't the District called the bond. Jonathan Dix noted there is more than 25% on Westview ridge for example. He added Cedar is not a DEA they are connecting by side sewer and everything else is current. Johnathan explained with Westview Ridge it was a legal mess and there is no one completing the punch list. Johnathan replied there is no incentive to go after it, the money is not going to cover the costs. Gene replied that is why you jump on it early. Kevin added this was a business decision where you are at now. Johnathan added the District would have to do the work and the cost would be more than the worth.

8. Schedule the Next Meeting – The next meeting is scheduled for October.

9. Adjourn – Mariah Low moved adjourn; Gary Petershagen seconded the Motion. Kevin Kosche adjourned the meeting at 5:12 pm.

2019 Utility Committee Chair:



Kevin Kosche, Commissioner
Lake Stevens Sewer District