



LAKE WHATCOM WATER AND SEWER DISTRICT
1220 LAKEWAY DRIVE
BELLINGHAM, WASHINGTON 98229

REGULAR MEETING
OF THE BOARD OF COMMISSIONERS

AGENDA

May 29, 2013

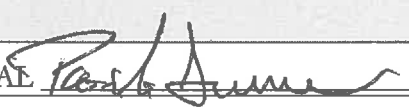
8:00 a.m. – Regular Session

1. CALL TO ORDER
2. PUBLIC COMMENT OPPORTUNITY
At this time, members of the public may address the Commission. Please state your name prior to making comments.
3. ADDITIONS, DELETIONS, OR CHANGES TO THE AGENDA
4. CONSENT AGENDA
5. SPECIFIC ITEMS OF BUSINESS:
 - A. Billing/Permitting Reconciliation – 1143 Lakewood Lane
 - B. Billing/Permitting Reconciliation – 2058 Dellesta Drive
 - C. Billing/Permitting Reconciliation – 1185 Lakewood Lane
 - D. Polo Park Bridge Replacement Waterline Relocation – Award Contract
 - E. Surplus/Sale of Vactor Truck
6. OTHER BUSINESS
7. MANAGER'S REPORT
8. PUBLIC COMMENT OPPORTUNITY
9. ADJOURNMENT



LAKE WHATCOM WATER AND SEWER DISTRICT

AGENDA BILL

DATE SUBMITTED:	May 22, 2013		
TO BOARD OF COMMISSIONERS			
FROM: Patrick Sorensen	MANAGER APPROVAL 		
MEETING AGENDA DATE:	May 29, 2013		
AGENDA ITEM NUMBER:	5.A.		
SUBJECT:	Billing/Permitting Reconciliation – 1143 Lakewood Lane – Account # 60000899		
LIST DOCUMENTS PROVIDED ⇒	1.		
NUMBER OF PAGES	2.		
INCLUDING AGENDA BILL:	3.		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input checked="" type="checkbox"/>	INFORMATIONAL/ OTHER <input type="checkbox"/>

BACKGROUND / EXPLANATION OF IMPACT

In late 2012 the District conducted an audit of our water and sewer connections in order to identify any “phantom” or unauthorized connections within the systems. We wanted to insure that properties receiving service are actually paying for services received, and that connection and inspection fees have actually been collected. This review, concluded in April of this year, identifying only eight (8) properties needing further review and clarification. On April 25, 2013 a letter was sent to each of the identified accounts/property owners outlining our findings and asking for a meeting or contact in order to resolve questions.

The findings for 1143 Lakewood Lane are illustrated within the attached letter from the District to property owners Francis & Joanna Miley. In this situation the house was built by a contractor in 2003. The Miley’s purchased and moved into the home in 2004. A water account was created when the Miley’s originally moved into the house. However, there is no record of a sewer service account ever being established. Upon reviewing our records an as-built side sewer inspection was performed by the District on February 24, 2004.

It appears that the sewer connection was made by the contractor in conjunction with the construction and the above mentioned as-built side sewer inspection. Typically, when this process takes place a file is initiated, reviews and inspections are completed, a permit is issued, and connection/inspection fees are collected. For some unknown reason the process broke down between the District and the contractor. No one paid the connection fee, and a sewer service account was not created.

Mr. and Ms. Miley recently replied to our letter and have met and communicated their concerns with staff on four occasions. They stated that they had no knowledge of the sewer service connection being installed without the permit being taken out and paid. They purchased the house and relied upon the contractor and the District to resolve any issues when the house was built. They also reported that they were under the impression that the user bill from the District they have been receiving and paying over the last nine (9) years covered both the cost of water and sewer. They understand that they have been connected to the sewer system. Because of mistakes by the District or the contractor the Miley's feel strongly that they should not be held financially responsible for the missed sewer connection fee nor the sewer user fees dating back to their purchase of the house in 2004. They are willing to pay for their sewer service from this time forward.

Because of this specific issue and the seven other individual circumstances legal counsel was asked to assist us in evaluating the legal questions in general that involve the statute of limitations for reaching back for past due sewer user fees, and permit and inspection fees. Attached is written analysis from Thomas Fryer from Resick Hanson Fryer Hall & Heinz dated May 21, 2013 that addresses these specific questions. In order to be consistent and fair with the eight (8) individual situations I intent is to apply this legal analysis to the Miley situation, along with the other two situations presented at the Board meeting, and the remaining accounts in question.

Clearly there are mitigating circumstances with the 1143 Lakewood Lane account and the other seven accounts. Again, we are only addressing three of these situations at this time. Each may likely require a policy decision by the Board in a public setting. The Miley's and their legal counsel will likely be in attendance at the Board meeting. My recommendations will follow in each of the three separate Bill Agendas. Legal counsel's evaluation and any comments along with the mitigating circumstance will likely temper each decision based upon the individual circumstances.

FISCAL IMPACT

Legal counsel advises in his attached memorandum that the District has the legal ability to reach back six (6) years for unpaid services. However, because the intended sewer connection/inspection is over six years old, it is legally beyond the statute of limitations.

The value of the service and connection fees is as follows:

Sewer Service Fees

- Sewer service fees going back six (6) years to May 1, 2007 - \$4,175.92.
- Sewer service fees going back three (3) years to May 1, 2010 - \$2,297.26.

Sewer Connection/Inspection Fee

- Sewer connection/inspection fee in 2004 - \$2,222.00.
- Sewer connection/inspection fee today - \$5,316.00.

Note that my attached letter dated April 25, 2013 from the District to the Miley's recommends a payback for sewer service charges going back only three (3) years from May 1, 2010.

RECOMMENDED BOARD ACTION

Sewer Service Fee

I am recommending after reviewing all the pertinent facts, and having consulted with staff and legal counsel that the District waive the first three (3) years (5/1/2007 – 3/1/2010) of sewer service fees. I am empathetic with the argument raised by the Miley's, but based upon advise provided by legal counsel and the fact that they have enjoyed the use of the service for some time, there should be a discounted fee charged back to the account. I am recommending that this be the last three years dating back to May 1, 2010 for an amount not to exceed \$2,297.26. I would also propose that this include no penalty fees and that a payback plan be developed that fits in with the needs of the Miley's.

Sewer Connection/Inspection Fee

In staff's opinion the Miley's had no control over the original permitting and connection process. They would have had a reasonable expectation that this would have been taken care of before they moved into their new home. This should have been completed between the contractor and District staff at the time. We do not know what went wrong in this instance. In addition there is the six (6) year statute of limitations which would preclude us from collecting this fee at this time.

PROPOSED MOTION

There is not a specific proposed motion.



LAKE WHATCOM WATER & SEWER DISTRICT

1220 Lakeway Drive
Bellingham, WA, 98229

(360) 734-9224
Fax 738-8250

April 25, 2013

Francis & Joanna H Miley
1143 Lakewood Lane
Bellingham, WA 98229

Re: District Account #60000899
Sanitary Sewer Service

Dear Mr. & Mrs. Miley,

It has come to the District's attention that the property at 1143 Lakewood Lane is receiving sanitary sewer service and has not been billed for the service.

According to District records an as-built side sewer inspection was performed by the District on February 24, 2004. Sewer billing should have commenced on that date. There is also no record that sewer permit fees were paid.

The following corrective actions are required:

- The District will begin billing for sewer service immediately.
- The District will bill for back sewer charges beginning May 1, 2010 (3 years back)
- Apply and pay for a sewer permit
- A penalty may be assessed by the District
- Submit as-built drawings stamped by a professional engineer verifying private side sewer was installed in accordance with District design and construction standards. District witness of side sewer leak test is required.
- If sewer permit is not paid by November 1, 2013 (6 months from this notice), the District may suspend water and sewer service to the property.

Upon receipt of this notice please contact the District for current connection fees and side sewer permit requirements.

Sincerely,

LAKE WHATCOM WATER & SEWER DISTRICT


Patrick Sorensen
General Manager

Attachments:

Sewer Permit Fee Estimate
Sewer As-Built Inspection dated 2/24/2004
Aerial GIS photo

May 22, 2013

Joannah and Fran Miley
1143 Lakewood Ln.
Bellingham, WA 98229
360-738-6045

Lake Whatcom Water and Sewer District
1220 Lakeway Drive
Bellingham, WA 98229
360-341-9224

To Whom It Concerns,

We are being billed for back sewer charges for our home at 1143 Lakewood Ln. We knew nothing about these charges until April 29, 2013. We would like to present this issue to the board of commissioners at their meeting on May 29, 2013 with the goal of having these charges reversed. We would also like to participate in any discussions regarding past ULID fees and permit fees that were associated with our home before we owned it.

Sincerely,


Joannah and Fran Miley



THE LAW OFFICES OF
RESICK HANSEN FRYER HALL & HEINZ, PLLC

412 N. Commercial Street
Bellingham, WA 98225

Thomas J. Resick
Brian L. Hansen
Thomas H. Fryer
Sarah E. Hall
Andrew W. Heinz

Telephone (360) 671-9212
Fax (360) 671-9226
TFryer@RHF-Law.com

May 21, 2013

Patrick Sorensen
General Manager
Lake Whatcom Water & Sewer District
1220 Lakeway Drive
Bellingham, WA 98229

**Attorney Client Communication
Privileged and Confidential**

**Re: 1143 Lakewood Lane
District Account #6000899
Sanitary Sewer Service**

Dear Mr. Sorenson:

BACKGROUND

The property located at 1143 Lakewood Lane is receiving but has not been billed for sanitary sewer service for the past nine years. According to District records an as-built side sewer inspection was performed by the District on February 24, 2004. Pursuant to Administrative Code Section 3.5.10(b) sewer billing should have commenced on that date. While an inspection of the sewer connection was completed no connection fee was demanded by the District or paid, and as such no permit was issued to the then property owner. An assessment for ULID #18 was, however, paid by the property in full in 2006. The current cost of the permit to the property owner is \$5,316.00.

The property is currently owned by Francis and Joanna Miley who purchased the land and residential building in 2004. Whatcom County records reveal that a building permit was issued, approving construction on March 23, 2003. My understanding is that the Miley's purchased the residence from the builder/contractor and have remained in possession of the residence for the past nine years.

ISSUE

How much of the past sewer service fee and unpaid connections fee is recoverable.

ANALYSIS

The starting point in answering this is to determine whether the District is subject to a time based limitation on a collection action such as this. RCW 4.16.160 provides that a municipality or quasi-municipality is subject to the same statutes of limitations as a private party except that there shall be no limitation to actions brought in the name of or for the benefit of the State. Municipal actions are brought "for the benefit of the State" when these actions arise out of the exercise of powers traceable to the sovereign powers of the State which have been delegated to the municipality.¹ For example the tax collecting process is an essential and basic attribute of sovereignty and as such no step in the tax collecting process is subject to the defense of the statute of limitations.² Conversely the language in RCW 4.16.160 mandating the same limitations on a municipality as a private party subjects municipalities to the defense of the statute of limitations when they are acting in a propriety capacity.³

We believe that in the case of 1143 Lakewood Lane the District is acting in a proprietary capacity. A government acts in a proprietary capacity when it engages in a business venture as contrasted with a governmental function. Education and collection of taxes have been found to be governmental functions.⁴ Operation of a utility, on the other hand, has been classified by the Washington State Supreme Court as a proprietary function of government.⁵ This is because a public utility engages in a business like venture, selling water and sewer services to the public. Unlike education, water and sewer service has not been expressly made an attribute of sovereignty by the Washington State Constitution. Thus in the instant case, the limitations placed on filing an action as set forth in chapter 4.16. RCW are applicable to the District in the same manner as if it were a private citizen.

The next question is whether the collection of past sewer service fees is subject to the three-year statute of limitations set forth in RCW 4.16.080(3) or the six-year statute of limitations set forth in RCW 4.16.040(2). Because the district does not have a written agreement with the Miley's, ordinarily RCW 4.16.080(3) would apply and the District would be limited to only pursuing collection of the outstanding user fees incurred over the past three years. However, in 1989 the legislature amended RCW 4.16.040, the six-year statute of limitations by adding a new category, "actions upon an account receivable incurred in the ordinary course of business".

The Washington State Supreme Court has interpreted "accounts receivable" to mean amounts due to a business on account from customers who have bought merchandise or received services.⁶ The term "accounts receivable" has also been described as an open account, that is an

¹¹ Bellevue Sch. Dist. 405 v. Brazier Constr. Co., 103 Wn.2d 111, 114 (1984); Tacoma v. Hyster Co., 93 Wn.2d 815 (1980); Commercial Waterway Dist. 1 v. King Cy. 10 Wn. 2d 474, 479 (1941); Gustaveson v. Dwyer, 83 Wn. 303 (1950).

² Commercial Waterway Dist. 1, 10 Wn.2d 474, 478 (1941)

³ Washington Public Power Supply System v. General Electric Co. 113 Wn.2d 288, 291 (1989)

⁴ Municipality of Metro. Seattle v. Div. 587, Amalgamated Transit Union, 118 Wn.2d 639, 645 (1992)

⁵ Sudden Valley Community Association v. Whatcom County Water District No. 10, 113 Wn.App. 922, 923 (2002).

⁶ Tingey v. Haisch, 159 Wn.2d 652, 655 (2007)

account that is left open for ongoing debit and credit entries by two parties and that has a fluctuating balance until either party finds it convenient to settle and close.⁷ In the instant case both definitions are applicable and thus RCW 4.16.040(2) appears to be controlling, giving the District a six-year period in which to collect unpaid sewer service fees.

As to the recovery of the unpaid connection fee any such claim would be time barred by both the six-year and the three-year statute of limitations.

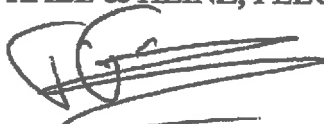
In addition, as to the collection of costs associated with the original connection of the property to the sewer system the current owners would be able to avail themselves of the defense of laches. In this regard, the equitable doctrine of laches is the implied waiver arising from knowledge of existing conditions and acquiescence in them.⁸ Laches consist of two elements: (1) inexcusable delay and (2) prejudice to the other party from such delay.⁹

Our understanding is the District has no explanation for the failure to charge a connection fee to the owner of 1143 Lakewood Lane other than inattention. The Mileys had, presumptively, reason to believe the fee was paid prior to the sale of the property by the seller/builder. The delay in going forward with collecting the fee has harmed them to the extent that the Mileys are now time barred from, in turn, collecting the connection fee from the seller. Had the connection fee been collected at the time of the inspection there is every reason to believe the owner of the home, at the time of the inspection, would have paid the fee. As such the Miley's have been harmed by the delay in collecting the connection fee and thus the District's claim may fail due to the defense of laches.

Based on the foregoing it is my opinion that the District should seek payment from the Miley's of back sewer charges for the last six years but should waive payment for the sewer connection fee. If you have any questions regarding any of this or need any additional information please do not hesitate to let me know.

Very truly yours,

RESICK HANSEN FRYER
HALL & HEINZ, PLLC



THOMAS H. FRYER

THF/mkl
Enclosures

⁷ Tingey v. Haisch, 129 Wn.App 109, 113 (2005)


⁸ Felida Neighborhood Assoc. v. Clark County; 81 Wn.App. 155, 162 (1996)

⁹ Clark County Pub. Util. Dist. No. 1 v. Wilkinson, 139 Wn.2d 840, 848 (2000)



LAKE WHATCOM WATER AND SEWER DISTRICT

AGENDA BILL

DATE SUBMITTED:	May 22, 2013		
TO BOARD OF COMMISSIONERS			
FROM: Patrick Sorensen	MANAGER APPROVAL 		
MEETING AGENDA DATE:	May 29, 2013		
AGENDA ITEM NUMBER:	5.B.		
SUBJECT:	Billing/Permitting Reconciliation – 2058 Dellesta Drive – Account # 130001522		
LIST DOCUMENTS PROVIDED ⇒ NUMBER OF PAGES INCLUDING AGENDA BILL:	1. 2. 3.		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input checked="" type="checkbox"/>	INFORMATIONAL/ OTHER <input type="checkbox"/>

BACKGROUND / EXPLANATION OF IMPACT

In late 2012 the District conducted an audit of our water and sewer connections in order to identify any “phantom” or unauthorized connections within the systems. We wanted to insure that properties receiving service are actually paying for services received, and that connection and inspection fees have actually been collected. This review, concluded in April of this year, identifying only eight (8) properties needing further review and clarification. On May 7, 2013 a letter was sent to Peter and Sarah Buetow outlining our findings and asking for a meeting or contact in order to resolve questions.

The findings for the 2058 Dellesta Drive property are illustrated within the attached letter from the District to the Buetow’s. In this situation a sewer permit was paid for and issued on July 26, 1979 as it relates to the property in question. However, the current residence was not built until 1984. The residence appears to have been connected to the sewer system without the District’s knowledge. The property has apparently enjoyed the benefit of sewer service since 1984. For unknown reasons there is no record of a sewer service account ever being established.

Presently the Buetow property is used off and on as a summer or weekend home. Because of its limited use the Buetows feel that they should be excluded from full time sewer use fees and object to any back fees. Rather than back bill them for six (6) years of sewer service I proposed in my May 7, 2013 letter to bill them for only three (3) years of service. Again, I would refer to the attached written analysis from Thomas Fryer from Resick Hanson Fryer Hall & Heinz dated May 21, 2013 that addresses the specific question as it relates the statute of limitations as it relates to sewer service fees.

FISCAL IMPACT

Legal counsel advises in his attached memorandum that the District has the legal ability to reach back six (6) years for unpaid services.

The value of the service fees are as follows:

Sewer Service Fees

- Sewer service fees going back six (6) years to May 1, 2007 - \$4,175.92.
- Sewer service fees going back three (3) years to May 1, 2010 - \$2,297.26.

Note that my attached letter dated May 7, 2013 from the District to the Buetow's recommends a payback for sewer service charges going back only three (3) years from May 1, 2010.

RECOMMENDED BOARD ACTION

Sewer Service Fee

I am recommending after having reviewed the pertinent facts, and having consulted with staff and legal counsel that the District waive the first three years (5/1/2007 – 3/1/2010) of sewer service fees. I am empathetic with the argument raised by the Buetow's, but based upon advise provided by legal counsel and the fact that they have enjoyed the use of the service for some time, there should be a discounted fee charged back to the account. I am recommending that this be the last three years dating back to May 1, 2010 for an amount not to exceed \$2,297.26. I would also propose that this include no penalty fees and that a payback plan be developed that fits in with the needs of the Buetow's.

PROPOSED MOTION

There is not a specific proposed motion.



LAKE WHATCOM WATER & SEWER DISTRICT

1220 Lakeway Drive
Bellingham, WA, 98229

(360) 734-9224
Fax 738-8250

May 7, 2013

Peter C & Sarah K Buetow
100 S. Forest St.
Bellingham, WA 98225

Re: 2058 Dellesta Drive
Account #130001552
Tax Parcel #380326-326224-0000
Sanitary Sewer Service

Dear Mr. & Mrs. Buetow,

It has come to the District's attention that the property at 2058 Dellesta Drive is receiving sanitary sewer service and has not been billed for the service.

According to District records a sewer permit was paid for and issued on July 26, 1979. However, the current residence was constructed and hooked up to sewer without the District's knowledge. According to County assessor records the structure was built in 1984.

The following corrective actions are required:

- The District will begin billing for sewer service immediately.
- The District will bill for back sewer charges beginning May 1, 2010 (3 years back)

Please contact the District with any questions.

Sincerely,

LAKE WHATCOM WATER & SEWER DISTRICT


Patrick Sorensen
General Manager

Attachments:

Sewer Permit dated 7/26/1979
Sewer As-Built Inspection dated 12/20/1978
Aerial GIS photo

15 May 2013

Dear Mr. Sorensen,

Thank you for taking the time to discuss the details pertaining to our property at 2058 Dellesta Drive. I would like to again highlight the circumstances to be reviewed by your Board in order to consider adjusting the proposed back sewer charges (\$2,526.99) to zero.

First of all, the aerial photograph of our property submitted with the bill is in error. Our property is to the west and only partially included on the left margin of the photo. The address is correct. The sewer inspection report references 2054 Dellesta, the contiguous property to the west (historically, 2054 Dellesta and 2058 Dellesta were owned by the same owner). We do not live at this residence and it is not rented. It is about 800 sq.ft and we are planning to use it as a summer cabin (July- August). We purchased the property in disrepair. We have been slowly renovating the house, bathrooms, roof, and property so we can use and enjoy it starting this summer. We have had no need or use for sewer service, but will desire the service for this summer and likely seasonally thereafter.

We support the mission of the Lake Whatcom Water District and want to pay for any service that we use. Since we have not used it over the last 3 years as implied in the invoice, we do not feel it is accurate or fair that we be charged for it. In the spirit of compromise, and to rectify this unique situation on both of our behalves, we have paid the March/April 2013 bill even though we will not require the service until this summer.

We have attempted to be complete and concise in our summary, but if we have unintentionally missed any information that would be helpful to our proposal, please contact us. Again, we feel it is fair and accurate to pay for any service that we use. We will be using this service beginning this summer.

Sincerely,

Peter and Sara Buetow
100 South Forest Street
Bellingham WA 98225

360-527-9632 (home).
360-393-1799 (cell)



LAKE WHATCOM WATER AND SEWER DISTRICT

AGENDA BILL

DATE SUBMITTED:	May 22, 2013		
TO BOARD OF COMMISSIONERS			
FROM: Patrick Sorensen	MANAGER APPROVAL <i>Patrick Sorensen</i>		
MEETING AGENDA DATE:	May 29, 2013		
AGENDA ITEM NUMBER:	5.C.		
SUBJECT:	Billing/Permitting Reconciliation – 1185 Lakewood Lane		
LIST DOCUMENTS PROVIDED ⇒ NUMBER OF PAGES INCLUDING AGENDA BILL:	1. 2. 3.		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input checked="" type="checkbox"/>	INFORMATIONAL/ OTHER <input type="checkbox"/>

BACKGROUND / EXPLANATION OF IMPACT

In late 2012 the District conducted an audit of our water and sewer connections in order to identify any “phantom” or unauthorized connections within the systems. We wanted to insure that properties receiving service are actually paying for services received, and that connection and inspection fees have actually been collected. This review, concluded in April of this year, identifying only eight (8) properties needing further review and clarification. On April 25, 2013 a letter was sent to Joseph Gregory outlining our findings and asking for a meeting or contact in order to resolve questions. Mr. Gregory met with staff on May 14, 2013.

The findings for the 1185 Lakewood Lane property are illustrated within the attached letter from the District to Mr. Gregory. In this situation Mr. Gregory built an accessory residential building on his property adjacent to an existing residential property that he owns and that is connected to District water and sewer service. Mr. Gregory at some point connected the accessory unit located at 1185 Lakewood Lane to the District’s sewer system, presumably in 2004 when the accessory unit was permitted by the County and built.

There is no record of the connection permit being paid for or any inspection being conducted. The property in question has been receiving sewer service since 2004. We do not have an account set up for this property. Likewise, we likely do not have water account established either. We are continuing to investigate this issue. His other house built in 1968, located on the same property receives both District water and sewer service and has an established account.

Mr. Gregory feels that because the County earlier enabled him to build the second structure (1185 Lakewood Lane) he did not think there was a need to establish a second account with the District and permit the new unit. District regulations recognize such a residential structure as a duplex needing a permit.

FISCAL IMPACT

Legal counsel advises that because of the circumstances surrounding how this property was not permitted, we likely have the ability to seek the value of permitting fees as administered in 2004. Likewise, user fees can go back as far as (6) years back for unpaid services.

The value of the service fees are as follows:

Sewer Service Fees

- Sewer service fees going back six (6) years to May 1, 2007 - \$4,175.92.
- Sewer service fees going back three (3) years to May 1, 2010 - \$2,297.26.

Sewer & Water Connection Fees

- Sewer connection fee in 2004 - \$2,222.00
- Water connection fee in 2004 - \$2,848.00

Note that my attached letter dated April 24, 2013 from the District to Mr. Gregory recommends a payback for sewer service charges going back only three (3) years from May 1, 2010.

RECOMMENDED BOARD ACTION

Sewer Service Fee

I am recommending after having reviewed the pertinent facts, and having consulted with staff and legal counsel that the District waive the first three years (5/1/2007 – 3/1/2010) of sewer service fees. The District's permitting and service fees in this instance are not dependent on the County's regulations and actions as it relates splitting a lot or permitting the construction of the accessory residential unit. I am recommending that Mr. Gregory only be billed for the last three years for service dating back to May 1, 2010 for an amount not to exceed \$2,297.26. I would also propose that this include no penalty fees and that a payback plan be developed that fits in with the needs of the Mr. Gregory.

Water Service Fee Issues

Staff is continuing to investigate this issue.

Sewer Connection Permit Fees

That the equivalent value for a sewer connection and inspection fee for 2004 be paid to the District.

Water Connection Permit Fees

Based upon further review by staff the equivalent for the 2004 water connection should also be paid if it is found to be warranted.

PROPOSED MOTION

There is not a specific proposed motion.



LAKE WHATCOM WATER & SEWER DISTRICT

1220 Lakeway Drive
Bellingham, WA, 98229

(360) 734-9224
Fax 738-8250

April 25, 2013

Joseph E Gregory
1185 Lakewood Lane
Bellingham, WA 98229

Re: 1185 Lakewood Lane
Tax Parcel # 380334-418545-0000
Water and Sanitary Sewer Service

Dear Mr. Gregory,

It has come to the District's attention that the property at 1185 Lakewood Lane is currently billed for (1) equivalent residential unit (ERU) for water and sewer service. County assessor records indicate that there are two separate structures on the property. Each structure is considered 1 ERU as defined by the District's Administrative Code sections 3.1.25 and 3.1.27.

The District was not contacted for additional sewer permits or side sewer inspections required for the additional dwelling unit constructed in 1999. It is illegal pursuant to RCW 57.08.180 to connect to the District's sewer system without permission and without a permit. It is also a violation of the District's Administrative Code to do so, and under the Code's Master Fees and Charges Schedule you may be responsible for the district's expenses for investigation, inspection, testing and related work, in addition to the normal permit and service fees. The following corrective actions are required:

- The District will begin billing for sewer service immediately.
- The District will bill for back sewer charges beginning May 1, 2010 (3 years back)
- Apply and pay for a sewer permit
- A penalty may be assessed by the District
- Submit as-built drawings stamped by a professional engineer verifying private side sewer was installed in accordance with District design and construction standards. District witness of side sewer leak test is required.
- If sewer permit is not paid by November 1, 2013 (6 months from this notice), the District may suspend water and sewer service to the property.

Upon receipt of this notice please contact the District for current connection fees and side sewer permit requirements.

Sincerely,
LAKE WHATCOM WATER & SEWER DISTRICT


Patrick Sorensen
General Manager

Attachments: Water/Sewer Permit Fee Estimate
Aerial GIS photo

Joe Gregory
1183 Lakewood Lane
Bellingham WA 98229
360 305 7968

To Lake Whatcom Water and Sewer District,

In response to the proposed changes in the billing for 1183/1185 Lakewood lane;

This property has a permitted ADU with a certificate of noncompliance attached to it. I have demonstrated to the county the status of this property back into the early 1960s through photographic and anecdotal evidence. This property was serviced by a septic system which was replaced in 2002 with a new septic system after the district (WD10) assured me no sewer was planned for Lakewood lane. ULID 18 came through the next year and we were forced to decommission said system and hook up to the sewer. The whole process was complicated and had many issues concerning this property. I was assessed at that time for sewer service and connected to the new sewer line. This was done properly and inspected. I also provided assistance to the district implementing ULID18.

Because the property is one tax parcel and one lot of record, it was provided with one sewer stub and one water meter. And one water and sewer bill. The district established this at the time of ULID 18 and the property owner has paid all assessments and kept current on all bills to the present.

On 5/14/13 I met with Patrick Sorenson and Bill Hunter regarding this matter. I was shown the district regulation 3.1.25. It is my understanding that this is the reason the district is considering assessing the property with another set of connection fees and another billing. The regulation, while reasonable and well written, was conceived in 2010 and on that basis I argue that this property should be exempt due to the fact that the ADU was established legally and well before said regulation. There has never been excessive use of the system due to the nonconforming status of the parcel.

I am asking the district to leave the billing and assessment situation as it is concerning this property, I believe I have a solid case in this matter, some of which is outlined here. I'd be happy to discuss this matter further at any time. I look forward to hearing from you on this.

Thanks,

Joe Gregory

Joe Gregory

1183 Lakewood Lane



LAKE WHATCOM WATER AND SEWER DISTRICT

AGENDA BILL

DATE SUBMITTED:	May 20, 2013		
TO BOARD OF COMMISSIONERS			
FROM: Bill Hunter	MANAGER APPROVAL 		
MEETING AGENDA DATE:	May 29, 2013		
AGENDA ITEM NUMBER:	5.D.		
SUBJECT:	Polo Park Bridge Replacement Waterline Relocation		
LIST DOCUMENTS PROVIDED ⇒ NUMBER OF PAGES INCLUDING AGENDA BILL:	1. Bid Proposal Summary		
	2.		
	3.		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input checked="" type="checkbox"/>	INFORMATIONAL/ OTHER <input type="checkbox"/>

BACKGROUND / EXPLANATION OF IMPACT

Sudden Valley Community Association (SVCA) is replacing a large old culvert with a bridge on Polo Park crossing Beaver Creek. The District's water main needs to be relocated to hang on the new bridge.

The project was scheduled for construction last summer but was delayed due to permitting. Construction will commence this summer. SVCA has contracted with Strider Construction Co., Inc for the construction of the bridge.

The District's water main relocation portion of the project is a public works project. Therefore, the District independently prepared construction contract documents, advertised for bids, and will contract with a contractor in accordance with public works project laws.

An Advertisement for Bids was published in the Bellingham Herald on May 5, 2013. Two bids were received and opened on May 21, 2013. Wilson Engineering is reviewing the low bidder's bid submittal and bidder responsibility criteria. A verbal report will be made at the meeting. If all looks well, staff may make a recommendation to award the contract.

FISCAL IMPACT The District's 2013 budget includes \$35,000 for construction.

RECOMMENDED BOARD ACTION See proposed motion.

PROPOSED MOTION

Award construction contract to _____ for a total construction contract amount of _____ including tax.



Bid Proposal - Summary Sheet

Project Name	Project #	Date	Bid Opening Time	Location	Page # of #
Polo Park Bridge Watermain Relocation	C1216	5/21/2013	2:10 PM	LWWSD Board Room	1 of 1

Name of Firm	Strider Construction Co., Inc.	P&P Excavating, LLC
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Schedule A - Lowell & Oriental PRV's

ITEM	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT
1	Mobilization & Demobilization	1	LS	\$ 2,000.00	\$ 2,000.00	\$ 14,380.00	\$ 14,380.00		\$ -
2	Project Schedule	1	LS	\$ 500.00	\$ 500.00	\$ 4,733.09	\$ 4,733.09		\$ -
3	Trench Safety and Shoring	1	LS	\$ 200.00	\$ 200.00	\$ 6,733.10	\$ 6,733.10		\$ -
4	Watermain Replacement	1	LS	\$ 28,500.00	\$ 28,500.00	\$ 11,564.42	\$ 11,564.42		\$ -
SUBTOTAL ITEMS 1-4					\$ 31,200.00		\$ 37,410.61		\$ -

Subtotal Base Bid	\$ 31,200.00
8.5% Sales Tax	\$ 2,652.00
Total Base Bid (w/Tax)	\$ 33,852.00

\$ 37,410.61
\$ 3,179.90
\$ 40,590.51

\$ -
\$ -
\$ -

# of Addenda Received	1
Bid Security (Yes/No)	Yes

1
Yes



LAKE WHATCOM WATER AND SEWER DISTRICT

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DATE SUBMITTED:	May 20, 2013		
TO BOARD OF COMMISSIONERS			
FROM: Bill Hunter	MANAGER APPROVAL <i>[Signature]</i>		
MEETING AGENDA DATE:	May 29, 2013		
AGENDA ITEM NUMBER:	5.0.E		
SUBJECT:	Surplus/Sale of Vactor Truck		
LIST DOCUMENTS PROVIDED ⇒ NUMBER OF PAGES INCLUDING AGENDA BILL: _____	1. Public Notice Published in Bellingham Herald		
	2.		
	3.		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input checked="" type="checkbox"/>	INFORMATIONAL/ OTHER <input type="checkbox"/>

BACKGROUND / EXPLANATION OF IMPACT

At the April 10, 2013 Meeting, the Board declared the District's Vactor Truck as surplus and directed staff to advertise the District's intent to sell the truck to the City of Ilwaco for \$6,000 as required by law.

The public notice was published in the Bellingham Herald on May 19th and 26th.

FISCAL IMPACT

None.

RECOMMENDED BOARD ACTION

Hear and consider any public comment at the public meeting. If appropriate, formally approve the sale to the City of Ilwaco.

PROPOSED MOTION

Approve the sale of the District 1983 Camel vac truck to the City of Ilwaco for \$6,000.

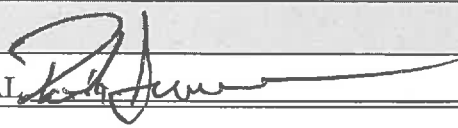
PUBLIC NOTICE

Lake Whatcom Water and Sewer District intends to sell its 1983 Camel combination sewer truck mounted on a Ford chassis with the Roots positive displacement vacuum pump and Myers water pump to the City of Ilwaco for \$6,000. The Board of Commissioners will discuss and possibly act to surplus the equipment and authorize the sale at its regular meeting at 8AM, Wednesday, May 29, 2013, located at 1220 Lakeway Drive, Bellingham, Washington.



LAKE WHATCOM WATER AND SEWER DISTRICT

AGENDA BILL

DATE SUBMITTED:	May 22, 2013		
TO BOARD OF COMMISSIONERS			
FROM: Bill Hunter	MANAGER APPROVAL 		
MEETING AGENDA DATE:	May 29, 2013		
AGENDA ITEM NUMBER:	5.F.		
SUBJECT:	Purchase of Flush./Vac Truck		
LIST DOCUMENTS PROVIDED ⇒ NUMBER OF PAGES INCLUDING AGENDA BILL: _____	1. Bid Tabulation		
	2. 2005 Vac-Con Specification Summary		
	3. Photo of 2005 Vac-Con Truck		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input checked="" type="checkbox"/>	INFORMATIONAL/ OTHER <input type="checkbox"/>

BACKGROUND / EXPLANATION OF IMPACT

The District scheduled and budgeted for replacement of two major pieces of equipment used for maintaining sewer mains, manholes, and pump stations: the 1978 Flush Truck and 1983 Vac Truck.

Staff and crew internally discussed at length the type, size, and configuration requirements of a flush/vac truck or trailer that best fit District needs. As part of the research, staff:

- Visited Birch Bay Water and Sewer District to look at their new vac/flush combo trailer and talk with their crew.
- Had a vender demonstrate a new vac/flush combo trailer at the District shop.
- Visited City of Bellingham Public Works to view their two different sized vac/flush truck rigs and talk with their crew.
- Researched what equipment is available on the state bid as well as used equipment available at dealers.
- Talked with experience contractors specializing in sewer main cleaning and repair who extensively utilize vac/flush trucks.

As staff learned the capabilities of each type of equipment, it finally became clear what the best configuration would be: a single axle combination vac/flush truck. Staff developed performance specifications and bid documents for a late model used piece of equipment. An Invitation to Bid was published in the Bellingham Herald on March 18, 2013. Bids were due

and opened on April 25, 2013. Bids for 3 pieces of equipment were received and are summarized on the attached Bid Tabulation.

The bid from Envrio-Clean Equipment was for a 2005 Vac-Con combination vac/flush truck. From the bid submittals the truck looked like it could be a good match for the District needs. The dealer drove the truck to the District on 5/15/2013 for a demo. District crews drove and operated the truck in an actual sewer force main cleaning operation. The dealer provided a chain cutter head for the demo.

The demo included cleaning about 140 lineal feet of 10" ductile iron pipe at the end of the Cable Street force main. The main had heavy build-up of very hard deposits on pipe walls. Staff had learned from prior experience that flushing alone will not break up the deposits. A mechanical cutter head is required, hence the demo chain cutter from the dealer.

The overall performance of the truck was great. The overall impression on the crew was even greater. There is 100% consensus among District staff and crew that this truck's performance is a good fit for District needs.

Staff has requested an oil analysis and a 3rd party mechanic look over the vehicle. That work is currently being performed. Results are expected to be back before the Board meeting. A verbal report will be given at the meeting and possibly a recommendation to authorize the purchase of the vehicle.

FISCAL IMPACT

The 2013 budget includes \$225,000 for replacement of the flush truck and vac truck, as well as the addition of a boom truck.

The District has already ordered a new boom truck which should be delivered in the next month or two. The total cost for the new boom truck is \$74,289.76 including sales tax.

The remaining equipment budget for a flush/vac truck is \$150,710.24. Considering the \$6,000 salvage value recovered with the sale of the 1983 vac truck, the **available remaining budget is \$156,710.24**. Also note the 1978 flush truck will also be sold as surplus once a new vac truck is placed in service. A value for the 1978 flush truck has not yet been established.

RECOMMENDED BOARD ACTION

Staff will give a verbal report of the oil analysis results and mechanic's observations at the meeting which are currently being performed on the 2005 Vac-Con truck. Depending on those results, staff might recommend purchase of the truck.

PROPOSED MOTION

Authorize the purchase of the 2005 Vac-Con combination vac/flush truck from Enviro-Clean Equipment for \$153,739.77 including sales tax.

Lake Whatcom Water and Sewer District
 1010 Lakeview Street
 Bellingham, WA 98229
 (360) 734-9224 fax: (360) 738-8250



BID TABULATION

Project Name	Project #	Date	Bid Opening Time	Location	Page # of #
Combo Sewer Vacuum Truck	C1301	4/25/2013	3:00 PM	LWWSD Board Room	1 of 1

Name of Firm		Doherty Supply		Doherty Supply		Enviroclean Equipment	
ITEM	QUANTITY	UNIT	UNIT PRICE	AMOUNT	UNIT PRICE	AMOUNT	AMOUNT
Combo Sewer Vac.	1	LS	\$ 215,000.00	\$ 215,000.00	\$ 263,000.00	\$ 141,695.64	\$ 141,695.64

Subtotal	\$ 215,000.00
Sales Tax	\$ 18,275.00
Total Base Bid	\$ 233,275.00

\$ 263,000.00
\$ 22,355.00
\$ 285,355.00

\$ 141,695.64
\$ 12,044.13
\$ 153,739.77

ATTACHMENT # 2

The unit is Vac-Con model V390LHA, serial # 08054074

The chassis is a 2005 Sterling, Model L7501, with less than 25,000 original 1 owner miles.

Vin # 2FZAATDCX5AN95378

Chassis has a Caterpillar C7 engine rated at 275hp, and an Allison 3000 RDS automatic transmission.

Chassis wheelbase is approx. 223", with an overall length of approx. 378"

This unit is in excellent condition and has been well maintained, with approx. 75% tread depth.





LAKE WHATCOM WATER AND SEWER DISTRICT

AGENDA BILL

DATE SUBMITTED:	May 20, 2013		
TO BOARD OF COMMISSIONERS			
FROM: Patrick Sorensen	MANAGER APPROVAL <i>Patrick Sorensen</i>		
MEETING AGENDA DATE:	May 29, 2013		
AGENDA ITEM NUMBER:	7		
SUBJECT:	Manager's Report		
LIST DOCUMENTS PROVIDED ⇒ NUMBER OF PAGES INCLUDING AGENDA BILL: _____	1. Manager's Report		
	2.		
	3.		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input type="checkbox"/>	INFORMATIONAL/ OTHER <input checked="" type="checkbox"/>

BACKGROUND / EXPLANATION OF IMPACT

Updated information from the General Manager in advance of the Board meeting.

FISCAL IMPACT

None

RECOMMENDED BOARD ACTION

None required.

PROPOSED MOTION

None

General Manager Comments

May 29, 2013

Board Meeting

Important Upcoming Dates:

- **Meetings Associated with the Lake Whatcom Management Program:**
 - **Policy Group Meeting:** The next meeting will be on **June 10, 2013 at 9:30 a.m.** in the Fireplace Room at the Municipal Court Building located at 625 Halleck Street. The Agenda topics have not been set as of this date. Remember, all Policy Group Meetings are publicly noticed by the District.
 - **Management Meeting:** There is not a meeting scheduled at this time.
- **Next Regular Board Meeting:** Scheduled for Wednesday, **June 12, 2013 at 6:30 p.m.**
- **Next Employee Staff Meeting:** Is scheduled for **Thursday, June 13, 2013 at 8:00 a.m.** in the Board Room. Commissioner Millar is scheduled to attend. Scheduling is rotated by alphabetical order each month.
- **Washington Association of Sewer & Water Districts (WASWD) Section III Meeting:** The next Section III meeting will be held at Bob's Burger & Brew in Tulalip on **Tuesday, June 11, 2013** starting at 6:20 p.m. All WASWD Section III Meetings are publicly noticed by the District.
- **Next Employee Safety Committee Meeting:** Wednesday June 12, 2013 1:00 p.m. in the District Conference Room.
- **Whatcom Water Districts Caucus Meeting:** The next regular meeting is scheduled for **Wednesday, May 29, 2013 at 3:00 p.m.** The June meeting will be held on the 26th. This meeting is held in the District's Board Room and is publicly noticed.

Other:

- **WASWD Executive Director Visit:** WASWD Executive Director Blair Burroughs is still scheduled to attend the **June 12, 2013** Board meeting.
- **Alternate Capital Project Funding:** Because of reduced funding opportunities through the Public Works Trust Fund, District staff, at the Board's direction, has sought other funding alternatives for the next round of capital projects. Earlier this year we applied for low interest loan funding through the Washington

Department of Health's (WDOH) State Revolving Fund (SRF) program. Recently we were notified that the District is tentatively being recommended for funding regarding the following projects:

- ✓ Geneva AC Water Main Replacement: \$2.5 million at 1.5% interest for 20 years.
- ✓ Division 22 Reservoir in Sudden Valley: approximately \$1.0 million under the same terms.
- **Wastewater Comp. Plan Update & Storm water Section Workshop:** Reminder: A Special Meeting is scheduled for **June 18, 2013 at 5:00 p.m.** in order to discuss Melanie Mankamy's work associated with the proposed storm water section of the Wastewater Comprehensive Plan Update. Dinner will be provided. (Meeting participants can also bring their own dinner, if desired).
- **Update -Wastewater Treatment Agreement with the City of Bellingham:** Again things are moving forward. District staff and consultants will have met on May 23 to address recently submitted information from the COB. This will be followed by a meeting with the City on May 29 in the afternoon to continue our contract discussions. Everyone wants to conclude a draft agreement, so we will see.
- **Board Members Out of the Area:** Reminder:
 - ✓ Commissioner Citron will be unavailable at the July 10 Board meeting.
 - ✓ Commissioner Millar was originally going to be out of the area for the June 26 Board meeting. He will now be available at that meeting; his plans have changed.