



## LAKE WHATCOM WATER AND SEWER DISTRICT

1220 Lakeway Drive  
Bellingham, WA 98229

### REGULAR SESSION OF THE BOARD OF COMMISSIONERS

## Minutes

*June 09, 2021*

Board President Laura Abele called the Regular Session to order at 6:32 p.m.

**Attendees:** Commissioner Laura Abele                      General Manager Justin Clary  
Commissioner John Carter                                      District Engineer/Assistant GM Bill Hunter  
Commissioner Leslie McRoberts                              Operations Manager Brent Winters  
Commissioner Bruce Ford                                        Finance Manager/Treasurer Debi Denton  
Recording Secretary Rachael Hope

**Excused Absences:**                      Commissioner Todd Citron

Also in attendance:                      Jonathan Honeywell, Sales Representative

All attendees participated remotely by phone or video conferencing.

#### Roll Call

General Manager Justin Clary performed a roll call to identify those in attendance, and then verbally confirmed that the meeting was noticed in accordance with Resolution No. 859 allowing remote meeting attendance as well as in compliance with current statutory requirements. It was confirmed that all participants were able to be heard and hear each other clearly.

#### Changes to Agenda

Clary requested the addition of item 7.E. regarding Board Representation on the Lake Whatcom Management Program Policy Group. The Board agreed.

Clary requested the addition of item 11, an Executive Session for the purpose of considering the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price under RCW 42.30.110.1(c). The Board agreed.

#### Consent Agenda

##### Action Taken

McRoberts moved, Ford seconded, approval of:

- Payroll for Pay Period #11 (05/15/2021 through 05/28/2021) totaling \$47,119.04
- Payroll Benefits for Pay Period #11 totaling \$51,953.52
- Accounts Payable Vouchers totaling \$52,258.10

Motion passed.

### **Sudden Valley Community Association 2021 Culvert Replacement Developer Extension Agreement**

Hunter explained that the Sudden Valley Community Association (SVCA) is planning to replace an existing culvert with a concrete box culvert in summer 2021, located near addresses 228 & 230 Polo Park Drive. This is the first culvert site in a program that replaces several more culverts over the next few years.

The stream is fish bearing. In order to construct the new box culvert to match stream flowlines the existing 8-inch diameter water main needs to be relocated deeper to pass under the new culvert. No new water/sewer connections or upsizing of infrastructure for future demand is anticipated for this site or surrounding areas—it is simply a relocation of a public water main, and reconstruction of a public sewer main within a protective sleeve.

The process for installing and modifying publically owned District infrastructure is through a Developer Extension Agreement (DEA), which provides the framework for project coordination, plan review/approval, cost reimbursement, bonding, insurance, construction inspection, final acceptance, etc. SVCA submitted a DEA application along with the required \$300 application fee and detailed site plan showing proposed construction details.

#### **Action Taken**

**McRoberts moved, Ford seconded, to authorize the General Manager to execute a Developer Extension Agreement with the Sudden Valley Community Association that will modify existing District-owned water and sewer mains to accommodate the SVCA's proposed box culvert located near 228 & 230 Polo Park Drive. Motion passed.**

### **Customer Appeal – Water/Sewer Utility Bill**

Denton summarized that the District received a letter from Gale Schwiesow dated May 18, 2021, requesting an appeal to the Board for relief from water consumption charges. Mr. Schwiesow's appeal is associated with water utility charges incurred as a result of a leaking water heater that occurred during the bi-monthly billing period of February 19 through April 19, 2021.

District Administrative Code allows for leak adjustments (Section 2.10.8); however, leak adjustments are only allowed for "...water bills resulting from in-ground water service line breaks between the water meter and the outermost exterior walls of the structure." Therefore, an adjustment due to a leaking hot water heater is not a qualifying event. Historically, staff have completed administrative adjustment of rates to the lower Tier 1 rate in instances where excess consumption was unintentional and resulted in fees assessed at the higher Tier 2 rate. District staff completed this adjustment on May 20, 2021, which resulted in a reduction of Mr. Schwiesow's utility bill by \$192.12

Staff explained to Mr. Schwiesow that the District is a public agency that must consistently administer its policies, as defined in the Administrative Code, and that staff does not have the authority to further reduce water consumption charges. Staff offered Mr. Schwiesow the option of a 12-month payment plan, and agreement form was provided. Mr. Schwiesow was not satisfied with this response and elected to appeal the General Manager's decision to the Board, as allowed under the Administrative Code. Discussion followed.

#### **Action Taken**

**McRoberts moved, Ford seconded, to uphold the District Administrative Code as written and implemented by the General Manager, and decline Mr. Schwiesow's appeal for leak adjustment. Motion passed.**

### **On-Call Engineering Services Professional Services Agreement Amendment No. 1**

Hunter recalled that the existing 5-year professional services agreement for On-Call Engineering Services with Wilson Engineering LLC expires July 31, 2021. The District published a Request for Qualifications (RFQ) in the Bellingham Herald on May 20, 2021 for the selection of the most qualified engineering firm to provide general On-Call Engineering Services for the next 5 years. Submittals are due on June 17, 2021. Review of the qualifications by the selection committee is scheduled to occur through the end of June and into July. The goal is for the selection committee to make a recommendation to the Board at the July 28, 2021 board meeting.

Wilson Engineering LLC is actively working on several District projects (task orders), as well as preparing to begin some upcoming work. Therefore, Staff recommended adding three months to the existing agreement with Wilson Engineering LLC to provide sufficient time for completion of ongoing/planned work, and to allow for transition of active projects covered under the current agreement to move into coverage by a new 5-year agreement (firm to be determined as part of the RFQ selection process). Discussion followed.

#### **Action Taken**

**Ford moved, Carter seconded, to authorize the General Manager to execute Amendment No. 1 to the professional services agreement with Wilson Engineering LLC for on-call general engineering services, as presented, which extends the period of performance through October 31, 2021. Motion passed.**

### **Accessory Dwelling Unit Regulation Policy Discussion**

Clary recounted that permitting and billing associated with accessory dwelling units (ADUs) within the District is regulated under the District's administrative code. With an increased statewide focus on affordable housing, the Board of Commissioners previously indicated a desire to review current policy related to ADU regulation.

At the Board's regularly scheduled meeting on February 24, Clary provided a memorandum developed by staff meant to facilitate Board policy discussion on the topic. Considerations raised by the Board during the February 24 meeting included: reducing general facilities charges (connection fees) to 0.5 equivalent residential unit (ERU) and eliminating additional water and/ or sewer rates for ADUs, including allowing water service through one water meter. A brief discussion followed, and the Board expressed a desire to continue discussion at a later date when all commissioners were in attendance. The topic was again discussed during the Board's regularly scheduled meeting on April 14; however, because not all five commissioners were in attendance, the Board indicated a desire to postpone substantial discussion until all five commissioners were present.

Since initiation of the District's ADU policy discussion in February, the Washington State Legislature passed HB 1220 during the 2021 legislative session, which was developed to encourage construction of ADUs as a means of meeting affordable housing goals under the State's Growth Management Act (GMA). HB 1220 adds a new section within the GMA that has direct impacts on the District's ADU policies. However, Governor Inslee partially vetoed the bill, including vetoing in its entirety the new section related to ADUs. Governor Inslee's reason for vetoing the section was due to an inadvertent error by the bill's sponsor in not specifying that the new section solely pertained to ADU development in city limits and urban growth areas (UGAs). As a result, though there are no impacts to the District's ADU policy now, it is anticipated that a bill with the ADU section will be re-introduced during the 2022 legislative session that includes the municipal limits/UGA requirement. Therefore, whatever ADU policy revisions that the Board elects to implement now, may require revision in 2022 to address connections within the Geneva UGA vs. the rest of the District. Discussion followed, during which the Board agreed to postpone further discussion until further legislative revisions are made.

**Lake Whatcom Management Program Policy Group Representative**

Clary related that the District is a member of the Lake Whatcom Management Program (LWMP) along with the City of Bellingham and Whatcom County. Each year, the Board selects commissioners to various external groups and programs to represent the District. Commissioner Ford was assigned as the representative to the LWMP Policy Group in January, 2021, and recently expressed a desire to allow another commissioner the opportunity to represent the District on that committee. Discussion followed.

**Action Taken**

**Ford moved, Carter seconded, to appoint Commissioner McRoberts to serve as the Lake Whatcom Water and Sewer District representative at the Lake Whatcom Management Program Policy Group meetings for the remainder of 2021. Motion passed.**

**General Manager's Report**

Clary updated the Board on several topics, including the District's continued response to the COVID-19 pandemic, the re-opening of the District office to the public, updates from WASWD regarding the state moratorium on shutoffs and late fees, and the start date for the new Finance Manager. Discussion followed.

**Executive Session Per RCW 42.30.110(1)(c) Minimum Price for Real Estate – 30 Minutes**

Abele recessed the Regular Session to Executive Session at 7:13 p.m. It was estimated that the Executive Session would take 30 minutes and that no action was anticipated following the Executive Session. The purpose of the Executive Session was to discuss the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. Abele recessed the Executive Session and reconvened the Regular Session at 7:40 p.m.

With no further business, Abele adjourned the Regular Session 7:40 p.m.

  
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Board President, Laura Abele

Attest:   
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Recording Secretary, Rachael Hope

Minutes approved by motion at  Regular  Special Board Meeting on July 14, 2021  
Date Minutes Approved