

PUBLIC UTILITY DISTRICT NO. 1
OF ASOTIN COUNTY, WASHINGTON
MEETING MINUTES
August 27, 2019

.....

President Judy Ridge presiding, the Public Utility District No. 1 of Asotin County Meeting was called to order at 5:30 p.m. at the PUD Office at 1500 Scenic Way.

.....

ROLL CALL: PRESENT Commissioners: Judy Ridge, Greg McCall and Don Nuxoll.

Staff: Tim Simpson and Bob Sischo.

Guests: Kerri Sandaine, Lewiston Morning Tribune.

MINUTES OF MEETING AND VOUCHER APPROVAL

MOTION by Commissioner Greg McCall and seconded by Commissioner Don Nuxoll to approve the consent agenda approving the minutes of the August 13, 2019 Regular Meeting and payment of Electronic Payroll Vouchers #5232EFT – #5248EFT in the amount of \$36,812.30 and Electronic Accounts Payable Vouchers #19082001, #19082002, #19082301 and #19091201 and Accounts Payable Vouchers #39829 – #39868 in the amount of \$154,850.55. The question was called for on the motion. The motion passed 3-0.

OLD BUSINESS

City of Clarkston Sewer System Operator Agreement

The manager stated that, as directed by the Board, after the meeting on August 13th he sent an email to City of Clarkston Mayor Monika Lawrence stating to her that the PUD will not be moving forward with the City Sewer System Operator Agreement. He expressed to her the Board's reasons and concerns regarding the City's intention to exercise their ordinance and levy a 6% tax on the sale of water to PUD customers within the City limits. The manager expressed the Board's concern regarding what amounts to a 20% tax on water and wastewater customers, none of which will be used to increase the operational effectiveness or value of these utility systems. In addition, the PUD will have to collect a 3.852% state utility tax on wastewater customers effectively requiring the PUD to institute a nearly 10% rate increase on rate payers within the City limits before taking over operations.

The manager also stated to Mayor Lawrence the Commissioners discussion regarding the burden being taken from the City through the pending Agreement which would require the PUD to assume all the liability of operating the WWTP and the sewer collection system, take on five staff members, and with ownership assuming over \$10 million of debt on the system and \$22 million in estimated future liability of upgrading the sewer collection system. The manager stated to her that the PUD does not question the legality of City's taxing authority, but Commissioners feel that adding a 6% tax levy, on top of all of the other taxes levied by the City and State, goes against the spirit of what is trying to be accomplish with the Agreement, which is to benefit City citizens and our collective ratepayers.

The manager reported that the Mayor's response to the email was that she will have to meet with City Council to find how they want to proceed. He stated that he spoke with Public Works Director Kevin Poole last Wednesday, August 21 and he stated that the current status of the Agreement was discussed at the Public Works Committee on Tuesday, August 20 but no detail of that meeting has been provided.

The manager stated he received a call from Mayor Lawrence on Friday, August 23 where she stated the status of the Agreement would be discussed in executive session with the City Council and that they intend to read the email sent to her regarding the PUD Board's decision and their position regarding the water utility tax. The manager stated to her that if the City would back off of their intentions to charge the 6% water utility tax that the PUD Commissioners might reconsider moving forward. She stated that City Attorney Todd Richardson told her that it may not be fair and could be a gift of public funds if they don't charge the tax. The manager stated that it would not be a gift of public funds to not charge a tax. He told her that just because they have the authority to charge the tax doesn't mean they have to. He provided her an overview of the gift of public funds doctrine and how it was designed primarily to ensure public funds do not support private entities. He told her that the PUD is a public entity engaged in the same fundamental government functions as the City and that no violation of the gift of public funds occurs when a government entity assists in the acquisition and transfer of property to another entity that is serving wholly public functions. He told her that the courts have recognized special purpose districts, which PUDs are, as those who serve wholly public functions. The manager stated that he sent her an email with information from the Municipal Research and Services Center (MRSC) regarding the gift of public funds doctrine.

The manager stated that before tonight's meeting he received a call from Mayor Lawrence, Kevin Poole and City Clerk/Treasurer Steve Austin who stated that the Council met in executive session at their meeting on Monday, August 26 but no decisions were made. The Mayor stated that Mr. Richardson was not in attendance and they are waiting for him to complete his research on the question of the gift of public funds. The manager reminded her of his position regarding this issue. Mr. Austin stated that he discovered they are paying the 3.852% state utility tax on sewer service as a part of the 14% tax they are charging to sewer customers. Mr. Austin went on to state that because of the discovery, a water utility tax to the PUD, which the customers ultimately pay for, would be less than expected due to this information. The manager told Mr. Austin and the Mayor that any tax charged to the PUD is a non-starter for the PUD Board of Commissioners. The Mayor stated that they would like to meet again to discuss this information. They stated that based on the fact that the State Auditor's would be in their office starting next week and that it may be a couple of weeks before Mr. Richardson has completed his research it may be the end of September before they could meet.

The manager stated that the City has asked us to take on the political, regulatory and financial risks associated with the operations and eventual ownership of the WWTP and sewer collection system, and to take on \$32 million in debt and capital improvement liability, which we are willing to do. He stated that essentially the Agreement was gift-wrapped and sitting under the tree, just waiting to be opened and the City's response was to tax our customers. This tax seems like a punishment to ratepayers, and it's not good for our community to do this. The Commissioners reiterated their position regarding the City Sewer System Operator Agreement if the City intends to charge the PUD a water utility tax no matter what they state the percentage is. The Commissioners said if the City backs off imposing the tax, they may consider further discussions or a joint meeting of elected officials to iron out any issues.

NEW BUSINESS

City of Asotin Interlocal Governmental Agreement – 2nd Street Water Service Replacement Project

The manager presented an Interlocal Governmental Agreement with the City of Asotin which provides for the replacement of 45 water services on 2nd Street in preparation for an asphalt replacement project the City will complete next year. He stated that the City secured funding for the project through the U.S.

Department of Agriculture Rural Development program and staff worked with the City's engineer and the USDA state engineer to develop a simple agreement that meets their requirements. The Agreement was approved by the Asotin City Council at their meeting last night.

MOTION by Commissioner Don Nuxoll and seconded by Commissioner Greg McCall to approve the Interlocal Governmental Agreement with the City of Asotin for the 2nd Street Water Service Replacement Project and authorize the General Manager to execute the Agreement. The question was called for on the motion. The motion passed 3-0.

MANAGER'S REPORT

Operations Activity – the manager reported that the Bridge Street Lift Station Project is waiting on generator start-up procedures which will be performed by Western Equipment. Three (3) more services on 11th Street have been replaced and no lead pigtails have been found. Painting and improvements to the exterior of Well No. 7 have started. The crew is flowing Asotin County Fire District owned fire hydrants starting in the City of Asotin. The crew will be replacing 290 ft of 6" steel water main on 9th Street from Elm to Diagonal Streets with 8" PVC. Only one service will need to be replaced. The project will also include the replacement of 150 ft of 2" galvanized line with 1-inch HDPE pipe.

Bob Sischo WFOA Award – the manager reported that Finance Director Bob Sischo has received his 12th consecutive Professional Finance Officer Award from the Washington Finance Officers Association for ongoing educational and professional excellence. The Commission congratulated him on the award.

COMMISSIONER'S REPORT

There were no reports provided by Commissioners.

ADJOURNMENT

There being no further business the meeting was adjourned at 6:18 p.m.