

# Jeff Noedel

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## Village Council endorses Ludlow water Surcharge



Larry Smith, Port Ludlow Associates vice president and Olympic Water & Sewer Inc. manager, and PLA President Diana Smeland give a presentation to the Port Ludlow Village Council on Aug. 7. PLA agreed to three changes in a draft document, and ultimately, the advisory Village Council endorsed the water company's surcharge request by a 5-2 vote. Photo by Jeff Noedel

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By Jeff Noedel Contributor

Port Ludlow's utility company now has the support of a divided Port Ludlow

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Village Council after a last-minute push to settle a water surcharge dispute outside a courtroom.

Olympic Water & Sewer Inc. (OWSI) ratepayers would still pay the same amount the company wants to recoup from the failed drilling of Well 17, a total of \$160,000, but \$48,000 of it would be billed with the next well project. OWSI also conceded that if another attempt were to be made to drill on that same North Bay location and it were to fail, ratepayers would not be billed.

The Port Ludlow Village Council (PLVC), an advisory body for a community that has no municipal government, voted 5 to 2 with one abstention, to support OWSI's surcharge request, proposed three years ago.

State Utilities and Transportation Commission (UTC) staff urged OWSI and the PLVC to resolve the issue before an August deadline, when the case would be turned over to an administrative law judge. Now, UTC staff are to study the proposal (a copy, dated Aug. 11, is attached to this story on ptleader.com) and make a recommendation to the UTC board – approval is not guaranteed, and could take eight months, according to UTC staff.

The controversy stems from costs OWSI incurred from a failed attempt to increase water supply specifically for Ludlow's North Bay area. OWSI has one water well on its property at 781 Walker Way, the largest company-owned parcel in North Bay, and in 2009 attempted to drill another. At 50 feet down, the new well hit groundwater contaminated by gasoline, apparently from a known underground tank leak (an estimated 110 feet away) thought to be resolved in 1991. Existing Well 2 (85 feet from the known contamination) has not shown any problems, according to OWSI.

OWSI, a division of Port Ludlow Associates (PLA), master-planned resort community owners, wants customers to pay for the costs of the failed Well 17. Dozens of customers have objected to the surcharge proposal in public meetings. In a July 28 negotiation meeting between PLVC and OWSI, the water company offered to defer \$48,000 of the proposed surcharge and bundle it with future well drilling. That would reduce the surcharge to each customer from an originally proposed \$2.70 to a new \$1.92 per month for three years.

Also during the July 28 meeting, the PLVC extracted a concession that if OWSI drills at Walker Way again, and again has to abandon a drilling project because of contamination, that OWSI would not seek ratepayer reimbursement.

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An attempt to reach a settlement between the PLVC and OWSI has had a new sense of urgency, as time has officially run out with the UTC, and the matter is about to be turned over to an administrative law judge. That hearing process is tantamount to a trial, which could cost \$300,000 or more, according to the PLA. If OWSI prevailed in the administrative hearing process, customers could be saddled with the original \$160,000 plus legal fees.

Lately, the majority of the PLVC board has favored a settlement rather than risk losing before an administrative law judge, especially after the July 28 concessions by OWSI.

Laury Hunt, an attorney and PLVC board member who conducted the Aug. 7 meeting, acknowledged a "substantial financial risk" in letting the issue go before an administrative law judge.

"I don't want to go into court," Hunt said.

In the Aug. 7 meeting, nine board members and 20 people debated primarily over two new twists that OWSI injected into its draft letter to the UTC. OWSI wanted the PLVC to endorse that letter.

The first OWSI change was to narrow the reference to pledging never to seek reimbursement through a surcharge. Audience members immediately objected that the new language seemed to leave open the possibility that OWSI could seek reimbursement through a rate increase instead.

Carol Reichstetter, one of the surcharge's most strident critics, said, "The only value to this, if there is any, is that we are guaranteed forever that if they decide that they're going to drill at that site [and abandon it for contamination], we will never have to pay for any part of that. It's a tiny little concession. It's the only one they made to us. And this is essentially taking all the force out of it." Later in the one-hour deliberations, OWSI withdrew the reference to surcharge, opening up the prohibition of future failed Walker Way costs to all forms of customer reimbursement.

The second new wrinkle in OWSI's draft was its proposal that any future failed Walker Way drilling costs be approved or disapproved by the PLVC board in the future. Not only was this opposed by many PLVC board members and customers, but the debate quickly mushroomed into the suitability of PLVC to represent the

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Port Ludlow community in the first place.

OWSI withdrew this language from its draft letter, but not before two PLVC board members and one audience member stated their opinions that the PLVC does not represent the community on the surcharge issue.

Board member Dave Armitage implied that OWSI had flip-flopped on how it rates the PLVC. Armitage referred to a public document in which OWSI manager Larry Smith implies that the PLVC represents fewer than 200 people; OWSI has 1,700 customers. Armitage then asked, "Since when did the PLVC speak for the whole community?"

Audience member Dianne Ridgley, her voice raised, took to the podium in the Bay Club auditorium and delivered an impassioned speech. She said: "If you've already agreed you don't speak for all of Port Ludlow, why are you sending a letter to the UTC saying the community thinks we should pay this bill? From everything I've read, what I see is the contamination is owned by PLA and Pope Resources; it is not ratepayers."

PLVC board member Tamra McDermid also criticized some of her colleagues. She said, "I am a little disappointed with some of the members of our council that so politely voted this through, when they know darn well that most people in the community do not agree with it. So are they voting for themselves or are they representing the community?"

PLA President Donna Smeland responded, saying that there are many customers who accept the surcharge. She said "many" customers have come to the PLA office with a check to pay the surcharge. PLA declines to accept those checks. She added that most customers who phone PLA with questions about the surcharge seem satisfied with PLA's explanations.

Smeland had also noted that PLA believes the surcharge request is fair but the company has "other things to work on" and in the interest of saving time and money, wants to get the issue resolved at the UTC level because "nobody wins" if it goes before an administrative law judge.

With time in the meeting running out before a mandatory 5 p.m. adjournment, PLVC President Terry Umbreit said it was time to decide.

Armitage made a motion, which McDermid seconded, that the letter of support

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be refused. That motion failed 5 to 3.

Then, Laury Hunt made a motion that the letter be supported by the PLVC, seconded by Larry Nobles. That motion passed 5 to 2, with one abstention. Voting for the motion were Hunt and Nobles, plus Linda Haskin, Mike Nilssen and Rose Hablutzal-Jackson. Voting against the motion were Armitage and McDearmid. New PLVC board member Brett Oemichen abstained from the vote, because he felt the draft letter, in its unfinished form, should not be voted on at all. President Umbreit only votes to break a tie.