

Rosario Utilities Water Advocate's Group*

Mission Statement: It is the mission of this committee to research options, investigate opportunities, and establish priority action plans that will be in the best interest of the Rosario Utilities users with regard to the potential acquisition of Rosario Utilities LLC by Washington Water Services.

The options are:

1. A co-op, formation of our own utility - (RCW 24.06)
2. Form a local Water District – (RCW 57.04.020 - .060) and condemnation (RCW 57.08.005) of RU
3. Do nothing and become part of Washington Water Services
4. Influence Rosario Utilities into selling to Eastsound Sewer and Water District
5. Annexation (RCW 57.24) with Eastsound Sewer and Water District and condemnation (RCW 57.08.005) of RU

Group Consensus – Having reviewed the information available online (RCWs), consulted with an experienced water utility attorney, and conducted formal and informal discussions with the commissioners and managers of Eastsound Sewer and Water District and Eastsound Water Users Association, the following summarizes our position.

- A co-op is attractive because it gives the RU users complete autonomy. Unfortunately, it suffers from the need to raise a large amount of capital for purchase of RU (the same capital must be raised by 1., 2., 4., and 5..) an unwilling seller, and the need to build the infrastructure to carry on the business.
- Starting a local water district is long, costly and duplicative of Eastsound Sewer and Water District.
- Allowing WWS (a California Corporation dedicated to maximizing profits) to own and operate RU, will be the most costly option to the RU users.
- Influencing Rosario Utilities into selling to Eastsound Sewer and Water District would be the best option, but most unlikely.
- Pursuing annexation and condemnation procedures with Eastsound Sewer and Water District although long and arduous is the most practical option. It utilizes an existing utility district, retains local ownership and operation, is non-profit, and retains ownership of water rights.

1. Co-op, formation of our own utility

Pros:

- Locally owned and operated.
- Not-for-profit, keep rates as low as possible.
- Own water rights.
- Probably the fastest solution
- Does not have the power to condemn
- Less state control

Cons:

- Funding necessary to purchase Rosario Utilities would need to be obtained.
- Requires Rosario Utilities to sell to the newly formed cooperative that has no experience operating a utility, as opposed to selling it to WWS, ES&WD, or EWUA. This is unlikely.

- Cooperatives are only as good as their members.

2. Form a local Water District

Pros:

- Locally owned and operated, state controlled.
- Not-for-profit, keep rates as low as possible.
- Own water rights.
- Has state mandated powers; purchase, condemn, establish rates, loan and borrow funds, issue bonds, and levy taxes.

Cons:

- Requires a petition of 10% of number of registered voters residing in the territory proposed to be included, who voted in the last general election, or if in the opinion of the county health officer the existing water, sewerage, or drainage facilities are inadequate in the district to be created, and creation of the district is necessary for public health and safety, then the legislative authority of the county may declare by resolution that a water-sewer district is a public health and safety necessity, and the district shall be organized under this title, without a petition being required.
- Requires the County Council to approve and set an election for voters residing in the territory to be included, a majority of the voters voting is needed for approval.
- The petition and election are prerequisites to forming the utility. The administrative and operational structure then must be put in place to hire personnel (engineers, lawyers), and create bonds for financing via a ULID.
- A ULID (RCW 57.16.050 - .100) is a financing sub-option that could be used once a district was formed. If a ULID is not formed, then a likely alternative would be a rate surcharge to the RU area users.
- The local Water District must go before the Superior Court to seek condemnation of RU (from whomever owns it). A fair market value must be established and the transfer of ownership occurs.
- The slowest solution.

3. Do nothing and become part of Washington Water Services

Pros:

- WWS seems to be committed to the purchase of RU, with conditions.
- They seem to be a reasonably well run company, that may bring some economy of scale with all of the water utilities (26) under the WWS umbrella.

Cons:

- Ownership and operation of RU would be off-island, in the hands of WWS, which is a division of a California corporation.
- WWS is a privately held corporation and as such is in the business of maximizing profits for its investors.
- WWS would own the water rights.
- WWS is going to buy only the water rights needed for immediate use by RU. In the future, when WWS need more water, they will then buy more water rights from a separate entity (a separate LLC). The purchase of future water rights will not be controlled by the WUTC and the value (price paid) for these rights will be potentially astronomical and these costs will be passed on to those of us who use the water.
- WWS has no incentive to conserve water...if run inefficiently, WWS can go back to the WUTC to raise the rates.

- WWS will pay for RU with a loan. They will not invest their money in RU. You, the consumers will pay for the utility, RU, and the attendant interest. When the loan has been paid off the consumers will not own the utility or the water rights.

4. Influence Rosario Utilities into selling to Eastsound Sewer and Water District

Pros:

- All of the pros of a local utility district shown above in # 2.
- Quickest solution.

Cons:

- None of the cons listed in # 2 above.
- Possibility if WWS does not purchase RU.

5. Annexation/condemnation with Eastsound Sewer and Water District

Pros:

- Locally owned and operated, state controlled.
- Not-for-profit, keep rates as low as possible.
- Own water rights.
- Has state mandated powers; purchase, condemn, establish rates, loan and borrow funds, issue bonds, and levy taxes.
- Ability to establish a firewall between Eastsound Sewer and Water District and the users in the RU service area, to create a satellite or stand alone system with separate rates.
- Once Eastsound Sewer and Water District accepts the annexation petition, future expenses involved in this process are theirs (subject to recovery via assessments or surcharges).
- When the annexation by Eastsound Sewer and Water District is confirmed by the election, Eastsound Sewer and Water District has the ability to add 2 commissioners from the RU area to their board, and/or anyone from the RU area can run for election to the ES&WD.

Cons:

- Requires a petition for annexation of 10% of number of registered voters residing in the territory proposed to be included, who voted in the last general election.
- Requires Eastsound Sewer and Water District to accept the annexation petition.
- Requires the County Council to approve/disapprove the annexation, and if approved, set an election for voters residing in the territory to be included; a majority of the voters voting is needed for approval.
- Eastsound Sewer and Water District must go before the Superior Court to seek condemnation of RU (from whomever owns it). A fair market value must be established and the transfer of ownership occurs.
- A ULID (RCW 35.43.042) is a financing sub-option that could be used to finance the litigation and acquisition costs.
- Costs associated with the petition process will be paid by the OHA and RPOA.
- A slow solution.

* Committee comprised of members of Orcas Highlands Association and Rosario Property Owners Association.