

**FOUR CORNERS WATER AND SEWER DISTRICT MINUTES
REGULAR MEETING, September 17, 2019**

Call to Order

Vice President Nancy Flikkema called the Four Corners Water and Sewer District meeting to order at 6:30PM on Tuesday, September 17, 2019, in the library of Monforton School, located at 6001 Monforton School Road, Bozeman, Montana.

Board Members present: Vice President Nancy Flikkema, Phil George and Peter Thatcher. Absent were Heather West and President Cory Klumb.

Staff/Public: Amy Ellingson and Larry Powers, Attorney Susan Swimley, and Engineers Marty Gagnon and Brad Hammerquist of Morrison-Maierle (MMI), and Kyle Griffith. Minutes were formatted by substitute secretary Crystal Turner.

Approval of Minutes

Approval of Draft Meeting Minutes August 20, 2019

Phil George asked that clarification of the RDA Series 2015 special water, and SRF Series 2015 be further defined to read "Rural Development Administration" and "State Revolving Fund". Kyle Griffith stated under Public Comment on non agenda items, the minutes do not accurately capture the discussion. "My issue was about the comment of open dialogue and civility being abused. I won't go there again but want it captured [in the minutes]," Kyle said.

Motion: Phil George said with those two changes, I move we approve the minutes of the meeting. Peter Thatcher seconded the motion. There was no public comment. *The motion carried 3:0.*

Public Comment on Non-Agenda Items: There was no public comment on non-agenda items.

GENERAL BUSINESS

2019-12 2nd Reading Nelson – 1 Sewer EDU

Phil George explained this is Ordinance 2019-12 for its second reading for Michael & Veronica Nelson, and is a sewer only connection.

Motion: Phil George moved that we sign and accept the 2nd reading. Peter Thatcher questioned how the District bills for sewer only. Phil George explained there is a fee structure is setup. Peter Thatcher seconded the motion. There was no public comment. *Ordinance 2019-12 passed 3:0.*

2019-13 1st Reading Bell – 1 Sewer EDU

Phil George explained this is a request by **Spanish Peaks Property, LLC** and is a single commercial building which would like to annex for sewer only. Phil continued is report on the application to those present: he has reviewed the property and it would be more EDU equivalent.

Susan Swimley stated although she has reviewed this document many times already, she see missing "r" in the word "Property" in the title.

Motion: Phil George moved that we approve this ordinance with the change noted. Peter Thatcher seconded the motion. There was no public comment. *Ordinance 2019-13 passed 3:0.*

2019-14 Sewer only EDU was postponed – The applicant did not complete the paperwork in time.

Kyle Griffith

- i. **Legal Costs**
- ii. **Future impact**
- iii. **Summary Judgment**
- iv. **Board Meetings**

Kyle Griffith asked if everyone had been able to review his documentation.

Phil George said he would like to reply to each of Mr. Griffith's questions.

1. Regarding Susan Swimley's hourly rate – her rate is \$235.00 On the lawsuit the District's deductible is \$5,000.
2. Have all members read the Judge's finding? Phil has provided each board member with the documentation but he cannot attest that all have read it. Nancy Flikkema said she received it and has read it. Phil Thatcher stated the same.
3. Re: Elk Grove covenants - APK was an existing contract which was approved by the prior owner. District has made a decision to appeal Judge Berger's ruling.
4. We need to let the legal process play out, and there will be legal issues to be resolved.
5. Again, we need to let this play out.
6. Regarding Mr. Griffith's question #6, Mr. George asked, "What other covenants are not being addressed?" Kyle responded that he is not a lawyer, but max of 1.5 million basically a match that Elk Grove would be held responsible for in capital expenses, assuming Elk Grove will prevail in the lawsuit against District. Phil said, "To be honest, I believe we have to let this play out through the legal cycle first."
7. Yes it is worth spend the money when we are acting in the best interest of the public.
8. Phil said he believed there were many accusations at the last meeting's public comment process. It is not just about being on the agenda, but that discussion was not in the right place/time. Maybe someday we will get back to that informal process, but at this time the Board supports President Klumb's decision to change the agenda.
9. (Not addressed. Read later in the minutes.)
10. As noted above, I do have a **right** to participate. The board does *not* have a right to pick and choose which questions it likes and from whom it will accept them. As quoted earlier, Mr. Klumb mentioned that the "privilege" to ask questions has been abused. Is it the stance of the Board that asking questions and getting answers is a "privilege"? The public comment part of the agenda is for the public who are not on the agenda to have the opportunity to speak to the board. However, the board is normally unable to respond. In the past the board has been flexible on the rule. At resent times this has been abused by the public and is no longer an available time for the board to respond to public comment. If a member of the public would like to converse with the board they will need to be on the Agenda. Who are the board members accountable to? Susan Swimley explained the District is its own unit of government.
11. The board had never seen a public records request before. We had to figure out what to do – yes, there was a time lag but fundamentally we had to go through the analysis first, and determine the process. The District does not have to record meetings, it has to take minutes of their proceedings. There was discussion regarding destroyed recordings if the meetings are not kept.
12. Regarding the cost of providing the public records' request, it does cost a little more than \$10 Kyle Griffith stated his \$47 invoice was excessive. Phil explained it took staff time to locate the information requested and expenses to provide copies. Kyle argued he could have had the

documents scanned and uploaded to a DropBox which would not cost anything. Phil said it would still take staff time to do the research and scan the documents.

Kyle said he appreciated that Phil answered and addressed every question he posed.

Engineers Report

Brad Hammerquist reported they have been focused on the construction of the new water reclamation facility. He has worked with Larry and Phil and the contractor to keep the project moving forward. He is also working on the Department of Environmental Quality (DEQ) submittal for a sludge press at Elk Grove Wastewater Treatment Plant (WWTP) and once it is up and running it would save the District significant costs on hauling sludge.

Monthly Operation & Maintenance Report

Larry Powers reported he is still waiting on parts for the Headworks portion. "We should be getting some concrete on the ground. The contractor will be racing against cold weather," Larry said. He continued there was a 6" gas main relocated a day ahead of schedule. They also had a water main break at Town Pump because the contractor dug through the main to locate it. This caused 5,000 gallons a minute to be wasted. Nancy Flikkema asked if the contractor would have to pay for that repair. Larry said yes, and we are tracking it.

VFD pump drive was an older unit and it burned up. Another drive was lost at the Northstar booster. Larry said, "We are coming out of irrigation season and have enough capacity at remaining pump houses. And Northstar has a backup which is needed for good fire protection." They are detecting high flows into the Elk Grove lift station. One house has been sump-pumping groundwater into the sewer system. This is hard to track to one particular house. We are looking at flow monitors we would install and maybe track them down. We also have a little infiltration problem – new manholes will be ordered. Kyle asked where do one pump the groundwater if they are not supposed to pump it into the sewer? Phil replied simply, "That's not the District's problem. We can't put it in the sewer because it is illegal and we are getting killed in maintenance costs." Larry explained groundwater level is 2-3 feet deep. There was discussion on installing dry wells at the homes which have issues, but they cost around \$10,000/each. Larry said groundwater is causing problems at the WRF project. He said there was also a house in the Northstar development which they figure was pumping 40,000 gallons/day. (Phil informed Susan he used a letter she drafted last year for another customer, but sent it to the owner they believe is pumping groundwater into the sewer."

General Administration Activities and Issues

Amy Ellison reported the audit is ongoing. She has submitted everything they have request and she anticipates a field date to be scheduled the 2nd week of October. She hopes the Auditors will present at the November meeting.

This past Spring/Summer she went out for bids to fence the RI basin. "We selected the lowest bid. And the project should start in about a month" Amy said. Phil added they contacted him and will send a draft contract shortly and want a down payment prior to beginning as well as have the District get land surveyed.

Monthly Financial Report

Phil George reported the shared that expenses are right in line with the projected budget. Irrigation season will be ending so this will reduce the water revenue shortly. On the Sewer side, we are ahead on

revenue. The last page shows what the reserves are at currently. There are required reserves for the bonds (\$656,000) this will increase as we begin to fund for the \$11,300,000 requirements. These are all gathering 1.8% interest. Summit and Sky has also paid the District.

Board Members Topics

There were no further comments from Peter Thatcher or Phil George. Nancy Flikkema said they skipped over the reply to Kyle on his question #9 – he was right with his interpretation; there was nothing else intended.

Next Meeting Date – Tuesday, October 15, 2019

The meeting adjourned at 7:09PM.