

BIG SKY WATER & SEWER DISTRICT NO. 363
Regular Meeting Minutes – December 9, 2008
WSD Community Room

The Big Sky County Water & Sewer District No. 363 scheduled a regular meeting for 8:00 am on Tuesday, December 9, 2008, in the WSD Community Room. President Packy Cronin called the meeting to order, with the following Board members present: Vice-President Gary McRae, Secretary Dick Fast, and Directors Dick Allgood, Jeff Daniels (left at 10:00 am), and Bill Olson. Director William Shropshire participated via telephone until 9:00 am. WSD staff present were Ron Edwards, Marlene Kennedy, Terry Smith, Jim Muscat, and Grant Burroughs.

Others present were Northwestern Energy representatives Matt Micklewright, Pat Acey, Ernie Hult, and Emit Reardon (via telephone); Boyne representative Brian Wheeler; and adjacent property owner Bill Irwin. Holmes & Turner auditor, Rosie Barndt, was present during the audit report.

PUBLIC FORUM

With no public comment, President Cronin called the meeting to order at 8:11 am.

MEETING MINUTES

Director Shropshire moved to approve the minutes of October 23, 2008, as written. Director Daniels seconded the motion. Motion passed, 7 yeas to 0 no votes with President Cronin voting.

FINANCIALS

Smith only reviewed the October financial reports, stating that he did not have time to prepare the November reports. According to Smith, the operating revenues are favorable and the operating expenses are on target. The sewer revenue turned negative this past quarter, which is what Smith had expected until we have our rate increase again next year. Late notices went out last Friday for delinquent accounts and receivables have increased in just a few days. Smith noted that Spanish Peaks has sent in three payments and are on schedules with their permit payments. Edwards reported that the Yellowstone Club has made two payments totaling \$20,000 towards their approximate \$87,000 third quarter water charges. Smith noted that the new rate structure hit the YC hard since their volume of use kicked them into the high use rate. Edwards stated that the YC is probably not being charged fairly with the tiered system and the District will be looking at their number of service connections, like other single meters serving multiple units, to recalculate their water rates. Edwards will try to apply the same billing practice to YC for their master meter as is done for others with multiple properties tied into one meter. President Cronin and Director Fast stated that YC should be paying the higher rate tier if they are going over the use when dividing the number of users on the master meter. President Cronin noted that the WSD needs to monitor the YC agreement to use treated water since they are in bankruptcy proceedings. Edwards is having District legal counsel look into what the District might want to do. Director Shropshire asked that the District advise the bankruptcy court of YC's obligation to the District to accept treated wastewater, plus of the additional storage they are to build. Edwards said for now YC is only in arrears on their quarterly water bill for a financial obligation to the District. Edwards stated that the YC has a separate utility company that is not involved in the bankruptcy so the water charge is not applicable. *President Cronin directed staff to work with legal counsel to inform the bankruptcy court of the outstanding water charges and of the YC agreement for storing and using treated wastewater and then let the court decide if this is relevant to the bankruptcy. If Swimley isn't familiar with Chapter 11 proceedings, President Cronin directed Edwards to have her farm the issue out to*

another firm that is experienced. Director Daniels noted that he has received bankruptcy information that says March 2009 is the reporting deadline. (See Director Allgood's comments under the Audit regarding the timing of our audit and the bankruptcy filing, which may be a factor in determining relevancy).

Director Olson moved to approve the October financials as presented. Director McRae seconded the motion. Motion passed, 7 yea votes to 0 no votes with President Cronin voting.

AMEND AGENDA

Director McRae moved to amend the agenda to address the Northwestern Energy substation location. Motion unanimously passed.

NORTHWESTERN ENERGY SUBSTATION

Edwards reviewed the status of Northwestern Energy's request and noted that Lisa Kass sent a letter to the board members objecting to the substation. Matt Micklewright introduced Pat Acey, Ernie Hulit, and Emit Reardon (by phone). Micklewright handed out drawings of the footprint of where they are proposing the location of their new substation. From Hulit's assessment of the area, he reported that it looks like the area talked about at the last meeting is not feasible and it also appears that area is at least partially on forest service land. Micklewright distributed pictures of the view shed from the area they are proposing, reporting that this site is approximately 450' from Irwin's house and about 750' from Kass's house. Micklewright noted that they are proposing low noise transformers, which are not the same transformers that are on the mountain. Emit Reardon stated that the low noise transformers can be ordered—they have different insulation and have a lower decibel rating. Director Olson reported that the transformers on the mountain are not acceptable with regards to their noise and there are complaints from the nearby property owners where they cannot even have their windows open at night because of the noise level. *Director Olson asked for a comparison of the Db levels of the transformer options.* Reardon reported that he believes there is a low noise unit by the campus where people could check the noise level. Reardon will get the noise comparison data to Micklewright to share with the District. Director Olson said that Irwin's house will be below the proposed substation and that should help. Micklewright explained the brown outs that are occurring, stating that the new transformer will not fix that problem as that is a power use issue that they are working out with Yellowstone Club. This new transformer is just for growth planning. Reardon reported on the problems they would encounter with stabilizing the originally proposed site and that is why they decided to find a different site. Director Olson asked if landscaping with more mature trees would alleviate the view shed problems for Irwin and Kass. Micklewright and Reardon said they are willing to do what it takes to make the substation less of a visual impact. President Cronin noted that the other land request agenda item, working with Search and Rescue, is also an issue and the District needs to decide what we will do with the land in the long term. Director Olson said he feels that planting plenty of big trees will make the substation less intrusive. Pat Acey said they can hire a landscaper to develop a plan. Director Shropshire said his issues are aesthetics and sound pollution. (Director Shropshire left meeting at 9:00 am). Director Fast feels that NW and the neighbors need to work out a solution that is agreeable to all parties. President Cronin asked if the District as owners of this land will be committing to never developing this land if we don't move forward—he noted that this land isn't a park. Director Olson reported that he has walked the proposed site area and it is the only buildable site when considering the topography of the land. Director Olson said that at some point in time this land will be developed and at this point in time NW is willing to mitigate any

impact from their substation. Micklewright stated that they will need to visit the new substation once a month unless there is a problem. Mr. Irwin feels that a substation would ruin their property value and doesn't see a timber shelter as acceptable for mitigating the impact and he would rather see a sewer pond at the site. Edwards noted that the District has ruled out the site as a pond, but the other land would allow for treatment plant expansion. Micklewright said the Sweetgrass transformer site would not be their preference for expansion due to land stabilization and access issues. They would also need more property than the existing Sweetgrass site would allow. Director Olson said that whenever you are developing infrastructure it may not be beneficial for everyone, but it will be beneficial for the community. Director Olson feels it meets the criterion for the community and also feels that NW will mitigate the impact with landscaping. He feels that since NW is willing to do everything they can, that the District should proceed. He doesn't feel that the property values will be negatively impacted with what NW is willing to do. Directors felt that this is probably the least impact site in the community for the construction and maintenance of a new substation. *Director Fast asked that NW sit down with Irwin and Kass to line out what can be done to minimize the impact to their property.* According to Micklewright, if NW is given a shot at using the building site, then they will bring in the geotech staff. Directors Daniels and Allgood agreed with Director Olson. Director McRae feels the proposed site is too close to the adjacent property owners and he wouldn't support the proposal at this time. President Cronin said that he is having a difficult time with the request as he can see both sides—from the adjacent property owners and from NW in finding an appropriate, least impact site. Edwards provided the history of the cost of the property. Edwards said he would like to have NW pay a fee to extend the trail for compensation in using the site. *Director Olson suggested that NW come to the District with a concrete proposal—with trees and other mitigation, talking with Irwin and Kass, mitigating entrance corridor, what they will pay the District, how sound will be mitigated—that the Board could consider and vote on.* Director Allgood asked that NW go to the neighbors and get a plan endorsed and then come back to the District. *Micklewright will have a plan and profile (rusted example) for Board consideration at the January meeting. Micklewright will have a cut and fill design as requested by President Cronin.* President Cronin reported that the land was originally planned for a condominium development. Micklewright stated that burying the existing lines in the proposed area is not a possibility.

In regards to the District's land by the treatment plant that NW is looking at, Brian Wheeler recommended that the District do master planning for its vacant land. Wheeler reported on situations that Boyne has encountered because of their previous lack of planning.

BOYNE MERGER UPDATE

Brian Wheeler reported on Boyne's merger with CNL. CNL came back to the table in July and they are now here and the impacts are seamless right now as Boyne is using CNL as a lending source for now. Boyne will be conveying their property, but will retain revenue producing real estate. Wheeler said they, however, now have layers of approval for risk analysis, but feels that CNL is incredibly competent. Wheeler reported that Boyne will retain the ownership of the water tank land, but the line easements will need to be worked out. According to Wheeler, Boyne is taking a slow methodical approach to development, but CNL wants Boyne to improve the value of its assets. Wheeler said that CNL is aware of the working relationship between Boyne and the District. Wheeler stated that the District will work with Boyne for any infrastructure needs, but now with CNL there is another layer of approval and advised allowing time (a year) to get anything done. *President Cronin directed Edwards to begin working with Wheeler and Gaston Engineering to get the tank site and line easement in place.*

AUDIT REPORT

Rosie Barnes from Holmes & Turner distributed the final draft of the audit report. They have everything they need to finish the draft and it will be finalized within the next week. (Director Daniels left the meeting at 10:00 am.) Barnes reported that the audit went very well with clean opinions and no issues noted. There are no changes to the format from last year. The only change is the date that will be inserted when it is ready to go out the door. With what they have prepared, Barnes can submit the audit report to the state by the December 31, 2008, deadline. The Board can then have the month to review the audit and Barnes can file an amended report if needed. *The audit will be on the January agenda for Board approval and Barnes will attend the meeting if needed.* President Cronin asked if the Yellowstone Club bankruptcy proceeding should be disclosed/included in the audit report. *Edwards will report to Barnes on the District's legal counsel advice on whether the YC bankruptcy should be disclosed.* Director Allgood noted that the YC bankruptcy occurred after the June 30, 2008, review period, which may be a factor in determining relevancy. Barnes will stay in contact with Edwards on the issue. Barnes reviewed their draft letter, the corrected and uncorrected misstatements, and the journal entries. Barnes noted that special districts, like WSD, do not have to pay social security on employees' pay if there is a retirement plan (like PERS) in place, or they can adopt a policy to pay social security on employees' salary. The District does not have a policy agreement in place and should not be paying social security. Barnes stated that the issue is whether the District falls under the 218 agreement. Barnes has asked for an interpretation from the State on the District's unique situation as a separate entity. If the District does not participate in social security, Barnes said that the District can ask for refunds from the last 3 years. Both social security contributions from the employee and employer would be refunded. Edwards stated that he supports not paying, and refunding previous employee contributions to the employee. The employee's portion is tax free, but if the employer's portion is given to the employee then it needs to flow through payroll. *President Cronin directed Edwards to talk with employees for a consensus on the social security issue.* Barnes says it has to be a majority vote and if a 218 agreement to have social security is approved, it is forever. Barnes reported that they have one client that went the refund route, and those employees have been given their portion and the employer's portion will be ran through payroll and put into another retirement account for the employees. *The Board asked for a two page summary on this information.*

SRF Loan Payments: Smith reported that the loan payments will be made as scheduled.

MOUNTAIN LAKE CONDOMINIUMS ANNEXATION ELECTION

Edwards stated that the balloting being conducted by the District is just a straw poll for directing the Board. According to Edwards, the Board did not even have to have a vote to annex the property because it is contiguous land. Edwards did not feel that there was any legal problem with the two wrong dates published on the combined newsletter and ballot. Edwards said that the District could push back the voting a month and just send out a corrected ballot to those constituents that have not yet responded. Edwards reported that he will pick up postage due ballots that the post office is holding. The ballots, thus far, show 141 accepting and 6 rejecting the annexation. The Board will need to decide if they want to annex Mountain Lake property into the District prior to the well concessions being completed. *All Board members agreed that the annexation should occur after the improvements are made (drill the well, pay past taxes, and pay PIC).* *Edwards will email the final tally to the Board after the December 16 deadline.*

BSOA ACCESS EASEMENT

Edwards has not received final approval from BSOA on the draft easement. Edwards and Olson reported that, with the exception of Kevin Frederick, the new BSCC committee members were all over the board on what they would agree to at the meeting they had. *Edwards and Director Olson will work with BSOA on getting this finalized.* President Cronin said that *the road easement must be 60 feet, not 30 feet.*

BSCC PARK EXPANSION PROJECT & BSCC PARK IRRIGATION

Edwards reported that this irrigation agreement goes back to a standing document from 2000 and BSCC/BSOA are working on expansion of irrigation. Edwards looks at it as housekeeping since the agreement will go from BSOA to BSCC. President Cronin noted that the agreement included no SFEs. Director Allgood said the road easement is also housekeeping and he will consider the irrigation agreement as long as the road easement is provided. Director Olson noted that BSCC park plans cannot move ahead without SFEs. President Cronin recommended Edwards move forward with the irrigation agreement, but don't sign it. Edwards said BSCC will need a capacity letter for the park expansion where there was no capacity in the past. Director Allgood said if Olson feels that the WSD will receive some "points" then he would agree to the irrigation agreement. Director Fast said there is a lot of misinformation and distrust and he would like to clear things up and move on as it doesn't need to be this complicated. *Director Olson will contact Kevin Frederick and try to work out the details during Frederick's next trip to Big Sky. The Board agreed to approve the irrigation agreement.* According to President Cronin, and agreed to by all Board members, *the capacity letter and the water rights issue will not be discussed until the road access agreement is finalized.*

Director McRae moved to amend the irrigation agreement that transfers the agreement from BSOA to BSCC as written. Director Olson seconded the motion. Motion passed, 5 yea votes to 0 no votes.

SEWER OPERATIONS

Burroughs distributed the flow reports and included pictures of the slide area on the outfall line, plus pictures of Burke Excavation's retaining wall work to fix the slide problem. Burke put in about 160 feet of baskets and another 140 feet of rock wall. Burroughs reported that the flows are down for the last four months. According to Burroughs, a change out of the electronics has been done in the plant and it is working well. Burroughs reported that all of the compost was used by the end of the summer and they are continuing to make more. Burroughs has not found any significant I & I source, but will continue to look for I & I in the spring. Burroughs feels that the total flows will be around the total flows for 2007.

Mountain to Meadow Water Line/Army Corps Correspondence: Edwards reported that Army Corp correspondence was included in the packet.

Gallatin County Local Water Quality Correspondence: Results from the WSD treatment plant samples done through the Gallatin County Local Water Quality District's area-wide wastewater treatment plant sampling program were included in the board packet. The sampling is being done as part of a larger scale effort to investigate pharmaceutical compounds in wastewater.

WATER OPERATIONS

Muscat noted that the October and November flows are missing from the report due to computer problems, but he has been able to obtain the flows. Muscat noted that the flow report shows that YC has dropped way off so they must have fixed something. The mountain to the meadow line is complete with the telemetry now online. The District has hired Mark Cunanne to do a pump test at Lone Moose wells and they are not producing as much as what they were advertised. Muscat stated that they will certainly suffice for now for Lone Moose's demand, but the District should not count on the wells for additional water supply to the District.

Mountain Well #3 Groundwater Report: Edwards reported that he has corresponded to the State that all the analysis reports for mountain well 3 indicate that this is groundwater. Edwards explained that the state has gone through employee turnover and as of this week we will be working with another new employee. Muscat feels that we have done everything we can to show that this well is groundwater. Edwards noted that the state has put us at a population of 7,000 for the mountain—Edwards has sent the state follow-up information reporting the resort's number of 2,650 is a peak day. Edwards sent a letter that also asks the state to not make chlorination mandatory since the water source is groundwater. If approved, the District would then only have to chlorinate the Meadow wells that are less than 20 feet. *President Cronin stated that the District needs to have a proactive plan to protect its current water system.* Edwards feels that he will have a response by the first of the year. *If required to chlorinate, Edwards will submit plans just for the two new wells in the meadow.*

Coliform Sampling Correspondence: Muscat said if there is a TCR hit then you resample to determine if there is a problem. There have not been problems with the District's water. According to the state, the District should have notified its customers of a TCR hit. Muscat has talked with the EPA federal agency that regulates this and they don't know why the state is requiring the notification as the state's notification requirements do not follow EPA's regulations. Muscat informed the Board that this has been very frustrating due to the different interpretations depending on who you talk to at the state.

MEADOW VILLAGE WATER SYSTEM PROJECT

Mountain to Meadow Pipeline Project: Edwards reported that this project is complete.

Meadow Village Water & Sewer System Repairs: The Silverbow project is on hold until spring.

Meadow Village Water Well Completion Project: Edwards said the state will require treatment of new water sources.

Meadow Village Water Projects Costs: The status of project costs was provided in the manager's report.

SEARCH & RESCUE LEASE

Edwards reported that he and Swimley prepared a lease and sent it to the Search and Rescue for review. They did not like the draft as it made the District owner of the building to circumvent the subdivision rules. Search and Rescue has decided they will need to get a zoning change so that the building would not be a conditional use. If a zoning change is applied for and approved, it would also benefit Northwestern Energy's request for a substation.

STORAGE POND 3 HEAT EXCHANGER

Edwards said the heat exchanger has been installed and it is exactly what they showed us.

CANYON AREA STUDY

Edwards provided a copy of the canyon executive study in the board packet. Edwards will invite Ray Armstrong to the January meeting to review the study.

MEADOW VILLAGE WATER TANK PROJECT – Gallatin Heights Hydrant

The District is waiting for Northwestern Energy to start the panel and Edwards feels that this should be done this week.

SEWER & WATER PERMITS

The three new permit applications did not require Board approval. There are 187 SFEs available for permitting.

GENERAL CORRESPONDENCE

There was no general correspondence for the Board to act on.

ANNUAL DINNER

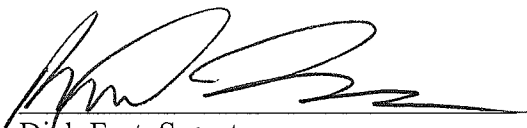
The Board suggested the Corral as the annual dinner location. *Edwards will check with Devin White on availability for mid-January for exclusive use, or even a date before Christmas. Edwards will also check with Director Shropshire on his availability in December and January.*

NEXT MEETING

The next Board meeting is tentatively scheduled for Tuesday, January 13, 2009, at 8:00 am. Director Fast reported that he works on Tuesday for the next three months.

ADJOURNMENT

Director McRae moved to adjourn the meeting at 11:55am. Director Olson seconded the motion. Motion unanimously passed.



Dick Fast, Secretary

12-9-08. min (Board Approved 1/13/09)