

BIG SKY WATER & SEWER DISTRICT NO. 363
Regular Meeting Minutes – January 21, 2020
WSD Community Room

The Big Sky County Water & Sewer District No. 363 held a regular meeting on Tuesday, January 21, 2020, in the WSD Community Room. Chairing the meeting, Vice-President Tom Reeves called the meeting to order with the following board members present: Secretary Dick Fast, Treasurer Peter Manka (arrived at 8:05), and Directors Mike DuCuennois, Brian Wheeler and William Shropshire (arrived at 8:03). President Packy Cronin was not present. WSD staff present: Ron Edwards, Marlene Kennedy, Terry Smith, Jim Muscat, Grant Burroughs, Peter Bedell, Jake Porter.

Others present: Steve Johnson and Daniel Bierschweler, Big Sky Resort Area District; Jon Olsen, Lone Mountain Land; Mary Ann Comstock, District property owner; Jana Bounds, Lone Peak Lookout; Doug Hare, Explore Big Sky; Rick Simkins, Big Sky Town Center; Scott Buecker, AE2S; Guy Alsentzer, Upper Missouri Waterkeeper; David Tucker, Gallatin River Task Force; Susan Swimley, District legal counsel; Clay Lorinsky, Big Sky resident; Mace Mangold, WGM Group; Laura Seyfang, Big Sky Community Housing Trust; and Kim Beatty, Browning Kaleczyc Berry & Hoven and Jerry Pape both representing American Bank. Participating via GoToMeeting: Brent Bogar and Scott Jungwirth, AE2S.

PUBLIC FORUM

Vice President Reeves called the meeting to order at 8:00 am with no public comment on non-agenda items. Conflict of interest declarations: None declared.

CONSENT AGENDA

There were no comments on the minutes, sewer operations, and water operations. Financials: The new rate structure went into effect January 1, 2020. The customer portal cost estimate was briefly discussed and will be presented to the board when the second estimate is received.

Director Fast moved to approve the consent agenda with the minutes of December 18, 2019. Director Wheeler seconded the motion. Motion unanimously passed.

AMERICAN BANK ANNEXATION

Susan Swimley commented on her letter dated January 3, 2020, that provided a background on the property and reviewed American Bank's annexation request. She noted that the annexation and zoning are not tied together. With the properties being contiguous, the District can act on the original petition, decline it, accept it, accept it with conditions and negotiations on bond recovery, or go to vote of its constituents. The board discussed the terms of the settlement agreement with LeRoys, the previous owners of the Grizzly Flats building. The existing building was connected to public water in 1996 with a 1 ½" water line through Lone Mountain Springs. A main extension would be required to connect another building. Only the existing Grizzly Flats building has the right to connect to the District's sewer system if the state, or county, condemns its drain field and it is shown that contamination is from the District's storage ponds. There were no scientific studies done on the environmental impact on these parcels in 1996 when the settlement was done. The District lined its ponds in 1996 to prevent the ponds from leaking. The board discussed its precedence of not annexing property as the District has more obligations than current capacity will serve. With approximately 400 SFEs released for permitting and approximately 800 total SFEs available at capacity, the District has been working towards meeting its current obligations. There are approximately 350 remaining vacant lots in the District, large parcels that are not yet platted, and a large pool of SFEs committed for Boyne, Spanish Peaks, Lone Moose and Town Center. American Bank's original petition was in error,

they need 22.6 SFEs, 5.6 for Tact 1 and 17.0 for Tract 2B-1. The District is still in the exact risk profile for meeting current commitments from when the petition was originally submitted and considered. The board discussed the unique circumstances for annexing Mountain Lake Condominiums 10 years ago where the District had water lines on the property without an easement.

Jerry Pape, Jr. reiterated the reasons why they believe the property should be annexed, which included: 1) they think they have presented similar reasons as for the annexation of Mountain Lakes, 2) they are attempting to address deficiencies and environmental concern, 3) they want to be able to provide the best water and sewer services to be able to better market the property, 4) they believe there is evidence the property's well was contaminated by the District's ponds, and 5) their well and drain field have made it a challenge for exploring the best uses of the parcels. Their negotiations with HRDC and the community housing trust have been exhausted, but their intent is to go through a rigorous process with prospective buyers to ensure that the development is a benefit to the community. Kim Beatty restated the history of the property and doesn't believe it will put the District on a slippery slope to annex both parcels as their application is for limited SFEs. There was no remediation on the properties on whether there was any other contamination, but she believes there is still a problem with contamination. If annexed, Beatty stated that the bank recognizes its obligation to pay its debt on infrastructure. Pape and Beatty reported that they have not asked the state if it could condemn the property as they do not want to create a problem for the District through additional scrutiny through outside agencies. According to Beatty, they do not intend to go through a condemnation process, but if it comes up it will be through legal proceedings. The board discussed funding options for the treatment plant upgrades and delaying the annexation decision until at least the District knows the outcome of the resort tax infrastructure election. Pape was asked if he would agree to annexation without service until the plant expansion is complete in 2 to 3 years. Pape stated that he did not think prospective buyers would want to defer development. His client wants to sell the property at fair market value now. He believes both properties are impacted because of the past issues and the limitations on the plat for the vacant property. It was stated that it is not the District's obligation to maximize value of the properties. Pape responded that the applicant is not interested in a 3-year condition for service. If they are told they cannot do anything with the property for 3 years, they will have to proceed with condemnation rendering through the county and state. They are open to waiting for the resort tax election in May. Director Wheeler recommended that American Bank reconsider the timeline option. Pape declined.

Director Shropshire moved to turn down/deny the annexation petition from American Bank. Director DuCuennois seconded the motion. Discussion. Mary Ann Comstock was interested in the board's options and believes that the board still has things to negotiate, such as upgrading the water line. She thinks it would serve the community to have the bank annexed into the District and suggested reconsidering the application after the resort tax election. Jon Olsen stated that the board has been talking about being on the verge of running out of SFEs and asked what would happen if this property was annexed in and an existing property in the District asked for connection and there were no SFEs. The board discussed American Bank's ability to submit another petition for annexation and the real obligations the District has for serving existing properties. Motion unanimously passed, 5 yea to 1 no vote cast by Director Wheeler. Director Wheeler would have preferred a motion for voting on the application after the resort tax election. Board consensus was that this decision was strictly made on current plant capacity issues. It was suggested that Pape work with the District on something that works for both parties. Pape stated that he will be going to the state for condemnation.

CAPITAL IMPROVEMENTS PLAN PROJECTS UPDATE

WWTP Upgrade: Scott Buecker, AE2S, reviewed the 3D model on the upgrades of the treatment plant. The upgrades will make it easy to proceed with Phase 2 when needed. Design review will require subcommittee review. The project is on schedule and on budget. Buecker asked the board to approve design completion funding with a contract amendment of \$1,881,160. The board has already given Edwards the authority to approve these contracts. Edwards wants to keep engineering under 10%. The \$35 million dollars includes total design. Resort tax, if approved will pay for 60% of the treatment plant upgrades.

Director DuCuennois moved to amend the current contract for \$1,881,160 as additional services to finish the plant design. Director Fast seconded the motion. Motion unanimously passed.

The communication work is included in the contract amendment. The board supported Buecker's request for approval on the communication outreach. They recommended contacting the Chamber and Resort Tax to review the information. Brent Bogart reported that biweekly efforts are being coordinated with various entities and everyone is working collaboratively on the outreach to the community. The board wants something out next week with the primary message that the District does not want to increase rates. Referring to Scott Olson's email, the board wants to ensure that accurate information is communicated to the public. Olson's assumptions were not accurate as he was using information reported in the Bozeman Chronicle article. Edwards will send communication correspondence to Scott Olson. Daniel Bierschweler stated that Resort Tax will connect with the Chronicle to make sure the right messages are out there at the right time. The resort tax election will only be for registered voters in the Resort Tax Area District, not property owners. The board wants an information piece for the April meeting.

Mountain Well Exploration: Mark Cunnane will be at the February board meeting to present his report. Edwards, Muscat, and Cunnane will meet with James Rose, Montana Bureau of Mines.

DEVELOPMENTS AND SUBDIVISIONS

Hidden Village: The new buyer of the remaining Hidden Village two parcels is planning on developing the parcel to the south. They are limited to 12 units of development remaining for these parcels. Edwards noted that as part of the 12 unit consideration, the developer (Skip Radick) was to have recorded the 195 SFE full buildout. Edwards will follow up with Radick to see if this was ever recorded. The new owner is amenable to recording the 195 SFE maximum. Due to his previous ownership in Hidden Village and guaranteed view shed, Director Shropshire stated that he will recuse himself from voting on the south parcel.

Powder Light: The District and Altman are working on the conveyance of the water lines. The final plat requires the DOT turn lanes be installed prior to any new development.

Canyon Pipeline: Scott Buecker showed where the future force main and gravity lines will be installed from the canyon to the meadow. Nothing has been designed. Director Shropshire would like to see ductile iron used.

DISTRICT AGREEMENTS

There was nothing new to report.

RESORT TAX

The board discussed the draft Interlocal Agreement for funding the treatment plant upgrade using 60% of the 1% resort tax. Edwards requested that any comments be sent to him today. Bierschweler will send out an invite for the committee meeting scheduled for January 22, 1:00 pm, at the resort tax office. Mace Mangold and Steve Johnson reported on the initial boundary for a future new canyon district. It would initially involve four major property owners on the west side of Hwy 191 from the gravel pit to Bucks and then go from Dudley Creek to the Corral in the future. Director Fast suggested that they communicate with the school district as they are looking at major expansion. What the District will own and be responsible for was discussed. Guy Alsentzer doesn't feel that the board has enough information to make any decisions at this time. He wants scientific studies done on the high volume of discharge done in a septic field near high groundwater levels that drain into the Gallatin River. Alsentzer supports the more strict treatment standards the District will use. He asked if there is land the District could buy in the canyon for discharge opportunities. Mace Mangold reported on the baseline information from the Bureau of Mines study being done

BOARD ELECTIONS

The terms of directors Cronin, DuCuennois and Fast expire in May 2020. The deadline for filing the Declaration of Nomination petitions is February 10. As directed by the board, Edwards will advertise the vacancies in the local paper. Edwards will follow up with Gallatin County to clean up their records. The election of officers will be done after the board election.

SEWER & WATER PERMITS & CORRESPONDENCE

No comments.

NEW DEVELOPMENTS AND SUBDIVISIONS

No comments.

GENERAL CORRESPONDENCE

There was no general correspondence requiring board action. Fire Chief Bill Farhat's going away open house is Friday, January 24 at 3:00-5:00 pm at the Fire Department.

NEXT MEETING

The next regular Board meeting is tentatively scheduled for Tuesday, February 18, 2020, at 8:00 am. Director Fast may not be available.

ADJOURNMENT

Director Manka moved to adjourn the meeting at 10:30 am. Director DuCuennois seconded the motion. Motion unanimously passed.

 2/20/20
Dick Fast, Secretary