

BIG SKY WATER & SEWER DISTRICT NO. 363  
**Regular Meeting Minutes -December 20, 2005**  
WSD Community Room

The Big Sky County Water & Sewer District No. 363 scheduled a regular meeting for 8:00 AM on Tuesday, December 20, 2005, in the WSD Community Room. President Packy Cronin called the meeting to order, with the following Board members present: Vice-President Gary McRae (arrived at 8:35) and Secretary Dick Fast (8:00-10:35) along with Directors Dick Allgood (8:00-11:53), Jeff Daniels (8:00-11:25), and Bill Olson. Director William Shropshire participated via telephone (8:15-11:35). WSD staff present were Ron Edwards, Marlene Kennedy, Jim Muscat, and Grant Burroughs. Others present were Lone Peak Lookout reporter Alexis Mante, BSR Partners representatives Mike Scholz and Attorney Dick Andriolo, property owner Walter Blessey, preschool operator Joyce Drolette, and HKM Engineers Ray Armstrong and Chris Clark. Via telephone, from 11:28-11:35, Dave Smith participated in the discussion regarding the stockpile removal.

**PUBLIC FORUM**

With no public comment, President Cronin called the meeting to order at 8:17 AM.

**MEETING MINUTES**

*Director Olson moved to approve the minutes of November 29, 2005, as written. Director Fast seconded the motion. Motion passed, 6 yeas to 0 no votes with President Cronin voting. Vice President McRae was not present.*

**SFE REALLOCATION REQUEST**

Meadow Village Tract 8—Townhomes at Crail Ranch: Edwards reviewed the history of the Tract 8 parcel and how the total SFEs were assigned in the early 1990s at 84.3 SFEs. The build out will be substantially less than the designated SFEs, with a total of 10 buildings; two of which are not yet built. Brian Wheeler explained that about 1/3 of the property is wetland, so the buildable area is much less than when the District was calculating SFEs at 12 units per acre and at build out there will be 20 units, or 10 duplexes. Edwards explained that Boyne wants to buy the project, finish the last 2 buildings, and transfer the remaining 44.7 SFEs. American Land Title's report shows that BSR Partnership owns the land. District Ordinance, Section 3.11, allows SFEs to be moved before the project is built out and Edwards does not consider this project built out yet. There are no District ordinances that relate to when a project is started that the SFEs would then be committed to the land. Edwards noted that SFEs on Tract 8 are subject to the \$3,500 per SFE surcharge and, including the plant investment charge, this amounts to \$312,900 when the SFEs are used. President Cronin expressed concern about the surcharge SFEs sitting there not being used and then Boyne using the unencumbered SFEs. Wheeler stated that they only have about 20 unencumbered SFEs remaining and they plan on using about 150 SFEs this year on various projects. President Cronin asked if Boyne is solely purchasing the property to transfer the SFEs. Wheeler stated that the value of the acquisition is purely a value in SFEs, but they will finish the development of the property without transferring it back to BSR Partnership. Wheeler also stated that he does not see any benefit for these SFEs to go to waste. Director Olson commented that the SFEs are a commodity even though the District did not intend them to be. President Cronin asked Edwards if the transfer fits in the box of the ordinance. Edwards responded that he felt it fits within the transfer guidelines with the way the title commitment reads. Edwards' only question is who really owns condominium land.

BSR Partners' Attorney Dick Andriolo stated that on a condominium, the ownership of the land remains with the developer until all property is sold. Director Shropshire inquired if at full build out doesn't the property and SFEs remain with the condominium association. Edwards said the ordinance needs to clearly define "built out," but in this case the project is not built out. Edwards recommended leaving .40 SFEs, or something, on the land for future needs. Director Allgood asked if future owners wanted to remodel would be they able to add a bathroom, etc. Edwards answered no, in that the project would be considered built out. Additionally, by the way the ordinance reads, unused SFEs are forfeited back to the District. Director Olson wants the District to have some way to allow for future remodeling of condominiums. Edwards reported that single family homes can add 1 SFE, but there is no way in the ordinance to expand on condominiums. Edwards said the District does not have an SFE transfer application from the developer yet, but Boyne wants some assurance that it would be allowed to transfer SFEs if they do purchase the property. President Cronin stated that the request seems to fit within the box, but requested Wheeler to submit a formal application and then the District will submit it to legal counsel for review and comment before the Board acts on the request. Wheeler requested an answer today, before they purchase. President Cronin stated that the request has to be reviewed by legal counsel before the District acts on the request. *Director Cronin directed Wheeler to correspond in writing with the District with their request and then the District will have legal counsel review it.* Director Shropshire suggested that Boyne could prepare a conditional agreement with BSR Partners relating to the transfer of SFEs being the condition of sale. *Edwards will correspond with Wheeler after he has had their request reviewed by legal counsel. BSR Partners will send a letter to the District requesting the transfer, Edwards will have legal counsel review it, and the Board will be given the transfer request for approval.* Mike Scholz, BSR Partners LLC, requested that the Board allow the transfer of 44.7 SFEs that remains on Tract 8 from the Townhomes at Crail Ranch condominium project if Boyne purchases the un-built units.

#### **AMEND AGENDA**

**Director Olson moved to amend the agenda to discuss the BSOA park land and the Blessey petition for annexation. Director McRae seconded the motion. Motion passed, 7 yea votes to 0 no votes with President Cronin voting.**

#### **BSOA PARKLAND PLANNING**

Mary Jane McGarrity provided a map showing the park land and discussed possible future plans for the area. McGarrity explained that the land was basically stripped of SFEs when the land was donated and asked the Board to consider an SFE commitment for development of the park. BSOA needs to know what they can do outside of having port-a-potties. President Cronin responded that, personally, he hopes there is a way to provide for park development. Edwards reviewed the possible SFEs that may be available to Big Sky Community Corp. by allocating unused SFEs from other developments. Edwards explained that the parcel originally had SFEs, but they were transferred to other property prior to the donation. Edwards asked if SFEs are assigned, would it be without PIC charge. According to Edwards the fire district was served without PIC, but the church was charged PICs with delay in payment. Edwards said the 13 SFEs on Tract 6 could be forfeited to the District and used on community projects such as this. McGarrity reported that there seems to be a need for a community center in the park land, but much of the remaining use would be trails, ball fields, etc. Edwards stated that probably 4 or 5 SFEs would probably be plenty for a community center. President Cronin stated that at Jackson

Hole there is a fantastic community facility, and the park should probably plan for such future expansion. President Cronin said that he feels that the Board can work with the Big Sky Community Corp for park development. Director Daniels asked if the District should amend the ordinance to require that developers put a percent of their SFEs into community projects. Director Olson suggested that a committee work with Edwards to prepare a draft plan for community development. Edwards believes that the District has erred on the conservative side in calculating SFEs and believes that there is capacity to serve community projects. McGarrity reported that the TPL is looking at lands in Big Sky and they will be mapped with a trail master plan and community spaces. President Cronin said the District would work with the park committee for development of the park land.

### **BLESSEY PETITION FOR ANNEXATION**

Edwards distributed Walter Blessey's petition for annexation that was received last Friday. The property was originally in the District as a COS parcel but it was removed at the request and with consent of the previous owners, Rolanders, when the District was making boundary adjustments prior to financing for wastewater and water project. This parcel is within the water rights use area. Blessey explained that they have drilled 3 wells over the last couple of years at \$50,000, but the quality is horrible with shale coming out in the water and they cannot screen it any further. Blessey is asking the Board to allow installation of a water line, at his expense, to serve his house. Blessey stated that all he is asking for is water for the house as he has a fire pond that can be maintained with the wells and he has a septic system. Edwards asked if Blessey has easements to get to his house connecting from the cul de sac. Blessey said he would have to check with BSOA for approval, but he stated he has an easement to Chief Joseph Trail and would have to work with BSOA to get to the cul de sac. Edwards said there is not enough pressure to get water to Blessey's house and Blessey is aware that a booster pump would be required, with engineering. Blessey is also aware that all costs would be his burden. Edwards said that if the property was provided water, it would be added to the District for the water debt service. Director Fast asked if there are any restrictions for service with property that has a well, i.e. can the property be on both public water and a well. Edwards reported that Silverbow has a well. Edwards prefers that Blessey have water service only for the house, no irrigation, or outside use. Blessey reported that he has two wells on line with 5 gpm production and holding tanks for collection. Director Fast stated that the District has a limited supply of water, and asked if the District wants to provide water for domestic service and then also have the same property have a well that pulls water from the potentially same aquifer. Edwards doesn't believe Blessey's wells are in the same aquifer as the meadow wells. Director Olson reported that he has seen where farmland irrigation has stopped and then the aquifer is lowered thereby affecting surrounding wells-so, irrigation does recharge the aquifer. Edwards explained that the Board can approve the annexation request through an ordinance with three readings, or go to the voters for approval. President Cronin said this is a unique situation where this property was in the District; and it doesn't appear that approving this request would open a can of worms, or prompt other requests. Edwards said the ordinance could be written to limit how the water is used, i.e. for the house only. *The Board directed Edwards to check with legal counsel to find out if a public hearing is required by statute.* Blessey would like to implement water use as soon as possible as the house will be ready to move in to in February. Edwards recommended that Blessey check with BSOA for easement approval.

*Director Allgood moved to have Edwards draft an ordinance to allow Blessey's annexation request and have legal counsel review State Statutes for procedure and public hearing requirements. Director McRae seconded the motion. Motion passed, 7 yeas to 0 no votes with President Cronin voting.*

#### **AMEND AGENDA**

*Director Olson moved to amend the agenda to address the preschool request. Director Fast seconded the motion. Motion unanimously passed.*

#### **PRESCHOOL CHANGE OF USE REQUEST**

Edwards explained that Joyce Drolette is requesting a change of use of the former Grizzly unit in the Meadow Center to be a preschool and after school provider. Edwards believes the District should allow the use change if zoning will allow the use. Director Olson reported that he is working on obtaining a temporary structure near Ophir School that the preschool can possibly also use. Drolette stated her need for urgent approval as they will not have space come this summer since the Ophir School needs the space the preschool is currently in. Edwards said Drolette is doing it right by coming to the District for a change of use prior to doing it and he doesn't feel it should be a problem in approving the new use. The Board did not see a problem with allowing the change of use.

*Director Fast moved to have Edwards write a letter to Joyce Drolette approving the preschool to serve 25 kids at the Meadow Center unit, and to be able to remodel the bathroom facilities to add the toilets as requested. Director Daniels seconded the motion. Motion passed, 7 yeas to 0 no votes.*

#### **FINANCIALS**

In Smith's absence, Edwards briefly recapped the November financials that were provided in the Board packet.

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

SRF Bond Payments: Edwards reported that the bond payments coincide with the resort tax payments and the payments have been made. Additionally, if the bonds are paid off early, there will not be a penalty.

#### **WATER OPERATIONS**

Edwards and Muscat reviewed the production reports. Muscat said that with the AC pipe, leaks are hard to detect; but any identified leaks will be repaired. Muscat cautioned the Board that we have a system that has potential leakage that is hard to detect and that the District should start replacing lines. *The Board asked Muscat to come up with a "wish list" of sections that should be replaced and/or repaired, i.e. Silver-bow.* Edwards discussed how the Silverbow project could be funded and recommended phasing the construction over two years. Edwards estimated that the project could be about half a million dollars. Muscat suggested revisiting the water facilities plan as it is 5 years old, and then go from there, looking at the whole picture. Armstrong recommended working on a 5-year capital improvement plan with priorities identified.

Aspen Groves Filter System: Edwards provided an update on the Aspen Groves system in his manager's report. Muscat stated that they have had little success at providing quality water the District needs. We can provide a little quantity of quality water, but we lose grounds on the tank levels. The system has been babysat for two weeks now and Armstrong is here to inspect the system. Muscat said the specs were not exactly followed when built, and that could be a factor. Muscat is confident that eventually the system can be made to work, but he doesn't know when. The system was designed to backwash every 10 days and now they are backwashing 3 times a day. Muscat said the tank is now about 50% full as he prematurely drained the tank thinking the system would work. Pure Water Technology has said that they will make any changes that the specs require. Pure Water Technology did not give a performance spec. The plumbers installed a 1½" line when the specs called for a 3" line. Pure Water Technology thought they were to filter 12 gpm and the specs said 18 gpm. They want to add filters, but Edwards does not want to pay for a system that won't work. When the Board asked who designed the system, Armstrong reported that HKM took an original Pure Water Technology system and redesigned it to make it meet State criteria. Armstrong thinks that there is a lot of head loss which is affecting treatment capacity. Armstrong will track down the head loss and review the chemical dosing to find out if that is part of the problem. Director Fast asked what is available for fire protection. Muscat explained that the tank is their fire protection since the wells are such low producers. Muscat reported that refilling the tanks with filtered water is a slow process and will take a couple more months to fill the tank. President Cronin stressed the need to have the tank filled for fire protection now, even if it takes a couple more months to provide clean water. President Cronin said that the system needs to be installed just like it was designed, and then that will take Pure Water Technology out of the picture as to why the system is not working adequately. Armstrong is confident that the system will work. *Director Fast asked that the Board be updated via email on what is occurring on this system.* Muscat will keep the Board updated. Edwards reported that he retained 5% on the last invoice to Pure Water Technology.

Mountain Water Pressure Surges: Director Olson asked for an update on the mountain system retrofitting and asked that a letter be sent to the owners in the mountain area about the need for installing a PRV. Muscat suggested having an engineer review what is happening on the mountain and get a recommendation for correcting the high pressure problem. Director Olson said everyone needs to be advised to install a PRV. Director Olson suggested that telemetry be installed at the main line PRVs so that the District will know quickly when and where there is a problem. *Director Olson wants a plan to resolve the problem. Director Olson stated that he had requested, at the last meeting, Edwards send a letter to owners about the PRVs and wants that done.* Muscat suggested that the letter state what pressure range they will experience and the PRV recommended. Director Olson agreed with Muscat that Ray Armstrong should look at the system. Edwards will get a spec from Muscat on what type of PRV should be installed. Edwards reported that District operator Nic Wellenstein requires that a PRV be installed prior to his putting in a meter. *The Board directed Edwards to add standard specs that includes a PR V spec. Muscat also needs to look at what can be done on the main line to prevent the pressure spikes.*

Connecting the Mountain to Lone Moose to the Meadow: Armstrong reported that the survey has been done from the mountain to Lone Moose. The crossing to tie to Lone Moose is not yet done, but it may be by the bridge. Armstrong showed a map of the overall view of tying the Mountain to Lone Moose. *Vice President McRae will provide Armstrong with some drawings where the line could possibly go.* Armstrong has not submitted any 10 foot deviation requests to the state as there is a proposed regulation that would reduce the 10 foot separation, so it may not be an issue. (Director Fast left the meeting at 10:35 am)

Yellowstone Club Water Use: Director Olson asked if the Yellowstone Club has solved their leaks. Muscat reported that the flows are about 1 million gallons less than last year, but he doesn't know if they have fixed other leaks. Muscat also doesn't know how many houses are online, or what each house is using.

*The Board directed Muscat and Edwards to prepare a report for the next board meeting. Vice President McRae volunteered to assist staff on the water projects.*

### **SEWER OPERATIONS**

Burroughs was not present to provide flow reports.

### **LONG TERM COMPLIANCE WORK PLAN**

Edwards reported that InControl will be here January 16th to do pump testing and control the booster station.

Pond Cover Project: Ray Armstrong reviewed the preliminary construction costs that total \$9,689 for the reno mattress test lining strips. Armstrong brought a sample of the material for the Board to see and said that there are several colors to choose from. Armstrong is confident that he can make the anchors work. Armstrong will be talking with Burke Excavation to see if they can get the test strips installed this winter. Chris Clark from HKM said that the strips would be clipped, or tied, together. The rocks will be filled on site with an aggregate source. Clark did not know what the warranty is on the coating. *The Board directed HKM to verify and report on the warranty. Armstrong will get a delivery time on the test strips and get installation scheduled.* Clark said that there should be a 2 week lead time from the order to delivery on site. *Armstrong will follow up on the schedule, coating warranty, aggregate source, and report to Edwards.*

Edwards said that a one-year extension was requested and he has not heard a response. *Armstrong will get updated data, get the pump stations started, and follow up on the contractor's warranty.* Todd Teegarden, DEQ, will be invited to the start up.

### **PROPOSED DEVELOPMENTS & SUBDIVISIONS**

Spanish Peaks Resort: Edwards reported that start up on the booster station and chlorine system was done last week. Spanish Peaks is not done, but they are getting closer. Director Olson asked if Spanish Peaks had a problem with adding the extended warranty to the transfer. Edwards said he talked to Ralph Walton about the warranty, but has not received a response from them. Edwards reported that 13 cabins are basically done, but he thought only 3 were inhabited. They are trying to get the club house done by New Years for their big party.

### **MEADOW VILLAGE WATER SYSTEM**

Edwards has been working with Mark Cunnane on the wells for the meadow. Cunnane has said it takes about 6 months to get a water right. He had some good ideas on shuffling around water rights and this could possibly put the District in a better position to get water rights done quickly. Edwards said that if a water right is not used, the District could be in a position to lose it.

Edwards met with Mat Williams, and the other option suggested was to lease the water rights to another organization, in that the water is being used. President Cronin recommended exhausting all possibilities at acquiring new water rights before the District transfers its current water rights. Edwards said BSOA wants to dredge their ponds, but they don't have a water right; so they approached the District to use our water rights. Edwards said the District will drill two wells this winter and apply for water rights. Mark Cunnane is also working on the ground water model.

### **RESOLUTION 05-01: RECOGNIZING SKIP RADICK FOR HIS YEARS OF SERVICE**

The draft resolution recognizing Skip Radick for his years of service, which was tabled at the November meeting, was presented to the Board for review and approval.

*Director Shropshire moved to approve Resolution 05-01. Director Daniels seconded the motion. Motion passed, 7yea votes to 0 no votes with President Cronin voting.*

### **STOCKPILE REMOVAL**

Edwards discussed the letter from James Taylor regarding Smith's use of his land for the stockpile removal and reclamation. The letter requests payment of \$25,000 by December 31, 2005, proof of worker's compensation insurance, letter of indemnification, and written guarantee of clean up; or legal action will follow. Edwards feels that what triggered this was that Smith missed two meetings that were scheduled with James Taylor. Edwards reported that he told Smith to contact Taylor sometime ago and to work with Taylor on compensation to use his land. Edwards also talked to Smith last week about the letter and Smith said he hadn't seen it. Edwards reviewed the history of how the land use was permitted, which was done through a phone call from Edwards with verbal approval with Taylor. Edwards reported that he talked to Smith's project manager and told him there was a problem on how the property was being used and told him to clean it up. Director Shropshire stated if Smith did trespass on how the property was being used, then compensation is due Taylor. Edwards said our contract with Smith was to only use District property. President Cronin asked Edwards what the District's responsibility is in this. Edwards reported that he has told Smith that it will cost him much more than \$25,000 to go to litigation. Director Shropshire said the District needs to be protected, and recommended that the District threaten refusal to Smith to enter District property until the issue with Taylor is resolved. This would possibly offer the District a counter claim. (Dr. Daniels left the meeting at 11:25 am.) President Cronin said that the District needs to continue to work with Taylor in good standing and the District needs to make every effort to assist in resolving this situation. At 11:28 am the District called Dave Smith and asked if he had a chance to meet with Taylor. Smith said that Taylor insisted that the requests in the letter stand and Taylor wants the money to reclaim his property himself. Smith does not have any plans on compensating Taylor at this point, and he plans on fixing Taylor's property himself. Smith said he apologized for missing the two meetings and explained to Taylor why he missed the meetings. Edwards believes that if the issue is not resolved by December 31, 2005, Taylor will file suit. Smith said he had a verbal agreement with the District to use Taylor's land. Smith said he has not damaged the water line. Edwards explained that the damaged line is the irrigation line and it is probably damaged. Director McRae suggested that Smith acquire a bond for the \$25,000 until spring, when he has had an opportunity to reclaim Taylor's land. Smith said that there is 1,500 yards of topsoil

sitting on Taylor's land that can be used for reclamation. Edwards also offered topsoil that is stored by the treatment plant. Smith said he doesn't feel there are any oil or fuel problems with his top soil but does know if the District's top soil is okay. Edwards said he had emailed the project manager months ago to work out compensation to Taylor. Smith said he has proof of workman's comp, and he can supply that to Taylor along with insurance. President Cronin asked if Smith was willing to give Taylor a letter of indemnification as requested in the letter. Smith also needs to guarantee clean up. *The Board wants Smith to submit to Taylor items 2, 3, and 4 in the letter, along with a bond of \$25,000 for clean up.* (Shropshire left the meeting at 11:35.) Edwards suggested using the cut in the remaining stockpile and reconture the embankment, and Edwards had asked for that earlier. Grant Burroughs reported that Smith is moving the equipment out today. *Vice-President McRae will talk with Smith today. Edwards will talk with James Taylor suggesting the bond in lieu of the \$25,000 check. Edwards will let Vice-President McRae know if Taylor will accept the bond. Vice-President McRae directed Edwards to compile all the correspondence he has had with Smith at trying to avoid this situation and to give that information to Smith. Edwards will also meet with Taylor. The Board asked that Edwards relay to Taylor that the Board is taking the issue seriously and will do what they can to resolve it.* (Director Allgood left the meeting at 11:53 am.) Vice President McRae suggested that Edwards should elude to Smith that the District will rescind the contract if this issue is not resolved. Burroughs noted that the drain valves in the embankment need to be protected. President Cronin said that as a resolve, the District should offer to post a \$25,000 bond if Taylor will not accept a bond from Smith. The Board feels that the District could be protected if they step up and offer a bond. The Board wants to satisfy James Taylor and continue to have a good relationship. The District could get rid of the rest of the stockpile by hauling it to JTL in the spring. *The Board directed Edwards to keep in contact with Taylor to make sure that he is getting the information from Smith that he requested.*

#### **SEWER & WATER PERMITS**

No sewer and water permit applications required board action.

#### **NEW DEVELOPMENTS & SUBDIVISIONS**

Beaverhead Condos: Edwards reported that Beaverhead Condos will do two more buildings to build out the complex.

#### **GENERAL CORRESPONDENCE**

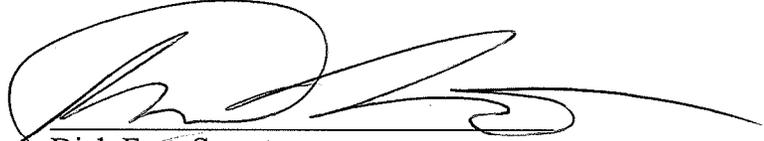
There was no general correspondence for the Board to review.

#### **NEXT MEETING**

The next Board meeting is tentatively scheduled for January 17, 2006, at 8:00 AM.

#### **ADJOURNMENT**

*Director Olson moved to adjourn the meeting at 12:10 pm. Director McRae seconded the motion. Motion passed, 3 yea votes to 0 no votes with President Cronin voting.*



Dick Fast, Secretary

BIG SKY WATER & SEWER DISTRICT NO. 363  
**Regular Meeting Minutes -November 29, 2005**  
WSD Community Room

The Big Sky County Water & Sewer District No. 363 scheduled a regular meeting for 8:00 am on Tuesday, November 29, 2005, in the WSD Community Room. Vice President Packy Cronin called the meeting to order, with the following Board members were present: Secretary Gary McRae; Directors Dick Allgood, Dick Fast, and Bill Olson; and newly elected Director Jeff Daniels. Re-elected Director William Shropshire participated via telephone from 8:00-8:30 am. Past President Skip Radick was not in attendance and did not run for re-election. WSD staff present were Ron Edwards, Marlene Kennedy, Terry Smith, and Grant Burroughs. Others present were Lone Peak Lookout reporter Alexis Mante, Boyne representative Brian Wheeler, BSOA representative Mindy Nowakowski, and Rocky Mountain Rustics representative Chad Rothacher.

**PUBLIC FORUM**

With no public comment, Vice-President Cronin called the meeting to order at 8:07 AM.

**BOARD OF DIRECTORS**

On November 8, 2005, William Shropshire was re-elected to the Board and Jeff Daniels was newly elected, both were elected for four-year terms. Gallatin County appointed Gary McRae and Madison County re-appointed Bill Olson; both county appointments are for six-year terms. The four board members signed Oath of Office forms.

*Director Shropshire moved to elect Packy Cronin as President, Gary McRae as Vice-President, and Dick Fast as Secretary. Director Allgood seconded the motion. Motion passed, 7 yeas to 0 no votes.*

President Cronin thanked the Board members for all their hard work and welcomed Jeff Daniels to the Board.

**AMEND AGENDA**

*Director Olson moved to amend the agenda to address the SFE restriction on the tennis court parcel and then the Hall settlement. Vice-President McRae seconded the motion. Motion unanimously passed.*

**TENNIS COURT PARCEL--SFEs**

Edwards reviewed the tennis court SFE stipulation that stated that the adjustment to increase SFEs to 34.2 would restrict the SFE use to recreation/business and that the Board decision preceded any zoning regulations. Brian Wheeler reported that Boyne has since expressed interest in re-purchasing that property and is asking the Board to allow reallocation of the SFEs to another parcel without restriction of use. Wheeler clarified that they are working with Rocky Mountain Rustics and BSOA to facilitate the transfer of the property with the use of the tract staying as recreational and then Boyne would reuse the SFEs on another parcel. President Cronin commented that it would not make sense to transfer the SFEs with restriction for recreation use, but the concern is that if SFEs are transferred back to the parcel in the future without restrictions. Consequently, Cronin felt that the restriction has to run with the land. Wheeler believes that the restriction originally should have been to the land only, not on the SFEs, and that the Sweetgrass Hills covenants already defines the recreational use of the land. Wheeler would like the community to have the tennis courts and feels that it was a mistake for Boyne to have ever sold the tennis courts as they are now in such disrepair. Director Olson asked why the Board would have stipulated the restrictions. Edwards believes that at the time,

when Reichstetter owned the property, the Board was guarded and did not want a bunch of condos built on the land if the SFEs were increased as requested by Reichstetter. Director Olson stated that the Board has previously discussed, several times, that the WSD is not a zoning entity and this restriction probably over steps the WSD's boundary of jurisdiction. At 8:23 am, Director Shropshire had to leave for a flight and asked that the issue be tabled until the next meeting since he is also concerned what development is being proposed for Tract 2 and wanted to be involved in that discussion. Wheeler responded that he did not see that Tract 2 was part of the equation. The Board continued to discuss the history of the initial decision in restricting the SFEs. Wheeler reported that they would probably move all SFEs, except what would be required for a recreational facility; for sure leaving fewer than 10 SFEs. Wheeler reported that Tract 2 already has 80 SFEs and these SFEs exceed development possibilities, so the transfer of SFEs from the tennis court parcel does not play into Tract 2. Board members agreed that any transfer of SFEs should not have a use restriction.

***Director McRae moved to direct Edwards to write a letter that the SFEs on the tennis court parcel could be transferred off the land without restriction, but that the land would be restricted to recreational/commercial as is if SFEs are transferred back to the parcel..***

***Director Olson seconded the motion. Motion passed, 6 yea votes to 0 no votes with President Cronin voting. Director Shropshire was not present.***

#### **HALL LITIGATION**

Brian Wheeler reported that Boyne owes the surcharge on the Teton tract that was transferred to Sarah Hall in a divorce settlement. Wheeler asked the Board if they would consider taking a reduced payoff of the \$224,350 surcharge for the 64.1 SFEs if a check was written now. The Board responded that the SFEs are worth \$3,500 at development. Director Olson stated that this surcharge is basically an impact fee and that new law dictates how and when it can be used, and if this charge was to be modified then legal counsel would need to be consulted. Director Allgood wanted to know if the District already has interest bearing accounts and asked if the assessed fees of \$3,500 per SFE were for building the treatment plant and were existing fees already being used to pay off the plant costs. Smith stated that the District does have interest bearing accounts. The Board is concerned at setting a precedent if they agree to receive a reduced fee for the SFE surcharge. Wheeler said Boyne wants to get this surcharge off the books for this parcel and is only requesting the reduced pay off if it is a win-win situation for Boyne and the District. President Cronin stated that if the Board decided to take an early payoff in the full amount per SFE, then it would not set a precedent. All Board members were in agreement.

#### **MEETING MINUTES**

***Director Fast moved to approve the minutes of October 18, 2005, as written. Director McRae seconded the motion. Motion passed, 6 yea votes to 0 no votes with President Cronin voting.***

#### **FINANCIALS**

Smith briefly reviewed the financials reporting that, overall, the budget is on target or favorable. Smith stated that there are no major items that should concern the Board right now. Smith said that as of October 31 we were under collateralized and that has been taken care of and we are now over collateralized, but at the end of the month we will be paying out about a million and it will even out.

***Director Fast moved to approve the October financials as presented. Director Olson seconded the motion. Motion passed, 6 yea votes to 0 no votes with President Cronin voting.***

Late Fees: Smith said that legal counsel Brown sent a letter stating that the District could increase the late penalty up to 15% by amending the ordinance. We are currently charging 10%, which is about 3% above prime right now. Director Olson stated that according to his interpretation of Brown's letter the Board could only go 6% above prime. Since delinquency is currently not a major problem, the Board tabled any action for increasing the penalty rate; but will reconsider the issue if delinquency becomes a problem.

Boyne's Contested 3<sup>rd</sup> Quarter Bill: Smith reported that he has conveyed to Boyne what it will take for them to have the meters tested that they questioned in their accuracy. Smith has not heard from Boyne if they want to cover the cost of testing the meter as allowed by District Ordinance. Smith also has not received a cost estimate from Dana Kepner to do onsite testing.

Retirement Plan: Smith informed the Board that the planned participant contributions is 35% of the employer's contribution and the legislature has a hearing to increase the contribution to 40%. Smith asked if he could report at the hearing that he represents the WSD and it supports his effort at trying to persuade the legislature at making the payoff more equitable. Kennedy noted that Smith did not represent all employees of the District and that employees were given a one-time choice at which plan to participate in. President Cronin said that Smith could report that the Board supported his efforts.

Plant Investment Charges: Director Fast asked if the SFE plant investment charge could be increased if the costs for development increased in the future. Edwards responded that the PIC could be increased with a public hearing if the Board felt that expenses for wastewater were more than the PIC covered. Edwards noted that the Board has previously discussed reviewing the whole picture of wastewater and water development charges. Director Olson stated that revamping "impact" fees in midstream makes some people pay for improvements while others are not, and that bonding is a more equitable system. Edwards said that the WSD could possibly look at using the PIC for both water and wastewater. Director Daniels asked how the PIC compares with other areas in Montana. Edwards said we are not the highest, but we are high and Big Sky is unique in that it calculates fees by SFEs where other communities assess by frontage square footage, or other ways. *Edwards said he could present a rate comparison.*

2005 Bond Debt Service Tax Levy: Smith said the information for the SRF application was received from Armstrong last week and that will be compiled and submitted to DNRC and we are not too far off behind schedule yet.

### **SEWER OPERATIONS**

Edwards said the flows are about 5 million gallons higher than last year, with a higher percentage coming from the Mountain; which now is approximately 65% of the total. Based on the numbers, there are no major I & I in the system--the increase can be attributed to growth.

### **WATER OPERATIONS**

In Muscat's absence, his report was distributed to the Board for review. Edwards reported that the Aspen Groves system would be started up on Wednesday. The telemetry on Well 7 will be done around the first of the year. Edwards distributed data on the water leak on Two Moons Road that has been repaired. The leak was ½ million gallons per day, or 173 gallons per minutes; which is equal to the meadow wells' production. According to Edwards, there was a

fracture all the way around the ac pipe. Since the repair, the meadow production has had a noticeable drop. The District does not have any idea of when the pipe broke. Director Olson asked if the jump in production from June to July could indicate when the break occurred. Edwards felt that that jump was probably due to the irrigation increase and that the leak was probably there for quite some time at 90 million gallons a year. Director Olson said fixing the leak is like acquiring a new well. Edwards reported that the WSD has leak detection done every year, but with ac pipe it is hard to determine the size of the leak.

Director Olson said the high pressure in the Cascade area is a concern in regards to liability. The recent problem in Cascade flooded the lower level of a house and Director Olson is concerned that the owner may come to the District for compensation. Smith responded that the ordinance covers the District and it will be the owner's responsibility. Director Olson said that we owe it to all the users, possibly in the entire District, to inform them that a pressure reducing valve be installed due to fluctuating water pressure. Edwards described what occurred on the mountain about two weeks ago, where rocks are getting in the water system and getting into the PRVs; which is causing the PRVs to fail and, thereby, causing a spike in the pressure. Director Olson said that there are older homes in the area that could have a problem. *President Cronin directed Edwards to write a letter to owners to inspect for a PRV, or ask the District to inspect for a PRV, and to have one installed if there is not one already. Director Olson asked that the letter also advise people to turn their water off if they are going to be gone for an extended period.* Edwards reported that the new Powder Ridge cabins also had pressure problem that caused flooding, there were no PRVs installed even though the District told them to. Edwards said some monitoring could be installed on the District's PRVs at a cost of \$10,000-20,000 per site. *The Board directed Edwards to get an estimate from the telemetry installer and present it to the Board. The Board also directed Edwards to write a letter to owners explaining the necessity of PRVs, etc. Director Allgood asked that an informational flyer, that summarizes issues that the District is working on, be inserted in quarterly bills.*

### **LONG TERM COMPLIANCE WORK PLAN**

Edwards reported that Armstrong is not ready to do the pump test. President Cronin said this work needs to be done and Edwards needs give the engineers a push to get it done. According to Edwards, the warranty issue with potential problems will be put back on Bodell. District staff fixed the pump that had seized up and that is how the issue on the warranty came up. *President Cronin urged Edwards to get the system online.*

### **PROPOSED DEVELOPMENTS & SUBDIVISIONS**

Spanish Peaks Resort: Edwards reported that the new sewer extension would be conveyed once Jim Dolan signs the agreement. The warranty section is for 5 years instead of 1 year due to the movement of land in some areas. If after 5 years, and there are no problems, they will get the warranty security returned. Edwards feels that 5 years is a comfortable period for covering the District. President Cronin asked if there is any part of the system that won't be tested and used in the near future. Edwards said that the water system is being monitored by District employee, Jim Muscat, but the District is not yet operating their system. President Cronin is concerned that if parts of the system are not used within the 5 years, then the District is at risk for future problems. President Cronin stated that all areas of the system needs tested. Director Olson asked if Edwards is comfortable with what is being done in regards to mitigating land movement. Edwards responded that, in theory, the mitigation that has been done should work; but he has no

way of knowing if it will. *Edwards will ask for a copy of their engineers work.* Edwards said that there is monitoring going on *and he will ask for a copy of their data to be submitted to the District.* Edwards said if something happened to the lines in year 6, it would be the District's responsibility. Director Olson asked if the District should be getting an outside geotech expert to look at the data. The District has not yet signed the document, and Allgood suggested that the document be amended to include that if there are any new problems, then the 5-year period starts new with any problem areas. *Vice-President McRae asked that Spanish Peaks engineers present their reports at the next meeting.* Director Allgood stated that this is the first development that has had problem with land sliding and the conveyance should cover the District. Edwards said the District could amend the language to extend the warranty for an additional 5 years if there is a problem, and if there are no problems the warranty security will be refunded. Edwards explained how the security works if repairs are needed. *The Board directed Edwards to have the conveyance amended to tie back the areas where there is a concern and, if there are problems, the warranty will be extended a one time additional 5 years from the date of identifying the problem.* *The Board also directed Edwards to have an independent geotech expert review Spanish Peaks engineer's data.* Director McRae believes that the buttress being installed will take care of the slide problem. Burroughs stated that he would be more comfortable with the system if the flume were installed and operational, as this would measure the flow.

### **MEADOW VILLAGE WATER SYSTEM**

Edwards received the final report from HKM and offered it to any Board member wanting to take a copy to review. Edwards has met with HKM and one well site has been added to the meadow improvements, where three exploratory wells will be drilled this winter--in January, or February. Edwards has asked Mark Cunnane to update the Meadow Village Water Model. Edwards explained that any new water source has to have data that shows it will not impact the surrounding water supply. Edwards reported that the survey crews for surveying the Lone Moose corridor should be here this week. President Cronin stated that the Board wants the water improvements to move full speed ahead. Edwards said he is not stopping the connection from the Mountain to the Meadow, but is focusing on getting new wells in the meadow. Edwards reported that he asked Mat Williams to look at the water rights issue with the Simkins well that does not have a water right. President Cronin recommended that the District continue to look at other options at increasing the water supply.

### **LEGAL**

Town Center Vacant Lot Charges: Edwards distributed the complaint by Simkins that was recently served. This complaint disputes and wants relief from paying the vacant lot charges and also wants a refund of the vacant lot fees that they say they paid in error. President Cronin said that once the infrastructure is transferred to the District, the District is responsible for operation costs and once the warranty period expires the District is responsible for all repair costs. President Cronin stated that all developers have paid these vacant lot charges knowing there are costs for the District to have these lines and the District should not change this vacant lot fee. Edwards explained that in selling the lots, the title company is collecting the fee and putting it into an escrow account. However, the District is not receiving this money. The fees are still delinquent according to the District's books. President Cronin stated that he would like the Simkins to rethink their stance and agree to pay the vacant lot fees. The complaint does need to be answered and Mike Wheat will do the response, with the District taking the stance that the fees are justified. The District needs to let the courts decide. In regards to amending the ordinance, President Cronin said the District does not need to press the issue, but to just let the paperwork process occur.

### **ASPEN GROVES WATER SYSTEM**

Edwards reported that start up will be on Wednesday of this week. The tank may be drained about halfway down and refilled with clear water. *Director Fast asked to be informed when this occurs so that he can keep Aspen Grove owners informed.*

### **SEWER & WATER PERMITS**

Edwards reported that November was a record month and the sewer and water permit applications over 5 SFEs needing board approval were: Maus Construction Inc. for Alpenglow 33 Units A-D at 5.60 SFEs, Alpenglow 35 Units A-D at 5.60 SFEs, Alpenglow 32 Units A-D at 6.80 SFEs, and Alpcnglow 34 Units A-D at 6.80 SFEs. Staff recommended Board conditionally approve the application for Lilly and Lopker LLC for the Cascade Ridge Clubhouse at 10.54 SFEs based on acceptance and conveyance of their extension work. Edwards said the remaining SFEs available will probably be sufficient to the end of the year.

*Director Fast moved to approve, or conditionally approve, the permit applications as recommended by staff for Alpenglow 33 Units A-D at 5.60 SFEs, Alpenglow 35 Units A-D at 5.60 SFEs, Alpenglow 32 Units A-D at 6.80 SFEs, Alpenglow 34 Units A-D at 6.80 SFEs; and Cascade Ridge Clubhouse at 10.54 SFEs. Director McRae seconded the motion. Motion passed, 6 yea votes to 0 no votes with President Cronin voting.*

### **NEW DEVELOPMENTS & SUBDIVISIONS**

Beaverhead Condos: Edwards explained that these new condos will provide build out for the Beaverhead development.

Muddler LLC Condos in Town Center: This new development will be for 11 duplex condos in a newly platted area of Town Center that fronts Ousel Falls Road. According to Edwards, the District will be reviewing and commenting on the plans.

### **RESOLUTION 05-01: RECOGNIZING SKIP RADICK FOR HIS YEARS OF SERVICE**

As a follow up to last month's meeting, Edwards prepared a resolution recognizing Radick's years of service. Since Shropshire requested the Resolution, the Board tabled action until the next regular meeting.

### **GENERAL CORRESPONDENCE**

Blessey Request for Water Service: Edwards explained that Walter Blessey has attempted drilling for water at a cost of approximately \$50,000 and has not had much success at getting adequate, quality water. The property was originally in the District, but the previous owners requested removal from the District a few years ago since we did not serve the area. Edwards reported that Blessey has previously asked to be included in the District and was sent a letter stating what would have to be done if he was allowed in the District, which includes covering all expenses to get water to his property. Blessey is again asking to be in the water district. Edwards has looked at the water rights and that area is in the water rights area. Edwards believes that Blessey has demonstrated that he has a hardship and recommended that his property be annexed into the District. Edwards explained the annexation process, where the property owner must file a petition to be annexed. The Board then can agree to annexing the property through board action, or put the request out to a vote to all the property owners. Director Olson stated

that Silver-tip Development also demonstrated a hardship, but was denied annexation. Edwards felt that Silver-tip was a different situation, where they were never in the District. Edwards is not aware if additional development can go on Blessey's property, and Blessey would have to provide that information. Edwards said that Blessey's property would not have to connect to the sewer. Edwards noted that Art Reichstetter's property is served with water only and that his property is in the assessment role for water improvements. Edwards stated that all the work needed to get water to Blessey would fall back on Blessey. Director Olson stated that the original property owner opted out of the District and Blessey knew what he was buying. Director Olson further commented that it is the property owner's responsibility to do due diligence. President Cronin advised the Board that the District has historically had a water shortage and to expand to everyone that comes up short may be problematic and may be a reason to say no to expanding boundaries.

***Vice-President McRae moved to have Edwards write to Blessey asking that he provide documentation for his development plans, and pipe routing, and to also submit an annexation request for the Board to review and consider. Director Daniels seconded the motion. Motion passed, 6 yeas votes to 0 no votes with President Cronin voting.***

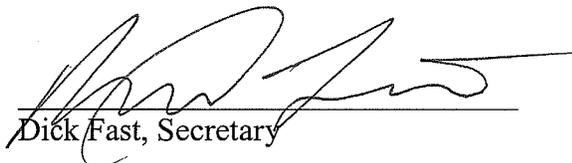
Ward Letter Requesting Billing Adjustment: Edwards reviewed Ward's letter concerning their request for an adjustment to their bill. They are contesting their 3<sup>rd</sup> quarter bill since no one was occupying the unit at the time of high water use. Smith reported that he inspected the unit and the meter, and there was no water damage or irrigation use and he did not see that the meter was reading incorrectly. Smith believes the 32,000 gallons of water use was caused by a leaking toilet, not a meter problem. Edwards reported on a previous request for a billing adjustment by a property owner in the meadow with a water leak where the board only adjusted the sewer use charge since it was evident that the water use did not drain to the sewer system. The Board denied Ward's request for an adjustment to their billing.

#### **NEXT MEETING**

The next Board meeting is tentatively scheduled for Tuesday, December 20, 2005, at 8:00 AM. The Board asked that the year-end dinner include Skip Radick. Board members will contact the District with their availability schedule.

#### **ADJOURNMENT**

***Director Olson moved to adjourn the meeting at 10:05 AM. Director McRae seconded the motion. Motion unanimously passed.***

  
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Dick Fast, Secretary

BIG SKY WATER & SEWER DISTRICT NO. 363

**Regular Meeting Minutes – October 18, 2005**

WSD Community Room

The Big Sky County Water & Sewer District No. 363 scheduled a regular meeting for 8:00 AM on Tuesday, October 18, 2005, in the WSD Community Room. With President Skip Radick chairing the meeting, the following Board members were present: Vice President Packy Cronin, Secretary Gary McRae, and Director Dick Allgood. Directors Bill Olson and William Shropshire participated via telephone. Director Dick Fast was absent. WSD staff present were Ron Edwards, Marlene Kennedy, Terry Smith, and Jim Muscat. Legal counsel John Brown participated via telephone during the issue of the Town Center vacant lot charges

**PUBLIC FORUM**

With no public comment, President Radick called the meeting to order at 8:19 AM.

**MEETING MINUTES**

*Director Cronin moved to approve the minutes of September 23, 2005, as written. Director Allgood seconded the motion. Motion passed, 6 yeas votes to 0 no votes with President Radick voting.*

**FINANCIALS**

Smith briefly reviewed the financials with the operating revenues shown as favorable. The timing issue of tax receipts reflects unfavorable non-operating revenue. Boyne is current with their payments.

*Director Allgood moved to approve the September financials as presented. Director McRae seconded the motion. Motion passed, 6 yeas votes to 0 no votes with President Radick voting.*

Smith reported that the SRF loan process is proceeding and an application will be submitted after the estimates from Ray Armstrong are received.

Smith researched interest rates allowed on late payments, and there are no MCA restrictions. We currently charge 10%. John Brown has been asked for a legal opinion and Smith will report to the Board at the next meeting.

**SEWER OPERATIONS**

Edwards reviewed Burroughs flow reports. Edwards said pond 1 and pond 3 are drawn down and we are good at going into winter.

**WATER OPERATIONS**

Muscat reported that the installation of the Aspen Groves water treatment equipment will start on Friday and it should only take a few days to complete. Muscat received an email from Ray Armstrong that said the State approval has been received on the AG system and it should be started up after installation. The tank will have to be drained and flushed and then refilled with the filtered water. Muscat believes that the periodic cleaning of the filter will not dramatically increase the sewer loads. The Cascade extension work is almost done and we are waiting on telemetry. The water production flows are at about one-half of the summer use. There is still high use, though, but it may be due to the growth Big Sky has recently experienced.

### **LONG TERM COMPLIANCE WORK PLAN**

Edwards reported that the booster stations have been started up, everything worked fine with the exception of one pump that has now been cleaned. The District is waiting on a flow meter on the YC pump house, and then the upper section will be tested. The meter is on order and should be installed soon. The warranty on the pumps has expired since it has been two years out on the shipment. Edwards stated that he doesn't agree with this. However, if a pump blew up, the District would take it out of Bodell's retainage and then they would have to deal with their vendor. *Director Cronin asked that Ray Armstrong prepare a written document that specifies the warranty period.* President Radick said the contract would outline the warranty period. *Edwards will follow up with Ray on the warranty periods since two contractors are involved.*

### **LEGAL**

Town Center Vacant Lot Charges: Edwards received a letter from Gallick responding to the District's offer of releasing the penalties with Simkins paying the vacant lot charges. Simkins has refused the offer and has filed the complaint, but Edwards does not know what the timelines are for the legal process. Edwards feels that this would be a difficult case for the Simkins to win since the State Statutes have changed since Gallick won the court case against the Rae District. The Board feels that if they buckle on the issue, then they set a precedent and if the case goes to court and the District loses then it opens the door for additional suits. Edwards said the Supreme Court case that Simkins won says nothing on the vacant lot charge, only free user fees until June 2001. Director Cronin asked if there is something that Simkins is thinking about from the Rae case that would enable them to win the case that the District may not be aware of. Edwards said that John Brown feels that with the changes in the county water and sewer district law that the WSD has a case to apply the vacant lot charge. Smith reported that the Gallatin County Treasurer's office is looking at the statutes on the issue of releasing fees that have been paid in protest. John Brown (8:50 am via telephone) said the timeline from the complaint being served is 20 days to make an appearance and Brown will make a motion to dismiss. Brown said Simkins is serious about the issue and with Gallick, trying the Rae case, it is his niche issue. Brown said Gallick's theory from 12 years ago would not work today as the statutes have changed. Brown said Gallick hopes the issue can be resolved. Responding to Board inquiry, Brown reported that he has reviewed Simkins prior lawsuit and commented that the Statute has been modified where it says if the property benefits, a fee is allowed. Brown said there is value in resolving this as it will be a huge block on time to calculate all the vacant lot fees paid since its inception. Director Cronin asked if Brown is confident that there isn't something out there that would jeopardize the District. Brown will contact Gallick and ask him the questions. President Radick asked Brown what happens if the District buckles and what kind of precedent this sets. Brown said that it is possible to roll the vacant lot charges into the well purchase and then it wouldn't set a precedent. Edwards stated that the well use would probably garner complaints from at least Pariser. The Board asked Brown to follow up with Gallick and to let him know the reasons why the District cannot compromise on the vacant lot charges. Brown said the rules for water rights for municipalities is different than for individuals and he feels that the District has a better shot at getting the water right on Simkins' well. Edwards commented that maybe the District could make a deal contingent on getting the water rights. Brown feels that the main issue why Simkins is challenging the vacant lot fee is because Gallick won the Rae

case. Director Cronin said this issue is about ready to turn into a really big deal and *directed Brown to research the law that would allow the District to discontinue permitting and cut off service until the issue is resolved.* Edwards said the District would need to amend its ordinance to read that past due fees must be paid prior to service. *The Board directed Edwards and Brown to have the ordinance amendment prepared for Board action at the next meeting.* Brown will inform Gallick that the issue will be escalating with District action to be taken at limiting/allowing permits to only accounts that are current. The Board said the District cannot buckle on this issue because of the precedent it will set. The Board does not want to tie this delinquent vacant lot charge issue into acquiring the Simkins well. *The Board directed Edwards to have Brown inform Gallick that the Board will not compromise on this vacant lot issue other than the penalty charge.* Smith reported that all the delinquent charges have been transferred to the county and if there is a new owner, then it goes to their property. Smith also reported that Brown had agreed to let Gallick hold the vacant lot charges paid in closing. President Radick said that liens need to be filed on delinquent accounts. Directors Cronin and Allgood asked if we need to have different legal representative that would play more hardball. *The Board directed Edwards to inform Brown that the District will not waiver on the vacant lot charge. The Board directed Edwards to have the Ordinance amendments prepared for the next meeting.*

### **PROPOSED DEVELOPMENTS & SUBDIVISIONS**

Spanish Peaks Resort: The District completed a walk through of Spanish Peaks and there is a punch list of items that needs to be done. *Director McRae recommended that the District require that the problem area lines be re-TVed. President Radick asked the acceptance agreement include language that states the District will not be responsible for the slide area.* Edwards said the flow from the cabins has to go through this slide area and the possibility of a problem occurring needs to be addressed with additional language in the transfer agreement.

### **ASPEN GROVES WATER SYSTEM**

State approval has been received as reported by Jim Muscat. Pure Water Technologies will start installing the equipment later this week. The building is built and the sewer line is in.

### **DISTRICT ELECTION**

Edwards reported that the District ran into a problem with getting a timely election newsletter out in that not all four candidates that are running for the two positions submitted their profiles by the deadline. Additionally, Les Loble is also running for the resort tax and there is now law that prevents a candidate from running for two boards. The county has researched this and Loble cannot withdraw since he missed that deadline and his name must be on the ballot. Loble has requested in his biography for constituents to not vote from him. Edwards reported that a mailing will go out today or tomorrow on how non-resident, US registered voters can vote. Director Shropshire said that we have basically disenfranchised the non-resident voters with the delay in getting information out to non-resident property owners. President Radick noted that the non-resident voting procedure has always been a problem. Edwards said a non-resident voter can fax the county the absentee ballot and it will be sent out. Director Cronin asked Edwards what he could do to expedite the voting. *Edwards reported that he has sent information to the papers for press if they choose to print it, but he will call the papers today and ask that they print the information. Director Cronin directed Edwards to do everything he can do to get the voter information out there.* Edwards will email information to those approximately 200 accounts where the District has their email addresses. Edwards will also call Insty Prints today to follow up on the newsletter mailing that is to be mailed first class.

### **DIRT STOCKPILE COMPLAINTS**

Responding to Board inquiry, Edwards said the agreement will allow removal until July 1, 2007. Edwards has talked to the contractor about the complaints and notified him that the operation could get shut down if the complaints continue. The agreement states that any compliance issues are the responsibility of the contractor. Director McRae noted that JTL is closing out their seasonal Big Sky gravel operation in about one month. The contractor is now crushing the gravel and Director McRae reported they should be done with that in the next few months and then it will just be the retail operation for the gravel. Director McRae will talk to the contractor to get the work done as quickly as possible. Director Shropshire reported that Cathy Ainsworth called him with her concerns about the truck traffic; i.e. driving unsafely and above the speed limit, the number of loads, the mud on the highway, uncovered loads, etc. *The Board directed Edwards to write an article for the papers that informs the public of what is going on, why, and when it will be completed. The Board also directed Edwards to discuss the public's concerns with the contractor.*

### **SEWER & WATER PERMITS**

The five permit applications needing Board review and approval were: Pines Condominiums, Building K, Unit 1-4 at 8.8 SFEs; Pines Condominiums, Building J, Units 1-4 at 8.8 SFEs; Powder Ridge Condominiums, 6 units at 2.0 SFEs each for 12.0 SFEs; Powder Ridge Condominiums, 9 units at 2.6 SFEs each for 23.40 SFEs; Powder Ridge Condominiums, 3 units at 2.0 SFEs each for 6.0 SFEs

*Director McRae moved to approve the following permit applications conditional on the permit fees being paid: The Pines at 8.8 SFEs, The Pines at 8.8 SFEs, Powder Ridge at 12.0 SFEs, Powder Ridge at 23.40 SFEs, and Powder Ridge at 6.0 SFEs. Director Cronin seconded the motion. Motion passed, 5 yeas votes to 0 no votes without President Radick voting.*

### **GENERAL CORRESPONDENCE**

The microbrewery data was analyzed by Ray Armstrong and he reported that he didn't think that it would make a difference in the wastewater loading, but the summer months may be a concern and the release of wastewater may need to be regulated. Edwards feels that there probably should be a different user rate for the water/sewer use charge.

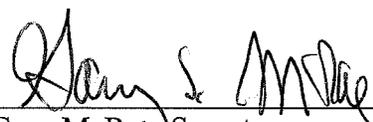
### **NEXT MEETING**

The next Board meeting is tentatively scheduled for Tuesday, November 29, 2005, at 8:00 AM. Packy will be gone from Nov 10-25. Edwards said the election results would need to be canvassed by a couple of board members.

*Director Shropshire moved that a resolution be passed on recognizing President Radick for his service to the District. Director Cronin seconded the motion. Motion unanimously passed.*

### **ADJOURNMENT**

*Director Allgood moved to adjourn the meeting at 10:00 am. Motion unanimously passed.*

  
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Gary McRae, Secretary

BIG SKY WATER & SEWER DISTRICT NO. 363  
**Regular Meeting Minutes – September 23, 2005**  
WSD Community Room

The Big Sky County Water & Sewer District No. 363 scheduled a regular meeting for 8:00 AM on Friday, September 23, 2005, in the WSD Community Room. With President Skip Radick (arrived at 8:25) chairing the meeting, the following Board members were present: Vice President Packy Cronin and Secretary Gary McRae along with Directors Dick Allgood, Dick Fast, and William Shropshire. Director Bill Olson was absent. WSD staff present were Ron Edwards, Marlene Kennedy, and Terry Smith. Others present were Spanish Peaks representative Ralph Walton and Scott Johnson from Williams Plumbing. HKM representative Ray Armstrong participated via phone during the discussion on the water projects and the long term compliance work plan.

**PUBLIC FORUM**

Director Cronin called for public comment at 8: 18 am. Scott Johnson, Williams Plumbing, expressed his concern about the improper irrigation connections occurring that could contaminate the water source and recommended that the District set a policy on how these connections are made. Johnson recommended an L-7 testable double check valve. Edwards reported that the District now only requires permitting for new construction and remodeling, and this does not cover irrigation systems unless it involves a meter pit. Scott reported that there are a couple of companies without licensed plumbers tapping the water main. Director Cronin stated that there is a big difference between doing irrigation to standards and just getting it installed. Johnson said other municipalities require set standards be followed. Johnson will rig up a standard irrigation connection and show it to Edwards. *The Board directed Edwards and water operator staff to work with Scott in coming up with irrigation installation standards to present to the Board at their next meeting. Director Cronin asked that a rain sensor be included in the standard system.* According to Cronin, the sensor turns off irrigation systems when there is rain and only adds about a \$100 to an irrigation system. Director Allgood suggested that the Board look into making it required and giving a break in irrigation costs, or penalize if they don't install. Director Cronin said that irrigation systems in the area of South Fork that he has control over will be required to install a rain sensor.

With no further public comment, President Radick called the meeting to order at 8:25 AM.

**MEETING MINUTES**

*Director Cronin moved to approve the minutes of August 22, 2005, as written. Director Shropshire seconded the motion. Motion passed, 6 yea votes to 0 no votes with President Radick voting.*

**FINANCIALS**

Smith briefly reviewed the financials reporting that, overall, the District has positive net revenues. Approximately another \$100,000 will go into the water improvement next month.

*Director Cronin moved to approve the August financials as presented. Director McRae seconded the motion. Motion passed, 6 yea votes to 0 no votes with President Radick voting.*

Delinquent Accounts: On August 3 1 delinquent accounts were turned over to the county for collection on the tax roles. Smith will provide an updated list next month as he has until the end of September to make adjustments. Edwards noted that Simkins is bringing down the total number of lots in their development through replatting. Edwards reported that when Simkins sell their property they are still planning on paying the vacant lot charges to an escrow account through their attorney. Edwards has not received a response to his letter sent to Simkins where the District offered to forego the interest if Simkins pays all the vacant lot charges. Edwards stated that he is surprised that the title companies are giving a clear title when the fees are not being paid to the District. Director Shropshire asked if the District is required to serve property where there are delinquent accounts. Edwards explained that the District has not shut off service in the past since the District has the ability to file delinquent accounts with their taxes. Additionally, there are not always shut off capabilities to individual properties, and there may be a liability with fire protection. President Radick does not want the vacant lot charges to Simkins to be any part in negotiations for well source. The Board talked about raising the interest rate to make it more of an incentive for customers on pay on time. The District's penalty rate can be raised through its ordinance. *The Board directed Smith to explore the maximum penalty rate allowed by State law and present it to the Board at the next meeting. Edwards is to run the interest increase past legal counsel.*

Water Project Finance Options: Smith reported that the District is still on the priority list for improvements and all that the District would have to do is apply. Smith estimated it would take about six months to get approval. SRF financing is 20 years and InterCap is 10 years, but both would have to go through District voter approval. *The Board preferred the SRF option and directed staff to complete the application.* If \$2 million were applied for, it would be about 11 mills. Smith said the user rates and vacant lot rates could also be increased to cover costs of the improvements. *The Board directed staff to put the wheels in motion to tie the mountain water systems to the meadow water system with \$2 million as the cost estimate.* Ray Armstrong (9:00 am via phone) stated that the costs are about the same as previously estimated. For the segments from Lone Moose to Aspen Groves to the HV well, the cost is approximately \$1.3 million. For the connection of Mountain Village to Lone Moose it would be about \$501 thousand. The Board recommended including the supply, i.e. well drilling, and add that to the bond. Armstrong noted that his numbers were conservative. The Board said that by next year the price could be another \$500 thousand with price increases. Director Allgood recommended that the Board ask for enough funds, maybe \$3 million, to cover all anticipated costs including the unknown costs at drilling new wells as the District will not lose any thing if it only uses \$2.5 million. *The Board directed staff to look at the supply side, with estimated costs, so that it could be added to the request for connecting the two systems.* Edwards discussed the process of a GEO bond. *The Board recommended that Edwards put information in the paper to inform the public about the current water situation. President Radick suggested that a letter be sent to the customers outlining the current water situation.* Edwards asked if the District should look at having a water connection impact fee as all of our issues are now with water. President Radick said that an impact fee penalizes new customers and everybody should pay for water improvements. The Board sees its first option as identifying the costs, then to develop a strategy to get voter approval, and then do funding applications. Smith asked for Board approval to pay off the 4% loan. The Board directed Smith to NOT pay off the 4% loan. *The Board directed Edwards, Muscat, and Armstrong to calculate the costs and make the application before the next board meeting.* Armstrong said the outfall line surveying work needs to begin soon. Armstrong estimates it would take maybe 1-2 weeks of surveying at an estimated cost of \$15,000. The Board wants the construction work to begin as early in the spring as possible.

***Director McRae moved to authorized Armstrong to do preliminary surveying at a cost of up to \$15,000. Director Fast seconded the motion. Motion passed, 6 yea votes to 0 no votes with President Radick voting.***

Director McRae noted that at Lone Moose they have previously done work in January and they did not have any water problems.

#### **LONG TERM COMPLIANCE WORK PLAN**

Edwards reported that the aeration pond has been lined and is about half full. Armstrong stated it will require a 14-day leak test before it can be used and they will know within the first 2-3 days of testing if there is a problem. The air line has to be inspected and certified. Edwards reported that start up of the booster stations in the meadow and at YC will be on October 5, 2005.

Armstrong reported that Larry Wyman will be their inspector. The YC's pond is lined and is being cleaned up. Bode11 is coordinating all the subs that need to be present for the start up. Edwards distributed a picture where a gabian liner covering is being used and HKM is still exploring this option and needs further details. The Board liked the look of the liner in the picture provided. *Armstrong will get additional information, possibly traveling to the site where it is being used, and get a firm cost from Bodell. Armstrong will make sure it will work on a 3 to 1 slope.*

Edwards intends to run some water to Yellowstone Club every year, even though there probably wouldn't be excess water for a few years. The District is currently using the pasture in the meadow to get rid of water when the season is wetter than normal.

#### **ASPEN GROVES WATER SYSTEM**

Armstrong reported that they responded to the States questions, but a final approval from the State has not been received. Edwards said the building has been extended and the District has done everything they can up front. Initially, Edwards was told it would take two weeks to get the equipment so he has not followed up with ordering the equipment early. Armstrong is comfortable that the system is going to be approved. The Board asked Armstrong if they should have the equipment ordered and ready to be installed as we wait for the State approval. President Radick asked if the equipment could be installed and not put on line until approval is received. Armstrong said he would have to check state law to see if we can do that and he will call DEQ to see if there is any problem with the equipment. Armstrong reported that the State had a comment on there being no pilot test data available. *The Board directed Armstrong to check the statutes, administrative rules, and to not call the state but to quickly respond to Edwards. If it is okay to order and proceed with construction, then the District will get the work done and not go online until State approval is received.*

#### **AMEND AGENDA**

***Director McRae moved to amend the agenda to discuss Spanish Peaks Resort development. Director Fast seconded the motion. Motion passed, 6 yea votes to 0 no votes with President Radick voting.***

### **PROPOSED DEVELOPMENTS & SUBDIVISIONS**

Spanish Peaks Resort: Edwards reviewed the sewer extension progress, and start up on the water system that was done yesterday. Edwards and John Brown have been working with Ralph Walton and Steve Brown on preparing the draft Water Facilities Management Agreement and Memorandum of Agreement, which were provided in the board packet. Edwards said there is repair work that needs to be done on a few of the service lines in the Settlement Cabins area. Under the Water Facilities Management Agreement, the water supply remains Spanish Peaks problem. President Radick asked if there is a provision to extend taking over the system. Edwards reported that the draft agreement allows flexibility in termination if needed. Director Fast asked if the water for the golf course is metered. According to Edwards, they do not currently meter that water, but agreed that a meter needs to be installed. Spanish Peaks has plans to install 2 additional wells, but Edwards is not sure of the longevity performance. Director Fast is concerned that if the water supply becomes a problem, that Spanish Peaks would not let their golf course die. Edwards said that domestic supply would be the priority. Director Fast wants to make sure there is language in the agreement that insures domestic supply is the priority and the District is not financially responsible for supplying their golf course with water. President Radick expressed concern that the proposed test period would not provide enough data. Edwards said the agreement timeline could be extended. Edwards feels that the agreement is a win-win for both parties. Revenues collected will be deducted from the operating fees. Edwards said the only area to be initially conveyed is where the Settlement Cabins are located. Director *Allgood* asked that a detailed formula be established to track District costs. This needs to include all employee expenses such as unemployment, insurance, etc., that covers all the costs to run the system as an independent contractor at cost plus 10%.

***Director Allgood moved to approve the Water Facilities Management Agreement as presented. Director Cronin seconded the motion. President Radick called for discussion. Director Cronin wants the District to have the time to make all the necessary inspections without the District being pressured to accept the system without it being satisfactorily complete. Motion passed, 6 yea votes and 0 no votes with President Radick voting.***

Edwards reviewed the Memorandum of Agreement, where the District is responsible for permitting and collecting permit fees for both water and sewer. There would be the same \$3,500 per SFE PIC charge; a part goes to the YC obligation of a \$1,352 special improvement charge performance security, which they will eventually get back. The rest would be returned to Spanish Peaks. The District would retain 1% for administrative costs. The interest also goes back to Spanish Peaks. As the Spanish Peaks Resort develops, they will pay on the bonds just like other property pays the District debt service. Edwards discussed the performance bond period, explaining that a one-year time period is currently used. Edwards is to include a paving bond in the conveyance.

***Director Shropshire moved to approve the Memorandum of Agreement as presented. Director Fast seconded the motion. Motion passed, 6 yea votes and 0 no votes with President Radick voting.***

## **LEGAL**

The District has been dismissed from the Hall lawsuit and Edwards will quit copying the Board on the legal correspondence unless it is necessary.

## **SFE REALLOCATION**

Edwards reported Grey Goose LLC has provided a copy of ownership and Edwards approved their request to transfer SFEs.

## **SEWER & WATER PERMITS**

Two permit applications in the Town Center required Board approval. *The Board directed Edwards to ask for a legal opinion as to whether the District can require payment of delinquent vacant lot fees prior to approving the permits in the Town Center, or else where.* Edwards thinks it would be a mistake at this point to not allow permitting and to approve these two applications, today; but then send notice that the District will stop issuing any additional permits until the vacant lot issue is resolved. Edwards said the ordinance could be amended to state that all property fees must be paid prior to permit approvals. *Edwards will call John Brown and ask him to call Gallik to find out what Simkins' response is.*

*Director Cronin moved to conditionally approve the permit application for Simkins/Rotherham, Elevation 6000 Condos, units 1-6, at 9.6 SFEs and Simkins Holdings, Market Place Commercial Condos, at 9.09 SFEs, and to send a letter that says the ordinance will be amended to include that all future permits will only be approved if all past due property fees are paid. President Radick called for discussion. Edwards will also talk to Bill Simkins about the direction the Board is taking, and that the Board is trying to not trip up permitting, but to get the issue resolved. Director Shropshire seconded the motion. Motion passed, 6 yeas to 0 no votes with President Radick voting.*

## **NEW DEVELOPMENTS & SUBDIVISIONS**

Moosewood Meadows, Cascade Tract 5B: Edwards reported this project will be 6 cabins east of Powder Ridge and they have requested a looped main extension and the plans have been reviewed and approved by the District. They will need State approval.

## **DIRECTOR ELECTIONS**

Edwards reported that Gallatin County will run the election on November 8, 2005, where locally registered voters can vote in person, or by absentee ballot. District property owners can also vote, but they have to request an absentee ballot and submit a form that proves they are a registered voter in the United States. The applicants for the two positions are Bill Shropshire, who has reapplied to serve, and the three other applicants are Jeff Daniels, Eric Ossario, and Les Loble. Edwards said the forms for voting can be downloaded from the District's website. The District will also do a mailing that informs property owners of how they can vote.

## **GENERAL CORRESPONDENCE**

No correspondence required board action.

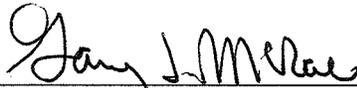
**NEXT MEETING**

The next Board meeting is tentatively scheduled for Tuesday, October 18, 2005, at 8:00 AM. Director Olson will be out of town from 10/15-30/05, but will be available via phone. Director Fast will be gone 10/3-24/05. Director Shropshire will be available via phone.

*The Board wants the water demand reports from Armstrong presented at the October meeting—the reports were not presented at the September meeting as directed by the Board during the August meeting. The reports are to include the demand of the whole system, what the District is currently able to provide, projected growth rates, future demands, and costs. The costs are to include breakdowns for all the connections and/or recommended projects.*

**ADJOURNMENT**

*Director Fast moved to adjourn the meeting at 11:30 am. Motion unanimously passed.*

  
\_\_\_\_\_  
Gary McRae, Secretary

09-23-05. min (Board Approved 10/18/05)

BIG SKY WATER & SEWER DISTRICT NO. 363  
**Regular Meeting Minutes – August 22, 2005**  
WSD Community Room

The Big Sky County Water & Sewer District No. 363 scheduled a regular meeting for 8:00 AM on Tuesday, August 22, 2005, in the WSD Community Room. President Skip Radick chaired the meeting with the following Board members present: Vice President Packy Cronin, Secretary Gary McRae (left at 10:45) and Directors Dick Allgood, Dick Fast, Bill Olson (left at 10:35), and William Shropshire. WSD staff present were Ron Edwards, Marlene Kennedy, Terry Smith, and Jim Muscat. Others present were Craig Reichstetter and HKM representatives Ray Armstrong, Jim Potts, Jason Hurlless and Kathy Gallagher.

#### **PUBLIC FORUM**

With no public comment, President Radick called the meeting to order at 8: 12 AM.

#### **MEETING MINUTES**

*Director Shropshire moved to approve the minutes of July 20, 2005, as amended. Director McRae seconded the motion. Motion passed, 7 yea votes to 0 no votes with President Radick voting.*

#### **AMEND AGENDA**

*Director Cronin moved to amend the agenda to address the SFE transfer request for Craig Reichstetter. Director Olson seconded the motion. Motion unanimously passed.*

#### **SFE REALLOCATION APPLICATION**

Edwards reviewed the history of Craig Reichstetter's request to move 20 SFEs from Westfork Meadows Tract 2 to Cascade Tract 1. Per the Board's request, Reichstetter is to submit a copy of the title commitment to prove that he is the owner of the parcel in WF.

*Director McRae moved to approve Reichstetter's request to move 20 SFEs from Westfork Tract 2 to Cascade Tract 1. Director Fast seconded the motion. President Radick called for discussion. Director Cronin asked if the SFEs from Westfork transfer without plant investment charges (PIC). Edwards reviewed Westfork's flow commitment that was later allocated a total number of SFEs by using engineering data. The Board discussed the Westfork SFEs and whether they should be allowed to be transferred out of Westfork and if the PIC would apply. President Radick said the SFE commitment for Westfork has to be applied consistently. When asked by the Board, Reichstetter stated that he has the expectation that the SFEs would not be charged the PICs, and that charge would come as a surprise. President Radick said the District is tied to the agreement to provide SFEs, but the PIC charge is a grey area and the Board has to follow up on whether the SFEs would be free of PIC if used in another area. Director Allgood stated that the unencumbered SFEs from Westfork should not be unencumbered if used outside of Westfork. Director Cronin feels the loophole is being stretched and the PIC should apply. President Radick said the PIC should apply, but believes that the District should seek legal guidance. Edwards read the Westfork agreement where it says "for Westfork use." Director Shropshire said Reichstetter can probably move the SFEs, but recommended getting a legal opinion since the language says the SFEs will not have a charge for Westfork. President Radick said that SFEs can probably be transferred, but the request for a waiver of any plant investment charge will need legal review. Reichstetter explained that the Board committed to transfer the SFEs if the ownership on the Westfork parcel was cleaned up as sole ownership. Edwards reiterated that Reichstetter has done what the Board previously asked him to do to have the transfer of SFEs approved, but the PIC*

*charge is a separate issue. President Radick said the Board should not take any action on the SFE transfer request unless the Board has made a previous commitment. Edwards reported that the Board did give Reichstetter direction on how to transfer the SFEs. Director Shropshire commented that if legal counsel agrees with the request to transfer SFEs then it should be approved. Reichstetter asked if 26 SFEs were transferred off the Westfork parcel, thereby ensuring no flow from the parcel, then could that request be approved. President Radick stated that the Board needs to be consistent with what the Westfork agreement will allow-- whether the SFEs can be transferred. President Radick doesn't feel that the Board can take action on the request to transfer the SFEs from Westfork, now, as it has to be determined if the SFEs can be transferred and, if so, whether they can be transferred without plant investment charges. Director Allgood asked if the Westfork SFE pool has to be held for allowing total flow as provided in the agreement. President Radick stated that the District arbitrarily assigned Westfork SFEs and asked what if the flows exceed the SFEs. Director Cronin asked if other owners in Westfork will be able to transfer SFEs. Edwards explained that in the late 1980s the Supreme Court case assigned maximum flow for Westfork and then in the 1990s the District translated that into SFEs for long-term planning purposes. President Radick directed Edwards to have John Brown review the original Westfork agreement and any correspondence with Reichstetter to determine any direction the Board may have committed to in approving Reichstetter's request to move the SFEs. Edwards noted that the ordinance allows transfer of SFEs if ownership is met. Director McRae withdrew his motion. Director Fast withdrew his second.*

*President Radick said that the issue will be given to legal counsel for review and recommendation and that the Board will act on the issue at the September meeting. Director Cronin stated that he doesn't like to see Westfork's SFEs turning into a commodity. Director Cronin asked that the District review its ordinances, etc. to prevent loopholes such as this and the potential SFE commodity that may be created from Westland/TM land. President Radick said this issue needs to be addressed by legal counsel in a quick manner.*

## **FINANCIALS**

Smith reviewed the financials, stating that the revenues are high due to the start of a new fiscal year in addition to a high water use period.

*Director Olson moved to approve the July financials as presented. Director Allgood seconded the motion. Motion passed, 7 yea votes to 0 no votes with President Radick voting.*

2005 Bond Debt Service Tax Levy: Smith stated that the levies will be submitted to the counties at the same level as last year, 7.60 mills for water and 3 1.41 mills for sewer. Smith stated that in subsequent years the District may be able to reduce the levy due to the use of one million dollars in plant investment charges that will be applied to paying down the debt. *Director Fast directed Edwards to submit an article to the paper on the positive effects of using the plant investment charges in paying down the debt.* Smith said a letter from the District requesting the levies needs to be submitted to the counties.

*Director Shropshire moved to approve the 7.60 mills for water and 31.41 mills for sewer as requested by staff. Director Cronin seconded the motion. Motion passed, 7 yea votes to 0 no votes with President Radick voting.*

Delinquent Accounts: Smith will submit the delinquent accounts to the counties for collection. About \$50,000 is due from Boyne and Smith expects Boyne's delinquent amounts to be paid before the amounts are turned over for collection.

### **SEWER OPERATIONS**

Burroughs' flow reports were distributed without comment.

### **WATER OPERATIONS**

Meadow Village Water Study: HKM representatives Ray Armstrong, Jim Potts, Cathy Gallagher, and Jason Hurless presented a draft report on connecting the Lone Moose system to the Aspen Groves system. Armstrong noted that there will need to be one modification to the recommendation--that the water level at Lone Moose be maintained for fire flows and that it is not drawn down. Armstrong stated that the old as built are not accurate and the line locations will have to be verified before a connection location is determined. Director Shropshire asked about the potential build out of Lone Moose and the effects of the water supply as stated in the report. Edwards responded that the District does not know what the future build out of Lone Moose will be, but that it will be a few years before Lone Moose sees much growth. Edwards said financing would take board action if the sewer fees are to be used for water projects. Additionally, the District may want to consider creating a water impact fee. Director Cronin supported the connection project, saying that for \$1.2 million the District will get water even if it is just from Lone Moose for now. Director Allgood commented that the District should also connect to the mountain if it is financially feasible since we already have to get approvals and identify funding for connecting to Lone Moose.

Muscat said he is an advocate of connecting the mountain to the other systems to be able to share the water, plus the District needs to drill more wells. Muscat doesn't think we can wait for additional water supply by developing more wells and water rights, for now we need to do the connections to share the water. Muscat recommended proceeding now to share the water and then follow up with due diligence in developing more wells. Armstrong felt that the tie-in project of approximately 5,000 feet could go to bid this winter and that the construction could be completed in 4-5 weeks next spring, or early summer.

Director Cronin said an impact fee is punitive in that it is only paid by new development, but that the existing water users also need more water supply. The Board supported tying in all the systems. Muscat reported that the 3 meadow wells are running 24/7 and they are not keeping the tanks full. *The Board would like staff to come up with ideas for financing options, SRF bond, intercap loan, etc by the September meeting so that the work can be done by next summer.* Armstrong would like to get the surveying and geotech work done by October. *President Radick said the route needs to be followed to ensure that there will not be any problems with easements and directed Muscat to follow up on that.* According to Edwards, all subdivision lots should have 20' easements.

Jim Potts distributed a draft "Feasibility Study for Drilling a New Water Supply Well in Big Sky" that was prepared by HKM Engineering and Kathy Gallagher. The report provides a summary and recommendation. Potts asked the Board to review the draft and submit comments. Gallagher stated that they felt the best quality and quantity of water supply would be on the mountain. By using and treating mountain wells 5 and 6 and the Hidden Village well that would provide about 1,000 gpm. However, the reality of cleaning up wells 5 and 6 sacrifices yields.

Gallagher reviewed her recommendations in the feasibility study. According to Potts, water rights on wells 5 and 6 could be transferred if the water is coming from the same aquifer. Additionally, DNRC will also look at the place of use. *Gallagher recommended that the District follow up with their selling water to YC since DNRC considers place of use for the currently used mountain wells, too.* Armstrong said there are advantages from getting the water at a high point, as the cost of pumping water up doesn't have to be a factor in operations. Gallagher stated that water users can also take on the responsibility of treating their own water use. Potts recommended abandoning lower producing meadow village well 2 and drilling a new well in another area. Director Fast asked if the District has calculated maximum water demand at full build out. Edwards said that information was calculated in a feasibility study done by Allied Engineering and Gallagher is updating the calculations. Director Fast recommended that the District tie the systems together and then to explore additional water supplies.

Muscat reported that we have had the wettest August and we are still running the wells 24/7. *Director Fast would like to see the demand of the whole system and what we are currently able to provide so that the Board will be able to make a decision on what is needed in our goals.* Potts said that information will be provided in the report once finished. Edwards added that the big variable can be leak loss. Director Cronin recommended that meadow well #2 be relocated before next summer. *The Board directed Armstrong to have a final report with projected growth rates, demands, and costs before the September board meeting. The costs are to include breakdowns for all the connections and/or recommended projects.*

Aspen Groves Armstrong received DEQ's "comments" last Wednesday on the Aspen Groves system and HKM will be responding. HKM has asked DEQ to push the review of comments through but, technically, they will have another 60 days to comment on the comments. Armstrong said the system could be up and running in November. Edwards reported that the District is working on everything they can up front without the DEQ approval. *Armstrong recommended that the District check with Pure Water Technologies on their timeline for supplying the equipment, and order before DEQ approval if necessary.* Armstrong feels it will take about 5 weeks to get an approval from the DEQ with anticipation of having the system running in November.

#### **LONG TERM COMPLIANCE WORK PLAN**

Armstrong said they are now looking at a different liner instead of geo cell because of fluctuating levels on pond 1. This change is necessary as ice that will form at the bottom of the ponds and then attach to the geo cell which would probably lift the liner and then rocks would fall out. The geo cell could work on the other ponds where the water level is not a problem. Armstrong has costs from Bode11 on the geo-cell liner for the smaller ponds & will forward the costs to Edwards. Armstrong said there is also a problem anchoring the GEO cell due to the location of electrical and other lines in the embankment. *HKM is now looking at a gabion mattress with 4" rock fill and he will provide costs and photos in the next couple of weeks to Edwards. Edwards will forward that information to the board for review.*

Edwards presented a change order from Bode11 of approximately \$24,000 for a concrete pad for compost bin storage. Even though the work could be done later, Edwards said it would make easier working conditions to have the work done now and recommended approval. Armstrong has reviewed and approved the change order. The plumbing can be added later.

***Director Cronin moved to approve Bodell's change order #15 for \$24,109.46 for the concrete pad. Director Shropshire seconded the motion. Motion approved, 5 yeas to 0 no votes with President Radick voting.***

Bode11 will schedule all sub contractors for start up testing for the line. Edwards and Armstrong will talk with Mark Pieper today on start up scheduling using treated water. YC has said they are to be done with their pond at the end of August.

### **STOCKPILE MATERIAL PROCESSING**

The stockpile material is being crushed and screncd. The planning office has come and looked at it and supposedly the permitting is processed. The contractor has until 2006 to get the stockpile material moved.

### **LEGAL**

Hall: According to Edwards, Hall's attorney is pushing to have Boyne pay them the surcharge fees. No board action is needed. The court upheld the settlement with Hall and Boyne, whatever that is.

Town Center Vacant Lot Charges: Edwards distributed a draft letter from Brown where Smith verified the numbers. *The Board agreed to the letter as written and Edwards will contact Brown to send the letter.* Director Allgood said the letter does not mention that Westland agreed to pay on time in the future. The Board felt that goes without saying.

### **PROPOSED DEVELOPMENTS & SUBDIVISIONS**

Spanish Peaks Resort Phases 3B, C, & D: Edwards has reviewed and commented on the new subdivision phases. Based on the maps provided, the area will be served by WSD sewer. Edwards will be going to the courthouse to review the records to verify what phases have been recorded and what is pending.

### **SEWER & WATER PERMITS**

There were 12 permit applications submitted for a total of 73.51 SFEs. Applications needing Board approval were a commercial building for Ken Walker/Walker Place in the Town Center at 8.71 SFEs, multi-family condominiums for Lone Sky/Black Eagle Lodges in the Mountain Village at 19.60 SFEs for 10 units, and multi-family condominiums for Spanish Peaks Club in Meadow Village at 34.0 SFEs for 5 buildings with 5 units each.

***Director Cronin moved to approve Spanish Peaks Club Units 18-22 for 6.80 SFEs as that application was complete. Director Shropshire seconded the motion. Director Cronin amended his motion to include conditional approval for 6.80 SFEs per application for Units 23-27, Units 28-32, Units 33-37, and Units 38-42 pending the application forms being completed with both the start and finish date. President Radick called for discussion. Director Allgood requested that the start and completion date for Units 18-22 be verified. Motion approved, 5 yeas to 0 no votes with President Radick voting.***

***Director Cronin moved to conditionally approve Walker's application for 8.71 SFEs pending receipt of their state permit. Director Shropshire seconded the motion. Motion passed, 5 yeas to 0 no votes with President Radick voting.***

Edwards explained that the Black Eagle Lodges replaces Boyne's employee housing and that the SFEs would be subject to a surcharge but they should not have to pay the plant investment charge (PIC) since they are reusing of the SFEs. Edwards stated that staff will recalculate the permit fees to eliminate the plant investment charge. Due to covenant language for development in the Mountain Village, Black Eagle Lodges are not required to receive BSOA architectural approval. Black Eagle Lodges will need to submit a state permit, or an exemption letter.

***Director Cronin moved to approve the application for 19.60 SFEs with the PIC and surcharge fees as calculated. Director Cronin amended his motion to eliminate the PIC, but with surcharges applied. Director Fast seconded the motion. Motion passed, 5 yeas votes to 0 no votes with President Radick voting.***

*Prior to staff approving the other applications, the Board directed staff to have other permit applicants complete their applications by furnishing architectural approval date and start and finish dates.*

Moosewood Meadows contractor, Paul Bierman, requested a 60-day extension to pay their permit fees of \$87,835 that were due on 8/3/05. Edwards supported the extension request as they are redesigning the tie ins to the main lines.

***Director Shropshire moved to approve Moosewood Meadows 60-day extension request. Director Cronin seconded the motion. Motion passed, 4 yeas votes to 0 no votes with President Radick abstaining due to his relations with the contractor.***

### **SFE REALLOCATIONS**

Edwards reviewed the Grey Goose application to transfer 6.0 SFEs from the post office to Tract 9 remainder. Edwards has not seen any verification of ownership information. The Board wants an ownership deed submitted prior to the transfer permit being issued.

***Director Fast moved to approve the transfer request from Grey Goose LLC for 6.0 SFEs as requested, but conditional on deed ownership being submitted and verified by the District. Director Allgood seconded the motion. Motion passed, 5 yeas votes to 0 no votes with President Radick voting.***

### **NEW DEVELOPMENTS & SUBDIVISIONS**

Mooseridge Condominiums: Edwards reported that the preliminary design for the sewer and water extensions has been submitted to the District for review and they will also need to be submitted to the State for review and approval.

Town Center: Simkins Holdings submitted a letter dated July 14, 2005, asking for release of utility easements that they said are no longer needed due to their plat revisions. President Radick asked if the District charges fees for repeated review of sewer and water extensions when plats are revised. Per Edwards, the District does not charge fees for this type of review. Edwards stated that he will need to research what the documents are that are referenced in Ryan Hamilton's letter before releasing any easements. According to Edwards, the letter is not requesting the District to prepare the documents.

### **PINEWOOD HILLS REQUEST FOR WATER SERVICE**

Edwards explained that Pinewood Hills has grey water use of the public sewer system and then most the lot owners have, or are to have, individual wells for water supply. The Gillespies are requesting water service. Edwards reported that their property is in the water and sewer district boundary, but they are not in the water jurisdictional boundary and they have not paid on any water bond debt service. The Board agreed with Edwards' recommendation to allow the Gillespies to connect to the public water system conditional on having the owner pay for the all engineering and extension work and to also have them pay any past water debt that other property owners have paid.

### **ORDINANCE 2005-01: RELEASING 200 SFEs FOR NEW SEWER PERMITS**

Edwards distributed a draft ordinance to release 200 SFEs for sewer permitting.

*Director Cronin moved to waive the three readings and to approve Ordinance 200.501: Releasing 200 SFEs for Sewer Permits as drafted. Director Allgood seconded the motion. Motion passed, 5 yea votes to 0 no votes with President Radick voting.*

### **GENERAL CORRESPONDENCE**

The letter from Steve Nordahl regarding a potential brewery did not require board action. Edwards recommended creating a special category for this type of sewer use since the BOD level is so high. Edwards also stated that the District might want to consider requiring pre-treatment.

No recommendation, or board action, was taken on the BSOA election ballot.

### **DIRECTOR ELECTIONS**

The Board discussed the county appointment for filling the soon to expire term of Director Skip Radick. Gallatin County received an application from Gary McRae and Eric Ossario to fill the appointed position. The Board noted the advantages of having consistency and familiarity with past issues and, therefore, will recommend current board member Gary McRae to fill Radick's appointed position.

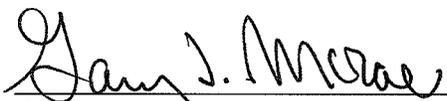
*Director Shropshire moved to recommend that Gallatin County Commissioners appoint Gary McRae to the WSD Board. Director Allgood seconded the motion. Motion passed, 5 yea votes to 0 no votes with President Radick voting.*

### **NEXT MEETING**

The next Board meeting is tentatively scheduled for Friday, September 23, 2005, at 8:00 AM.

### **ADJOURNMENT**

*Director Shropshire moved to adjourn the meeting at 12:15 pm. Director Allgood seconded the motion. Motion unanimously passed.*

  
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Gary McRae, Secretary

BIG SKY WATER & SEWER DISTRICT NO. 363  
**Regular Meeting Minutes – July 20, 2005**  
WSD Community Room

The Big Sky County Water & Sewer District No. 363 scheduled a regular meeting for 8:00 AM on Wednesday, July 20, 2005, in the WSD Community Room. With President Skip Radick chairing the meeting, the following Board members were present: Directors Dick Allgood, Bill Olson, Dick Fast, William Shropshire, and Packy Cronin were present. WSD staff present were Ron Edwards, Terry Smith, and Jim Muscat. Legal counsel John Brown participated via telephone. No others were present.

**PUBLIC FORUM**

With no public comment, President Radick called to order at 8:13 AM.

**MEETING MINUTES**

*Director Cronin moved to approve the minutes of June 21, 2005, as written. Director Olson seconded the motion. Motion passed, 5 yeas votes to 0 no votes without President Radick voting.*

**FINANCIALS**

Smith reviewed the financials for the month of June 2005. The audit proposal from Knaub & Company was presented for approval by the Board.

*Director Shropshire moved to accept the June financials as presented. Director Allgood seconded the motion. Motion passed, 5 yeas votes to 0 no votes without President Radick voting.*

*Director Shropshire moved to accept the audit proposal from Knaub & Company. Director Olson seconded the motion. Motion passed, 5 yeas votes to 0 no votes without President Radick voting.*

**SEWER OPERATIONS**

Edwards briefly reviewed the sewer flows. The sludge removal is done. Bode11 is still working on getting the numbers to the District. According to Edwards the old liner held up well but did need to be changed. Smith Contracting is working on "Mt. Edwards." Director Cronin asked to have the zoning requirements checked and determine exactly what Smith is doing with the gravel. Director Cronin wanted to make sure the District is complying with what the zoning requires.

**WATER OPERATIONS**

Muscat reviewed the various water projects under construction. Aspen Groves is going well and just waiting on the state approvals. Water usage is up as a result of the hot, dry weather. The June flows were down with the exception of Aspen Groves wells, which was a result of filling the tanks. Tank levels are holding up and the wells are running at 96%. No water restrictions are in place at this time and in the past they have not really done much to limit use according to Muscat. The meters have done the job of limiting what people use because they now pay for any usage. The exception to the limit on usage is the new landscaping going in the new projects.

The Aspen Groves project does have state approval now according to Edwards and Ray Armstrong, HKM Engineering. Edwards reported that the District has received calls from some of the property owners adjacent to the District that are now having problems with their water and turbidity.

A Pinewood Hills owner is asking to have water service. Muscat discussed the issue of having a larger pipe for water if they were included. The size of the piping that would become available would benefit the District.

Director Olson asked about the water study that the Bureau of Mines is working on and the impact for the District. Edwards did not think that the study will help the District in any way. There are other ground water studies that will be of assistance to the District. The wells that the District does have were worked on by Potts and are producing at capacity. The water rights issue may become a problem with any new wells that may be proposed. There are groups that are objecting to any new water rights applied for by well drillers. That does not mean though that we would not get a new right but it may create problems.

The District does not have a comprehensive study according to Edwards. Director Fast asked who could do one for the District and who is currently working on a study. Edwards brought up the Blue Water Task Force and also getting the county involved in establishing a water quality district. It would be a taxing entity that would add about \$6.00 in taxes to a property.

Director Olson brought up the fact that Moonlight Basin has drilling rigs in the process of looking for water. Director Olson asked how the ground water is affected by all the drilling going on at Moonlight. Edwards said that these new deep wells may not be able to keep up with the demand over time. The meadow wells are not as deep but are recharged every year and should continue to produce over time.

### **SPANISH PEAKS RESORT WATER SYSTEM & OPERATIONS**

Edwards reviewed the Spanish Peaks and the District status at this point. They are required to dig additional wells and meet the requirements of the project plan. Director Cronin and President Radick expressed concern that the deep wells will not be adequate down the road. The conveyance agreement should contain safeguards for the domestic water supplies at Spanish Peaks. Additionally, the golf course should not have any priority over the domestic users at Spanish Peaks. President Radick suggested the conveyance contain language that the domestic water supply be the responsibility of the Spanish Peaks Resort. The Board did not want the District's existing water supply to also have to supply Spanish Peaks Resort properties. The water system that the Spanish Peaks is responsible to provide in the conveyance should include provisions to require Spanish Peaks to supply water for all future needs of the property owners in Spanish Peaks. According to Edwards the golf course is the sticking point. Spanish Peaks wants to insure that they have water supply for the golf course at a reasonable price. Muscat suggested pulling the golf course supply out of the deal. It was also suggested that the amount of water required by the golf course should be quantified in any agreement. President Radick also asked why the golf course must remain in the agreement. Edwards said that the golf course is tied to the existing water system. The Spanish Peaks water system is separate from the Districts existing systems and is not connected at any point. Director Cronin suggested that the Spanish Peaks system stay a separate system and not pull any surplus from any other District water systems.

According to Edwards, the Spanish Peaks system is planned as a contract for the District to operate the system at this point. Spanish Peaks is expected to get the system up and operating and pay for the system repairs and supply(wells) until the District officially accepts their system. Director Shropshire asked about the water rights issues and if the District tied to the Spanish Peaks system and what needed to happen. Edwards responded that the DNRC would have to be contacted with the appropriate changes made to the water rights.

#### LONG TERM COMPLIANCE WORK PLAN

Edwards reported that Bode11 is putting a proposal together for a slab at the new plant.

#### LEGAL

Hall: Edwards received a letter from Brian Wheeler regarding Boyne's responsibility to pay the SFE charges on the property that Hall owns. Brown said the settlement between Hall and Boyne resolves the issues. The letter from Wheeler is not sufficient to protect the District. Brown reported that he sent the letter to Hall's attorney, who had no knowledge of it. Brown suggested that the District be careful in drafting a proper agreement and to be sure both Hall and Boyne are on the same page. Brown said just to leave the issue lay until Hall and Boyne have an agreement in place. President Radick said the District does not care how they handle paying the SFE charge and permits will be issued when the fees are paid. The SFE charges will be handled as every other property is, the SFE charges must be when the property is developed.

Town Center Vacant Lot Charges: Edwards met with Simkins and their attorney, Gallik, regarding the vacant lot charges. The amount of money involved is approximately \$25,000 according to Smith. Simkins requested that the District reduce the amount owed by the late fees and they will agree to pay half the vacant lot charges owed. According to Brown, Simkins and Gallik want to end this and pay half the charges and eliminate the late fees and interest. President Radick said that this is the type of thing that this group has done in the past and an exception should not be made for this particular property owner. The precedent set by doing this would not be in the District's best interest. President Radick and Director Cronin suggested that the Board consider dropping the interest and late fees, but that the total vacant lot charges be paid. *The Board directed Brown to go back to the Simkins group with a proposal to eliminate the late fees and interest but that all vacant lot charges must be paid.*

#### PROPOSED DEVELOPMENTS & SUBDIVISIONS

Upper Cascade/Speaking Eagle: Edwards reported that this construction is starting up.

Blue Green Project: Edwards reported that this project on the mountain has stalled.

#### PERMITS

Edwards reported that 5 permits were issued and 3 new applications were received. A remaining 64.7 SFEs are available for permitting. For the next meeting, Edwards will prepare a draft ordinance to release an additional 100 SFEs.

**STOCKPILE MATERIAL PURCHASE AGREEMENT**

According to Edwards it will take about two years to finish the project and the liability issue is still open. The Board discussed the issue of retaining a certain amount of fill for the Districts future needs and to make sure that is clear in the agreement.

*Director Shropshire moved to accept the draft agreement with the noted changes as requested by the Board. Director Olson seconded the motion. Motion passed, 5 yea votes to 0 no votes without President Radick voting.*

**DIRECTOR ELECTIONS**

Director Bill Olson has sent a letter to Madison County for re-appointment. Eric Ossorio and Les Loble are still expected to put their applications into the County.

**GENERAL, CORRESPONDENCE**

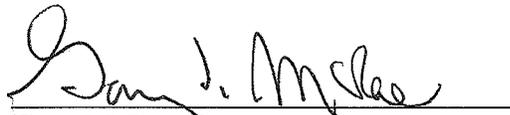
No correspondence required board action.

**NEXT MEETING**

The next Board meeting is tentatively scheduled for Monday, July 22, 2005, at 8:00 AM.

**ADJOURNMENT**

*Director Fast moved to adjourn the meeting at 10:48 AM. Director Cronin seconded the motion. Motion passed, 5 yea votes to 0 no votes without President Radick voting.*

  
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Gary McRae, Secretary

BIG SKY WATER & SEWER DISTRICT NO. 363

**Public Hearing: FY 2004/2005 Budget  
Regular Meeting Minutes -June 21, 2005  
WSD Community Room**

The Big Sky County Water & Sewer District No. 363 scheduled a public hearing and a regular meeting for 8:00 am on Tuesday, June 21, 2005, in the WSD Community Room. With Vice President Packy Cronin chairing the meeting, the following Board were members present: Secretary Gary McRae and Directors Dick Allgood, Bill Olson, and Dick Fast. President Skip Radick and Director William Shropshire were absent. WSD staff present were Ron Edwards, Marlene Kennedy, Terry Smith, and Grant Burroughs. Via telephone beginning at 8:43 am, HKM Engineer Ray Armstrong participated during discussions of the Aspen Groves water system and the long term compliance work plan.

**PUBLIC FORUM**

With no public comment, Vice President Cronin called the budget hearing to order at 8: 13 AM.

**PUBLIC HEARING: FY 2004/2005 BUDGET**

The public hearing for the FY 2005-2006 Budget was called to order at 8: 13 am with no public in attendance. Smith briefly reviewed the budget, noting that there will be no change from the current rates. Smith reported that, based on a formula, the expenses are higher than actual but if the water revenues come in higher then overall the shortfall will even out.. *Smith was unable to get a cash flow statement prepared, but will have it ready for the next meeting.* Spanish Peaks operating costs will not likely impact this year's budget. Receiving no comments, Vice President Cronin closed the public hearing at 8:17 am.

**REGULAR BOARD MEETING**

With no public comment, the regular meeting was called to order at 8: 17 am.

**MEETING MINUTES**

*Director Olson moved to approve the minutes of May 26, 2005, as written. Director Allgood seconded the motion. Motion passed, 5 yea votes to 0 no votes with Vice President Cronin voting.*

**FINANCIALS**

*Director McRae moved to accept the FY 2005-2006 budget at presented. Director Allgood seconded the motion. Motion passed, 5 yea votes to 0 no votes with Vice President Cronin voting.*

Smith briefly reviewed the financials with no questions, or comments, from Board members.

*Director McRae moved to approve the May financials as presented. Director Olson seconded the motion. Motion passed, 5 yea votes to 0 no votes with Vice President Cronin voting.*

Retirement Plan Issues: Smith reported that he has a meeting next week with Lieutenant Governor John Bolinger that will also include a tour of the new treatment plant. Smith's main purpose of meeting with Bolinger is to discuss what he perceives as inequities in the retirement plan that he reviewed with the Board several months ago.

### **SEWER OPERATIONS**

Edwards reviewed Burroughs flow reports, and overall it looks like the flows are down from last year. With the spring moisture, not much irrigation has occurred. Burroughs reported that everything at the plant is working as well as can be expected. Burroughs said there are a couple leaking services and manholes on the mountain that will be fixed this summer.

### **WATER OPERATIONS**

With the absence of Muscat, Edwards did not have any new production reports to review. Director Allgood asked if follow up has been done on the Yellowstone Club water use. Edwards reported that Ray Armstrong prepared an analysis that showed that the YC is already at their allocation. However, Edwards believes that Armstrong's calculations were based on an average use with a peaking factor, which Edwards doesn't think should be calculated that way. Edwards said the District needs to look at their total allocation and total use. Edwards reported that the YC has not repaired their leaks yet. When the leaks are repaired, Edwards projects that the water use will go way down. Edwards also reported that he is pushing the YC to have meters installed. Edwards stated that there is no provision in our agreement to charge YC for water use that is lost due to leakage. *The Board directed District staff to monitor the water use for the next month and if water use isn't decreased, then meet with YC and Blixseth to inform them of the severity of their problem and persuade them to monitor. The Board also directed Edwards to write a monthly letter of communication on YC's water use.* Edwards will keep the annual table calculations in the letter.

Edwards discussed DEQ's letters regarding water system sampling requirements and schedules--the only difference will be the inclusion of Lone Moose.

### **SPANISH PEAKS RESORT WATER SYSTEM & OPERATIONS**

Edwards has met with Spanish Peaks and they have said they will soon be ready for the District to start doing walk throughs, but Edwards is not sure what that schedule will be. Spanish Peaks has indicated that they want the systems running in July, however, their current construction status indicates that the system will be more likely ready in September. Director McRae reported that the water system for Spanish Peaks will come on line in mid-July and the District should be able to do their inspection then. Director McRae commented that he is not sure of their sewer system timelines. *Edwards stated that he will be working on a draft conveyance agreement and a draft operating agreement for Board review at the next meeting.* Spanish Peaks is concerned about their ability to irrigate their golf course and the ability of a future board setting incremental water rates based on use. Edwards believes that, at some point, the water system should be part of the District. With taking over Spanish Peaks, Edwards reported that the effect will be the fixed water rate will increase and the use rate would go down a little. Director McRae reported that Spanish Peaks estimates that they will have 9 holes on the golf course ready by September.

### **ASPEN GROVES WATER SYSTEM**

Ray Armstrong reported that they talked to the State about the AG system and the State received the application on May 18 and now have until July 17 to finish their review. The variance request also goes through the same review.

The District is also waiting for State approval on the Aspen Groves system. Director Fast reported that the AG customers are patiently living with the problem since the District has stated what it will do and the timelines for fixing the problems. Edwards will have Burke begin work on what can be done without state approval.

### **LONG TERM COMPLIANCE WORK PLAN**

Edwards reported that the sludge dewatering is running 24 hours and it is anticipated to take about another four weeks to complete. Currently the sludge is being hauled to a farm in Manhattan for disposal. Edwards talked to Ralph Walton and he indicated that Spanish Peaks may be interested in taking sludge to use on the golf course. Director McRae reported that he has been told by Spanish Peaks they are not interested in the sludge. Edwards reported that the District is keeping up with the trucking the sludge to Manhattan. According to Edwards, the Mount Edwards stockpile will be sold for \$.40 yard. Director McRae asked that a contract be prepared so that the trucking company can get the work done. Edwards reported that Sin&ins/Taylor is entitled to some of the proceeds since they were entitled to some of stock pile-probably 50%. The process to work the material will require use of Taylor's land next to the District's fenced area. *The Board directed Edwards to send a letter to Taylor to document what is being done and the District's need to use a corner of their land. The Board directed Edwards to surge ahead with getting Mount Edwards moved. Armstrong will calculate the yards of fill to be reserved for filling the geo-cell liner above the high water level (below water level will require 2" minus). The Board directed Edwards to get a spec for the fill to see if it could be included in the clean up of Mount Edwards.* Director Olson asked that any large rocks be reserved for use in trail construction. *Director McRae offered to work with Olson on getting rock. The Board would like Edwards to try to use this cooperative effort as a little PR. Edwards will be submitting an article for the BSOA newsletter and will include information about processing the fill to use for trail construction.*

Regarding the annual certification and performance review, Armstrong reported that he will be asking the State for an extension so that the District can include the pump stations and pipelines in the operation. According to Armstrong, the treatment plant itself could be finished up this week if the State does not grant an extension. If this occurs, Armstrong will ask for an addendum for the pump stations and pipelines. Armstrong left a message for Todd Teegarden yesterday requesting an extension. If Teegarden approves it, Armstrong will send a letter formalizing the extension.

### **MOUNTAIN VILLAGE WELL #4 & #7 PUMPHOUSE REPLACEMENT PROJECT**

Edwards reported that the contract amount was reduced \$85,000 by deleting some electrical work, etc., and Burke excavation has been given a notice to proceed. Once the equipment is moved in, Burke will also work on other District projects, such as the AG pump house, treatment plant, etc. Armstrong said the District would be safe to start on the AG building footprint without State approval.

## **LEGAL**

Hall: Edwards said the parties are now fighting about legal fees and how the exchange of surcharge fees are to be paid, or handled.

Town Center Vacant Lot Charges: Edwards reported that a complaint has been sent to the District Court, but it has not been served. Under Montana law, Simkins have 3 years to serve the complaint. Currently, their vacant lot fees are not being paid, they are being accrued. As of a couple of days ago, when Simkins sell their Town Center property they are paying off the fees in a check written to the District, but their attorney, Gallik, holds it by putting it into an escrow account. Edwards said this new procedure does not clear the balance owed on the account and any amount owed will still go to the tax roles. Edwards doesn't believe that the title company should be handling the balances in this manner. Smith reported that the county is holding approximately \$8,000 of Simkins tax payments that were paid in protest. According to the county, Simkins have 60 days to resolve the protest before they release the funds. Director Allgood commented that if water and sewer fees have not been paid, then the District should not allow connection to the water and sewer systems. Edwards reported that the State statute definition of "benefited" has changed and District legal counsel feels that the District has a defensible vacant lot charge. *The Board directed Edwards to have legal counsel look into the legality of how the title company is handling the payment of water and sewer fees to Gallik's escrow account.* The Board asked who is watching for the 60-day timeline for payment of the protested tax payments. Smith reported that the county initially notified the District. *Edwards will also have legal counsel review the payment issue from the county.* Edwards reported that the insurance company notified the District that E&O does not cover this type of lawsuit where it requires summary judgment.

## **PROPOSED DEVELOPMENTS & SUBDIVISIONS**

Upper Cascade/Speaking Eagle: This area is the last piece of the puzzle in Cascade being completed.

Brownstone Condos/North Fork Creek, Lot 1: They are moving forward with a multi-family development. According to Edwards, there may still be an issue with the zoning.

## **MEADOW VILLAGE & ASPEN GROVES WATER SYSTEM**

Edwards and Armstrong reported that there isn't any information in writing yet, but Armstrong anticipates that a written report will be completed by the end of next week. Basically, there are no problems with the concept. The only concern is that the Lone Moose system be protected to always have a water supply for its customers. Armstrong felt this could be accomplished by installing an altitude valve. The required 10' separation of the water and sewer lines can be maintained for almost the entire length and Armstrong believes that a variance could be obtained for the few areas that need it-like the landslide and sloughing areas. There are 9 places where the water would cross the sewer line but Armstrong did not feel this would be a problem. The Lone Moose water line would be tied into Aspen Groves system at Autumn Trail. Armstrong's cost estimate for running the line to the tank would be \$1.3 to \$1.4 million. According to Armstrong there would not be any reason that this connection couldn't work. Director McRae reported that a supplier for zap lock has received a variance on the 10' separation and recommendation Armstrong look into zap lock. With engineering, state review, bidding, and construction Armstrong feels that it would take a year before getting the system going.

Armstrong anticipates needing three weeks to a month to complete the study and will report to the Board at the next meeting. Vice President Cronin stated that the District needs to be working on improvements to the Meadow water supply in conjunction with working on the Aspen Groves improvements. Edwards said that it would require about 600' of pipe from Aspen Groves to connect to the Meadow system. *The Board directed Armstrong to prepare the engineering work to make Lone Moose, Aspen Groves, and Meadow Village one system. Per Armstrong's request, Edwards will email HKM the meadow water model prepared by Allied Engineering. For the next board meeting, Armstrong will complete the reports on Aspen Groves connecting to Lone Moose, cost estimates, and the feasibility and best location for a new well for the Meadow Village area. The Board sees the District's goals as 1) short term being the treatment of the Aspen Groves water; 2) mid-term is connecting Aspen Groves to the Lone Moose, Aspen Groves and Meadow systems; and 3) long term is full interconnection of the four systems including the Mountain. Edwards noted that the Spanish Peaks system also needs to be considered. Armstrong will send Edwards a draft report in the next couple of weeks.*

### **ENERGY AUDIT REPORT FINDINGS**

Edwards was disappointed with the report-there were only simple recommendations such as changing light bulbs, etc. There were no recommendations on running the big electrical user equipment. The Board asked if they provided when better, or peak, rates are offered. Edwards explained that the computerized set points dictate when the pump runs and these run times could be changed in the winter months when demand is lower. The Board asked if the tanks could be filled every night at the lower rate period. Edwards explained how the software works and commented that the software would need to be revised to allow a time set. *The Board directed Smith to obtain the rate levels at certain times of the days so that the District can look at making adjustments to operation. Edwards said that the golf course irrigation can be controlled somewhat.*

### **RESORT TAX APPLICATION ALLOCATIONS**

Edwards reported that the District got everything but \$50,000 of the \$300,000 requested.

### **PERMITS**

Edwards reported that 7 permits were issued and 3 new applications were received. There are 83.7 SFEs remaining for permitting. *For the next meeting, Edwards will prepare a draft ordinance to release an additional 100 SFEs.*

### **DIRECTOR ELECTIONS**

On November 8, 2005, the following four board members terms expire: Skip Radick, Bill Olson, Gary McRae, and Bill Shropshire. Both Eric Ossario and Gary McRae have sent a letter to Gallatin County requesting the appointed position. Bill Olson will send a letter to Madison County requesting appointment. Edwards reported that Les Loble has expressed an interest in running. The counties will make appointments in the fall. The Board asked if a person could make application for appointment and also file an elected position. *Edwards will check with Gallatin County on this issue and report to the Board at the next meeting.*

### **GENERAL CORRESPONDENCE**

No correspondence required board action.

**NEXT MEETING**

The next Board meeting is tentatively scheduled for Wednesday, July 20, 2005, at 8:00 AM. President Radick will be out of town from June 20 to July 15.

**ADJOURNMENT**

*Director Olson moved to adjourn the meeting at 10:55 AM. Director McRae seconded the motion. Motion passed, 5 yea votes to 0 no votes with Vice President Cronin voting.*



Gary McRae, Secretary

06-21-05. min (Board Approved 7/20/05)

BIG SKY WATER & SEWER DISTRICT NO. 363  
**Regular Meeting Minutes – May 26, 2005**  
WSD Community Room

The Big Sky County Water & Sewer District No. 363 scheduled a regular meeting for 8:00 AM on Tuesday, March 26, 2005, in the WSD Community Room. Vice President Packy Cronin chaired the meeting with the following Board members present: Secretary Gary McRae and Directors Dick Allgood, Dick Fast, and Bill Olson. Director William Shropshire participated via telephone. President Skip Radick was absent. WSD staff present were Ron Edwards, Marlene Kennedy, Terry Smith, and Jim Muscat. Others present were Gallatin Canyon Women's Club President Ruby Delzer and Firelight Meadows representatives Dick Hovde and Alan Chilcoat.

**PUBLIC FORUM**

Vice President Cronin called for public comment at 8:07AM. Ruby Delzer, President of Gallatin Canyon Women's Club, requested the Board to consider providing a small amount of storage space in the basement for club records/belongings.

With no further public comment, Vice President Cronin called the meeting to order at 8: 10 AM.

**GALLATIN CANYON WOMENS CLUB STORAGE REQUEST**

Delzer explained that their records are currently stored by several members, but the majority of the records are in boxes in her garage. Delzer stated that the Club would transfer their records to plastic boxes if they get specific space for storage from the District. They would have about five boxes of files and a couple of boxes of supplies. Edwards described the area that the District uses for its own inventory and files. The Big Sky Christian Fellowship currently rents space for \$50 a month and the BSOA has been storing stuff in the basement since they moved to their new office, but they have not been charge any rent. Edwards reported that he has refused other entities storage space. Delzer hopes getting storage space from the District would be a long-term storage solution for their club, which only meets from May to October. Vice President Cronin asked Edwards if the other items in the basement could be disposed of. Edwards feels that much of BSOA's stuff could be disposed of. Edwards doesn't like the idea of free storage space as he doesn't know where the requests would end. Edwards suggested that the District build some storage shelves in the basement for rental purposes with the understanding that if the District's use changes for that space, then the storage area would no longer be available. Edwards would like BSOA to clean up their stuff and pay for storage. Delzer stated that their Club had not contemplated paying for storage; -The Directors do not want to set a precedent with free storage:- Edwards said if storage space was rented, access would only be allowed during District business hours. Edwards reported that the use of the meeting room has always been at no charge, but believes if the District offers storage there needs to be a charge. Director Olson suggested that a set amount of area could be set aside for storage space rental. *Vice President Cronin directed Edwards to write a policy and set a fee schedule for storage space rental.* Edwards reiterated that if the District's use changes for the space that the storage area would no longer be available. Per the Board's directive, *Edwards will forward the new rental agreement form to Delzer.*

**MEETING MINUTES**

*Director Fast moved to approve the minutes of April 26, 2005, as written. Director McRae seconded the motion. Motion passed, 6 yea votes to 0 no votes with Vice President Cronin voting.*

## FINANCIALS

Smith reviewed the financials stating that expenses exceed what is budgeted by 5.8%. As a result of budget review, some line items were adjusted from water to sewer. Copies of the final audit report were available for Board review if desired.

***Director McRae moved to approve the April financials as presented. Director Olson seconded the motion. Motion passed, 6 yeas votes to 0 no votes with Vice President Cronin voting.***

Draft Budget FY 2005-2006: Smith reviewed the revised budget, using the same analysis of the rates as the current year. The sewer user rate would need to be increased by about \$1 .00 per 1,00 gallons to cover expenses. Smith recommended leaving the rates where we are right now since we have only had one year of experience with the current rates and the new plant. Smith feels that use may increase and that will increase our revenues. Overall, there will be a shortage, but with the growth unknown Smith feels the growth will cover the shortage. The budget includes a 10% increase, but does not include all of Spanish Peaks. The Board asked Smith why he did not use the actual growth rate and also ask Spanish Peaks for their anticipated growth rate. Edwards said he has talked with Spanish Peaks. Smith feels that 10% is pretty close to anticipated growth without Spanish Peaks. Smith recommended leaving the rate as it is and let the reserves cover the shortage. Shortage for 2004-2005 may be \$30,000; shortage for 2005-2006 may be \$100,000. Edwards said if a rate change were needed, a public hearing would need to be done. Director Olson feels it is better to leave the rates stable, if possible, and to use reserves if needed. Edwards said a rate hearing could be held at any time to adjust the rates; we are not locked in at setting rates in July. Director Allgood recommended leaving the rates as they are and to use reserves. Director Fast suggested looking at a small rate change instead of making a big rate jump in a couple of years. Smith said raising the rate \$.50 would increase the revenue approximately \$50,000. Director Olson recommended leaving the rates steady instead of fluctuating the rates. Edwards said we could continue reviewing the budget on a monthly basis, keeping the Board informed where we are. Director Shropshire likes the idea of stability, but does not want to deplete the reserves. Edwards said a budget hearing would need to be done regardless, but if there is a rate change then there will have to be a mail out notice. Edwards feels the District has been conservative on depreciating assets. *Director Shropshire asked Smith to project cash flows.* Edwards recommended presenting this as the proposed budget with the use of reserves to cover shortfalls and using the current rates. Edwards will ask for Board approval in June after a budget hearing.

### Employee Insurance Reimbursement Policy:

Smith proposed an increase from \$2,000 to \$2,500 annually since our new policy does not cover preventative care, the increase in health care costs, and because of the approximate \$20,000 annual premium savings by changing policies. Smith also asked that health club membership fees be covered as a reimbursable expense. Smith also asked that the in-house dental plan include teeth sealants. The District's current health plan is 60-40 coverage. Director Olson asked about the long-term accumulation for the annual contribution and what happens with the rollover to personal accounts. Smith said the policy allows for 25 percent pay out to the terminating employee. Smith said an employee can elect to be paid the left over fund as income at the end of any fiscal year.

*Director Olson moved to approve the amended Employee Insurance Reimbursement Policy as presented; which increases the annual contribution from \$2,000 to \$2,500 and allows health club fees as reimbursable. Director Fast seconded the motion. Motion passed, 6 yeas votes to 0 no votes with Vice President Cronin voting.*

*Director Allgood moved to approve the amended In-House Employee Dental Insurance Policy as presented, which will include teeth sealants as a reimbursable expense underpreventative care. Director McRae seconded the motion. Motion passed, 6 yeas votes to 0 no votes with Vice President Cronin voting.*

Smith reported that the Boyne annual payment was received on time in April. Smith asked for board signatures on the paperwork that would allow for Smith to make automatic payment for the SRF loans.

### **SEWER OPERATIONS**

Burroughs was not available to present flow reports.

### **WATER OPERATIONS**

Muscat reported that the flows are on par.

Aspen Groves: Edwards reported that AG water quality problem engineers' report has been submitted to the State. The treatment plant will need a way to get rid of the back wash water and the District has asked the State for approval on the deviation of 10-foot separation of water and sewer lines. Edwards feels the chances are good for state approval, but they will probably have comments. Director Fast asked if there is a problem with the deviation request, does the district have a back up plan. Edwards said the District would need to do an on site sewer system and then the District would need to request approval. Vice President Cronin asked if the 16 gpm for each well will serve the build out for Aspen Groves as he would hate for the District to go through all the treatment to find out the production will not meet the demands. Muscat reported that the filtration process is relatively simple, but approval from the State has required engineer involvement and this is more time consuming and costly. Now the total cost is approximately \$70430,000. Muscat doesn't feel that the District has any other choice right now. Director Shropshire agreed with Muscat at fixing the problem expeditiously and this will do it. Edwards said that DEQ has about another 30 days for review. The District can do the expansion of the ~~building to house the treatment; and the other improvements. Muscat would like to proceed with~~ what we can do now, excavation and foundation, etc. for the building, if the Board is comfortable with that. The Board granted approval for Muscat to begin on the structure improvements that will need to be done whether, or not, the line deviation will be approved. Edwards said if it is not State approved, that the District could also ask the adjacent lot owner for an extension of the easement.

Meadow Village Well Rehab: The existing wells were tuned-up by scrubbing and brushing. It will be difficult to find out if this increased the production until the summer high demand hits in August. Meadow well production is back where it was supposed to be when they were originally designed and put in.

Mountain Wells 4 & 7 Pump House Replacement:

Muscat has not heard if the award has been made. Edwards reported that BSOA Architectural Committee gave preliminary review and approval a couple of weeks ago and the project will get final review and approval today. Jason Burke will be given notice to proceed. Edwards will work with Muscat at getting the work started. It will be a 60-day contract for Burke. The District will complete the conduit work.

Hidden Village Well #2 Treatment Report:

Edwards said that the approx \$87,000 is just for the capital costs for water treatment. Muscat feels this is a sure thing for increasing production and thinks this is worth doing at 65 gpm. If the Board is looking at other sources, then Muscat recommended delaying the work on this. Edwards said the same thing as with the AG system would need to be done for State approval on treatment of this well. Edwards reported that HKM is looking at other sites for wells and recommended holding off on this project. Director Shropshire commented that the District would be paying about \$90,000 for 10% increase in reserve capacity and it would be a good value. Edwards said that same money could be used for drilling new wells with possibly better water and recommended holding off. Muscat agreed with Shropshire, however, the \$80,000-\$90,000 is not the total cost. Edwards said it would probably be \$150,000-\$200,000 with engineering, approvals, etc. Edwards reported that the work could not be done for this summer's use. The Board will wait for the engineers' report for further options and then move ahead this winter. Director Fast calculated that the figures show that it would be about a 15% increase in production. *The Board asked Edwards to follow up with the engineers and to get their report on the June agenda for Board review and discussion.* HKM is working on tying into the Lone Moose system and expansion of drilling areas. *Edwards provide HKM the Hidden Village information.*

**AMEND AGENDA**

***Director McRae moved to amend the agenda to address Firelight Meadow's request. Director Olson seconded the motion. Motion unanimously passed.***

**FIRELIGHT MEADOWS REQUEST FOR SEWER SERVICE**

Edwards explained that this development is requesting permission to connect a proposed daycare facility that will be in Firelight Meadows to the District's sewer line in South Fork Meadows.

~~Dick Hovde and Alan Chilcoat -Firelight-representatives-presented a sight plan. Chilcoat reviewed build out plans that showed 136 townhomes and 80 condominiums that will be completed in the final phase. The future daycare site is on 2.4 acres next to South Fork Subdivision, near Brook Trout Place. Firelight is asking for only sewer connection. Edwards asked why they cannot self serve and tie into their own system. Hovde said that the State has recalculated the maximum gallons and they would not have capacity to serve the day care. They are currently at about 50 gpd and have approval at 90-100 gpd, but the state does not allow credit for the unused gpd. Edwards asked if the existing drainfield could be expanded. Hovde explained that there is space for 100% replacement, but there is much smaller spaces throughout the development. Hovde said that this daycare was in the master plan, but the State came back about 3 months ago with different, more conservative calculations on just the day care calculations. Vice-President Cronin reported that Silver-tip Development recently requested similar service and the Board denied their request. According to Vice-President Cronin, the~~

Board needs to be consistent and just all of the needs of the District have not yet been satisfied and the District is responsible for serving its area to full build out. Edwards explained our closed system for storage and said that we have to be stingy with service as we cannot just open a valve to dispose of treated water. Edwards recommended that the Board not go outside the District boundary to provide service, and to not allow Firelight connection to the sewer system. Director Olson asked if there is room at the day care site for its own septic system. Hovde responded that there may be room; but they have not checked into the engineering, approval, etc. Director Olson said the District is empathetic to the situation, but its first obligation is to the District. According to Edwards the area requested for service has never been in the District. Hovde said the daycare would be built by Firelight Corporation and then a for profit private company would run the facility. Edwards asked that the developers explore open space for an onsite system, or possibly reclaiming their wastewater for irrigation. Director Fast stated that he would be open to considering approval if there was a large demand and if it was a non-profit service. Edwards asked if the limitation is just for the drainfield and if so, he suggested asking for an easement to the park area in South Fork/Town Center area. Vice President Cronin, speaking on behalf of South Fork owners, said that he would not be receptive to allowing a drainfield in the South Fork owner's park and discouraged Firelight representatives from pursuing the possibility. *The Board directed Edwards to respond in writing regarding the District's capacity and the Board's denial of their request for sewer service.*

***Director Shropshire moved to deny Firelight's request and to have Edwards follow up in writing. Director Fast seconded the motion. Motion passed, 6 yea votes to 0 no votes with Vice President Cronin voting.***

#### **LONG TERM COMPLIANCE WORK PLAN**

Edwards reported that the one-year walk through was done last week. Bode11 is running the sludge dewatering and it will go to 24-hours-a-day operation to get it done. The operation will probably run 6 days with a day off. The compost is available for sale at \$10 a yard. The "Mount Edwards" pile is being looked at by Smith Trucking and *Director McRae will follow up to see if they are interested in trucking it out to be crushed elsewhere, or to wait until after Labor Day for crushing.* Vice-President Cronin advised looking into zoning to see if it allows crushing on site before proceeding.

#### **LEGAL**

Hall: Edwards reported that ruling from the judge upheld the plaintiffs petition that there was an agreement, and awarded on Hall's behalf. The judge also ruled that the District is out of the lawsuit and it is between the judge and legal counsel for Hall and Boyne to determine how the surcharge is paid on the SFEs. The Board discussed how SFEs are allocated and transferred and the District's capacity issue.

#### **SPANISH PEAKS RESORT WATER SYSTEM OPERATIONS**

Edwards reported that he met with Ralph Walton yesterday on their request for the District to take over the water system. An agreement will be drafted for contract operation for 15 months with an additional one-year warranty. If after that period all is working fine, then a transfer will be done. *This draft agreement will be presented to the Board for approval at the June meeting.*

Edwards has asked Walton to start scheduling all the required walk throughs if they want to come on line in July with sewer service. Development in the area will be installing meters to District specifications and the meter reading will come into the District. Their engineers are to estimate the amount of work it will require for the District to run their system. Edwards has asked that the District be notified of any start up activity so that the District can be there to get good documentation and training. The contract will be based on the engineer's estimates and if operations run over, the developer will cover the additional costs. There will also be administrative costs built in. *Smith is to create a separate line item in the budget for contract water revenue.* For any profit on operating the contract, Director Allgood would like that go into future development of District water resources. Director McRae will furnish the District with operating manuals. Edwards has heard that the big lodge has been put on hold.

### **SILVERTIP SEWER & WATER SERVICE AGREEMENT**

Edwards reported that he wrote to Hoeger as directed by the Board.

### **RESORT TAX APPLICATION**

Edwards attend the Resort Tax Q & A meeting and presented the District's request. Based on the questions that came up, Edwards feels that the District's request will be funded. The resort tax allocations will be awarded on June 1 at Bucks T-4.

### **PERMITS**

Alpenglow Condominiums: Edwards reviewed the applications submitted for Alpenglow Condominiums for Units 19 A-D at 6.80 SFEs, Units 21 A-D at 6.80 SFEs, Units 22 A-D at 5.60 SFEs, Units 36 A-D at 6.80 SFEs, and Units 37 A-D at 5.6 SFEs. Moosewood Meadows: Edwards reviewed the application submitted for Units 1-6 totaling 12.0 SFEs. This development will not require additional main extension work.

*Director McRae moved to conditionally approve the permit applications as submitted with a total of 31.60 SFEs for Alpenglow Condominiums and 12.0 SFEs for Moosewood Meadows Condominiums. Director Olson seconded the motion. Motion passed, 6 yea votes to 0 no votes with Vice President Cronin voting.*

Edwards noted, that based on current permits, about 85 SFEs are left for permitting. *Edwards will draft an ordinance for Board approval that will release additional SFEs.*

### **NEW DEVELOPMENTS & SUBDIVISIONS**

Big Sky Village Center: A condominium project, consisting of 56 retail and residential units, is planned for Mountain Village Subdivision Lot 14

Black Eagle Condominiums, Phase II: The next set of Black Eagle Condos will be located on Lot 20 in Mountain Village Subdivision. Sewer and water extension work will be needed. Bing has said that 5 condominium foundations will be in this summer.

**GENERAL CORRESPONDENCE**

Taylor's Park Land: Edwards reported that James Taylor is buying some interest in Spanish Peaks Resort that will have SFEs and then he will request the District for reallocation of SFEs for his property that BSOA/Big Sky Community Corporation has an option to purchase. According to Vice-President Cronin, James Taylor plans on increasing the value of their land by having SFEs on it and then donate the land for a tax deduction, but transfer the SFEs back to Spanish Peaks prior to the land transfer. Director Olson reported that the 4-year-old appraisal was \$2 million, but at that time it had SFEs and was zoned multi family-now, the property does not have SFEs. It will basically be on paper that It has more value because of the SFEs, but the SFEs would be transferred back before actually selling/donating the property. The Board will need to follow the ordinance and make the ordinance available to Taylor's appraiser. *The Board directed Edwards to advise Taylor that he could show to the appraiser the development/SFE possibility, rather than involving the District with an actual transfer of SFEs.* If he pushes ahead with the SFE transfer, the Board will require Taylor to follow the ordinance.

Westland Vacant Lot Charges: Edwards had not talked to John Brown about the Westland issue, but a copy of the complaint was in the board packet. *Edwards will send the complaint to the insurance company for determination of coverage. The Board directed Edwards to follow up with Brown and to request Brown to report to the Board.*

**NEXT MEETING**

The next Board meeting is tentatively scheduled for June 21, 2005, at 8:00 AM. Director Shropshire will be out of town, but may be available by phone.

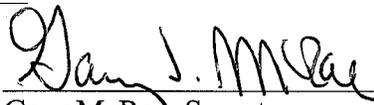
**BOARD VACANCIES**

Directors Shropshire and McRae intend to run again. Edwards reported that Eric Ossario has filed papers with Gallatin County as an appointment. Director Olson will consider requesting re-appointment.

**ADJOURNMENT**

*Director Fast moved to adjourn the meeting at 11:20 AM. Director McRae seconded the motion. Motion passed, 6 yea votes to 0 no votes with Vice President Cronin voting.*

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Gary McRae, Secretary

BIG SKY WATER & SEWER DISTRICT NO. 363  
**Regular Meeting Minutes – April 26, 2005**  
WSD Community Room

The Big Sky County Water & Sewer District No. 363 scheduled a regular meeting for 8:00 AM on Tuesday, April 26, 2005, in the WSD Community Room. Vice President Packy Cronin chairing the meeting with the following Board members present: Secretary Gary McRae and Directors Dick Allgood, and Dick Fast. Director William Shropshire participated via telephone. President Skip Radick and Director Bill Olson were absent. WSD staff present were Ron Edwards, Marlene Kennedy, Terry Smith, Grant Burroughs, and Jim Muscat. Others present were Silver-tip Development representative Terry Threlkeld, Spanish Peaks representative Ralph Walton, and District legal counsel John Brown.

**PUBLIC FORUM**

Terry Threlkeld stated that he was attending the meeting to follow up on the Silver-tip request. Vice President Cronin said the District will follow the old agreement with Silvertip in providing limited water service of 15.53 SFEs.

With no further public comment, Vice President Cronin called the meeting to order at 8: 15AM.

**MEETING MINUTES**

*Director Allgood moved to approve the minutes of March 22, 2005, as corrected. Director Fast seconded the motion. Motion passed, 4 yea votes to 0 no votes with Vice President Cronin voting.*

**AMEND AGENDA**

*Director McRae moved to amend the agenda to address the Silvertip issue. Director Fast seconded the motion. Motion unanimously passed.*

**SILVERTIP**

Edwards explained his calculations by using the onsite system that was originally approved, and using a sampling of water use from condo units on the mountain. Edwards pulled the meter data for those condos, using a full year of data for each and compared the use with the SFE allocated in the original agreement. Edwards said the variable was from 33 gpd to 83 gpd, with an average of 57 gpd. The equivalent flow calculates to be 22 SFEs with 19 units. The wild card is the irrigation demand, but no one really knows this demand since the property is for sale and the development has not been determined. Edwards recommended keeping the 15.53 SFEs building limit and send a letter reinstating the original agreement. The Board discussed limiting the gallons of water. Threlkeld asked if they need to do anything to address the fire demand. Edwards said a dedicated fire line does not have to be metered. Edwards reported that the rescinding letter had never been recorded. As directed by the Board, *Edwards will send a letter to Dennis Hoeger reinstating the agreement, stating the Board's action.*

*Director McRae moved to reinstate the agreement in full and for Edwards to write Dennis Hoeger informing him of the Board's decision. Director Allgood seconded the motion. Motion passed, 5 yea votes to 0 no votes with Vice President Cronin voting.*

Townhomes at Crail Ranch: Since Threlkeld has been the engineer for Townhomes at Crail Ranch, Edwards asked about the status of the lines and reported that the project is about ready for water. Threlkeld updated the Board on the Townhomes, stating that their contractor, Umdahl, needs to complete a few items including changing out a hydrant before the lines can be accepted.

## **FINANCIALS**

Smith reviewed the financials stating that the District is running at a deficit on the sewer side and the water side is running at a surplus. This deficit is due to underestimating the utilities of the plant and also underestimating the use. Overall, there is about an \$83,000 shortfall this year with about \$85,000 projected as a shortfall next year; but within 3 years Smith projects it will balance out even though today the sewer rates don't cover the costs. Smith stated that the sewer operating reserves will cover the shortfall. Smith suggested not changing the sewer rates at this point, and to run one more year at the current rates. *Vice President Cronin directed Smith to run the projected costs with a 20% increase in the electric and propane costs.* Smith said the treatment plant and filter plant need to be on electronic thermostats and space heaters will be added to the filter plant office so that the entire building temperature does not have to be adjusted to heat the office. Smith reported that staff are working on next year's budget now and asked Board members to let him know if they were interested in participating in the budget meeting.

***Director McRae moved to approve the March financials as presented. Director Fast seconded the motion. Motion passed, 5 yeas votes to 0 no votes with Vice President Cronin voting.***

Smith stated that he has not looked at getting a prime user rate as Edwards and Burroughs said the pumps run approximately 22 hours a day. *When the water is pumped to the Yellowstone Club, the Board would like Smith to try to get a prime user rate.* Edwards reported that Northwest Energy can be contacted to do an audit. *Smith is to follow up with Northwest Energy before the next board meeting.*

## **SEWER OPERATIONS**

Edwards distributed Burroughs flow reports for the Board to review.

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## **WATER OPERATIONS**

Muscat reviewed his "wish list" that was provided in the board packet. Muscat said, as an operator, he feels that these listed items are the weaker links to the system. Vice President Cronin stated that the District needs to start long-range planning for the water system. As a correction to item 5, the Big Horn pressure should be listed at 125. *The Board asked Muscat to put financial numbers to his wish list with the possibility of going for resort tax funding next year for some of the items, and to dust off and review the water facilities plan too.* Edwards reported that the water reserves for funding the water system improvements are not adequate and that the District may have to look at a bond, resort tax, impact fee, etc. Edwards said, now that we have a better idea of full build out, we can look at a tap fee. In regards to resort tax funding, Muscat recommended that this Board work with the fire department to make them feel like they have some ownership on the water system improvements, and to work together at funding requests for the water system. Muscat feels that the District needs to resurrect the mountain wells as the water supply will need to be increased.

Yellowstone Club: The flows indicate that Yellowstone Club is using a tremendous amount of water. Edwards reported that Bob Sumpter told him that they will be fixing the leaks this summer. Vice President Cronin said the District needs to get a handle on YC water use and cap the use according to the agreement. *The Board asked Muscat to follow up on YC snow making and their water source for it.* Muscat said if YC water use does not drop off in April and May, then that will be an indicator that they have a lot of leaks.

Lone Moose Meadows: Muscat feels that the Lone Moose system will balance out now that ski season is over.

Aspen Groves: Muscat said the District has still been getting complaints on the AG water and the State has 60 days to review and approve the treatment system proposed. Edwards said the design work is at the State, and confirmed that they can take up to 60 days to review the submittal. One issue with the AG proposed filter system is that it will need to be backwashed every day, or every other day. The engineers are working on the issue now, figuring out how to tie it into the sewer system instead of building a drainfield. The AG system will have to be disinfected, which will change the taste of the water. In response to Board inquiry, Edwards stated that the ordinance indemnifies the District from any damage inside the homes, but that does not prevent someone from filing suit against the District. Director Fast asked that if the water system can be improved, could the filter and disinfection system go away. In that event, Edwards recommended that the District stop using the system, but leave it intact.

### **SPANISH PEAKS RESORT WATER SYSTEM & OPERATIONS**

Edwards explained that Ralph Walton had asked at the March meeting about the District operating the water system. Spanish Peaks is in the District and the Board had asked Edwards to research whether the District is obligated to operate the system. Edwards said our ordinance talks about extensions and accepting them. The Spanish Peaks system is totally separate, and Edwards is advocating the District go into operating it slowly. Edwards wants to operate it now and then own it later. John Brown, legal counsel, said this system is totally separate and it is at the District's discretion to contract to operate it since this is not an extension of a main. Brown doesn't feel that the District ever has to own the system if it doesn't want to. Ralph Walton said they need to have an operator for the system. to keep it functional and legal. Their preferred option is to work with the District as owner and not have contract management--the issues revolve around the supply of the water, the cost of the golf course irrigation supply, and tax advantages to giving the system to the District. Walton said the system will be tested next month, with the system in use in July. Walton wants District staff to attend training on running the whole system and an agreement to be presented to the Board at the next meeting. Spanish Peaks legal counsel Steve Brown is working on a contract, similar to the Lone Moose agreement. *Director Shropshire asked Edwards to prepare an analysis on the District running the system, advantages and drawbacks, to be presented to the Board for consideration at the next meeting.* Edwards, Muscat, John Brown, Ralph Walton, and Steve Brown will work together to prepare information and an agreement for the Board to consider. Edwards said there is engineering information regarding numbers for build out that are needed from Spanish Peaks engineers. The Board stated that its first responsibility is to the District and everything needs to be considered. Edwards is concerned with future water supply availability and wants to go slowly into operating and possibility owning this system. Edwards would like the District to eventually own the system as he feels that would best serve the customers in Spanish Peaks.

*Director Fast moved to direct Edwards, Muscat, John Brown, Ralph Walton and Steve Brown to come up with a long-term plan and to draft an agreement, or contract, to present to the Board at the next meeting for consideration. Director McRae seconded the motion. Motion passed, 5 yea votes to 0 no votes with Vice President Cronin voting.*

#### **LONG TERM COMPLIANCE WORK PLAN**

Edwards reviewed Bodell's request for a change order.

*Director Allgood moved to approve Bodell Construction's change order of \$7,205.65 for additional electrical work. Director McRae seconded the motion. Motion passed, 5 yea votes to 0 no votes with Vice President Cronin voting.*

#### **MOUNTAIN VILLAGE WELL #7 PROJECT BID**

Edwards stated that the electrical specifications will be deleted in the contract, saving about \$40,000 in the contract. According to Edwards, much of the electrical specifications were overkill and the specs will be revised. The bid came in at \$240,000 for the complete pump house. Muscat will be working with Potts on getting the well pump.

#### **LEGAL**

Westfork Meadows Water Tank Easement Release: Edwards reported that McBride and Wetstone have reviewed the release and a few changes are needed. Brown doesn't feel there will be a problem in revising the release and getting it signed and recorded to release the easement.

Hall: Brown reported that the hearing was essentially for trying to decide if there was an agreement between Hall and Boyne/Kircher. The judge will need to rule if there is an agreement, and then they will need to figure out how to pay the fees. Brown said the case will probably be going on six months from now. At this point, the District is not on the hook for anything. Brown doesn't know how the judge is going to rule.

Westland/Town Center Vacant Lot Charges: Edwards reviewed the history of how the vacant lot charges are assessed. The Town Center had 55 lots of record when they signed the agreement to transfer the lines, and the lots were then added to the quarterly billing for vacant lot charges.

Westland believes the charge is illegal and has not been paying them so the past due balances have been added to the tax roles. Edwards feels that this issue will head to court for settlement. Brown has looked at the statutes, and talked about the legal merits of the issue. Brown reviewed the Trunk vs. Rae Sewer District case--about whether the Trunks could be charged as non-user. The Supreme Court ruled in favor of Trunk. However, in 1995, the statutes were changed to favor the District, which would allow the charge if the lot benefited. Brown and Edwards met with David King, Rae District supervisor, and after reviewing the facts Brown feels that the District can stand by the vacant lot fee. *Brown will talk to Brian Gallik, Westland/Simkins legal counsel, and try to find out what Simkins wants. Brown will communicate that information to Edwards.* Edwards said the District has E & O insurance through Mayco, and they would determine coverage and assign legal counsel. The District can also decide to provide its own legal counsel. *Brown will find out if a complaint has been filed and accept it if it has been filed. If a complaint has been filed we will need to run it through Mayco to find out if it is covered.* Edwards explained the difference with the Town Center lines, where there is a service stub to a block, which is different than an individual service per lot as with other subdivisions. *Vice President Cronin suggested that the old Supreme Court case be reviewed for language that would allow the use charge.* Brown stated that both he and Wheat will be working on this case.

## **PROSED DEVELOPMENTS & SUBDIVISIONS**

Pines II: Edwards reported that the District is cost sharing the upsizing of the water line to 12".  
Cascade: Final designs for the northwest corner are proceeding. Northfork Creek: Lot 1 development is proceeding. Mountain/Boyne:--There are two projects along with Boyne that will be about 250 SFEs. They have submitted preliminary plans that the District has reviewed.

## **YELLOWSTONE CLUB WATER USAGE & SERVICE AREA AMENDMENT**

Ray Armstrong has commented on the water usage, with a copy of his letter in the board packet. Based on Armstrong's analysis, YC is already exceeding their agreed amount of water that is 216,000 gallons per day. Edwards uses the 78 million gallons per year. The agreement states that they have a maximum of 216,000 gallons per day on a seven-day average. Muscat asked the Board to decide what amount of water YC is allowed. *The Board directed Muscat to review the flows and find out when YC has exceeded the 216,000 allowable use. The Board wants the YC water use monitored to see if there is a pattern. Muscat feels they are averaging the same amount because of leakage. The Board wants a message sent to YC that they need to fix their leaks and to monitor their daily use. Muscat suggested using the calendar year starting on January 1-week one as 1-7, week two as 8-14, etc. Muscat will break out this last year for the 7-day averages for presenting to the Board at the next meeting.*

Director McRae reported that a contractor has asked if the District is interested in selling "Mount Edwards." Edwards said there is about 55,000 yards. Director McRae stated that the average is \$1-\$1.50 for that type of dirt and he will discuss this with the contractor. Edwards said the resort tax request for geo-cell coverage, if funded, will need about 10,000 yards for filling the geo-cell. *The Board directed Edwards to get some figures of needed fill from Armstrong and retain that amount. Once that information is provided then Director McRae can approach the contractor to take the rest, including the sludge, and pay the low end of the State average. The original suggestion of using it for berming along the highway will not work, since the adjacent land is owned by another party.*

## **RESORT TAX APPLICATION**

A copy of the application was provided in the board packet. The Resort Tax Board's Q & A meeting is scheduled for May 18. About \$2.4 million will be available, which is about \$800,000 short of the total requests.

## **PERMITS**

Edwards reported that there are 146 SFEs remaining for permitting. *Edwards will prepare a Resolution for release of additional SFEs for Board approval at the next meeting.*

Town Center, Cottonwood Crossing Condos: Edwards reviewed the application, noting the development is in Block 2 1, Lot 1. According to Edwards, final plat approval will be given from Gallatin County in a week, or so.

*Director Fast moved to conditionally approve the permit application for Snowy River Company, Cottonwood Crossing Condominiums at 11.20 SFEs as noted by staff. Director Allgood seconded the motion. Motion passed, 4 yea votes to 0 no votes with Vice President Cronin voting. Director McRae was not present for this vote.*

Responding to Board inquiry, Edwards reported that he is tracking the Boyne unencumbered SFEs through a spreadsheet.

**NEW DEVELOPMENTS & SUBDIVISIONS**

Town Center – Avenue West Extension: Edwards said the developer's engineers have submitted the overall plan, which helps to identify where all these small extension fit into the overall development. This is a resubdivision that will create some new lots. *Edwards commented that the District billing needs to be reviewed to see if our billing covers all their plat amendments. Edwards will get that information for Smith.*

**DIRECTOR ELECTIONS**

On November 8, 2005, the following four board members terms expire: Skip Radick, Bill Olson, Gary McRae, and Bill Shropshire. To reapply, or apply, a candidate will need to fill out and submit paper work to the county. In the past, the counties have asked the District for direction in their appointments. Gary McRae is interested in running for another term. Les Loble, South Fork homeowner, is interested in running for a board position. Bill Shropshire will complete the application when he returns to Big Sky in July. An election will not be required if there are the same number of applicants as positions.

**GENERAL CORRESPONDENCE**

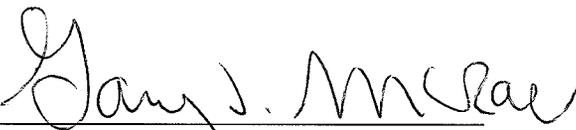
There was no general correspondence for the Board to review.

**NEXT MEETING**

The next Board meeting is tentatively scheduled for Thursday, May 26, 2005, at 8:00 am. Vice President Cronin will be gone May 13-22; Director Fast will be gone May 3-25.

**ADJOURNMENT**

*Director Fast moved to adjourn the meeting at 11:25 AM. Director Allgood seconded the motion. Motion passed, 4 yeas votes to 0 no votes with Vice President Cronin voting.*

  
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Gary McRae, Secretary

BIG SKY WATER & SEWER DISTRICT NO. 363

**Regular Meeting Minutes – March 22, 2005**

WSD Community Room

The Big Sky County Water & Sewer District No. 363 scheduled a regular meeting for 8:00 AM on Tuesday, March 22, 2005, in the WSD Community Room. Board members present were President Skip Radick, Vice President Packy Cronin, and Secretary Gary McRae; along with Directors Dick Allgood and Bill Olson. Director William Shropshire participated via telephone. Director Dick Fast was not present. WSD staff present were Ron Edwards, Marlene Kennedy, Terry Smith, and Jim Muscat. Others present were HKM Engineers Ray Armstrong and Chris Clark; District auditor Marjorie Knaub, Silvertip representatives Eric Ossario, Terry Threlkeld, and Dennis Hoeger; Yellowstone Club representative Bob Sumpter; and Spanish Peaks representative Ralph Walton.

**PUBLIC FORUM**

With no public comment, President Radick called the meeting to order at 8:07 AM

**MEETING MINUTES**

*Director McRae moved to approve the minutes of February 22, 2005, as written. Director Olsen seconded the motion. Motion passed, 6 yeas votes to 0 no votes with President Radick voting.*

**FINANCIALS**

Smith reviewed the February financials, with the summary showing a net operating loss of \$95,000 due to the higher than anticipated energy costs for the new treatment plant. The usage revenue was lower, but Smith did not recommend changing the rates at this time. Smith recommended re-evaluating the rates after the next two quarterly billings. *Director Cronin asked that staff look into purchasing power for a reduced rate and to review the night lighting needs for possibly reducing the number of fixtures in use at night. Director Cronin also asked that staff look at other ways to reduce energy costs, such as reducing the building temperature, etc.*

*Director Cronin moved to approve the January and February financials as presented. Director McRae seconded the motion. Motion passed, 6 yeas votes to 0 no votes with President Radick voting.*

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Audit Report: Marjorie Knaub reviewed the changes in the audit method and reports, noting that Smith was required to write a management analysis that was included in the draft audit. The footnotes provide details and Knaub requested that the Board review the notes. The asset lives were extended and Knaub will make that change prior to submittal to the State. Changes to employee health insurance benefits will also be reflected. Knaub stated that there were no findings and the report was clean. The required communication with the audit committee (the Board) notes one major audit adjustment.

*Director Olsen moved to approve the audit report with Knaub's changes as noted. Director Cronin seconded the motion. Motion passed, 6 yeas votes to 0 no votes with President Radick voting. Knaub reported that the audit is due March 31, 2005, and she will submit the audit with changes.*

Director Shropshire asked if the Board should designate a separate audit committee. Knaub said with a board this small, she does not feel it is necessary. The Board stated that they were comfortable acting as an audit committee as a whole.

### **AMEND AGENDA**

***Director Cronin moved to amend the agenda to address the Yellowstone Club request and the Silvertip request. Director McRae seconded the motion. Motion passed, 6 yeas votes to 0 no votes with President Radick voting.***

### **YELLOWSTONE CLUB WATER SERVICE AREA**

Edwards reviewed the current agreement with the Yellowstone Club (YC) . The YC has changed some of their planning and is asking that their service area be amended. Sumpter and Edwards distributed a map showing the extended service area. Sumpter said that some property has been added and some density has been shifted and, from their standpoint, it makes sense for the changes as proposed. Edwards commented that as long as the actual flow per day in the original agreement is not exceeded, he does not see a problem with the boundary change. Edwards reported that the current flows show they are using about 40% of their allowed usage even though they are not 40% built out. Sumpter said two leaks have been identified and will be fixed. Edwards suggested having District engineer Ray Armstrong review the data Yellowstone Club submitted. President Radick said that as long as the quantity of water is the same, the District doesn't have a problem with it. Since the YC boundaries are not changing our water district boundaries, and the YC is not in the service area of the District, the District considers this a different type of request. Director Shropshire asked, "What if YC draws more water than allowed by the District?" and "What can the District do to control the use?" Edwards reported on the functions of the telemetry and that it can be programmed to allow a maximum use. Additionally, the District can notify YC when they are getting close to maximum usage. Sumpter reported that they are instituting a meter system to each lot and will start implementing the program this summer. YC will then be able to monitor usage and institute restrictions if needed. Director Cronin stated that the Board is already looking at ways for solving the water problem within the District, and he doesn't want YC to think the District is being stingy with its water but, YC need to know that we all need to share a finite amount of water. Sumpter said they can institute water saving xeriscape landscaping.

***Director Shropshire moved to accept the YC request as presented, but subject to review and approval of the numbers by District engineer, Ray Armstrong. Director Cronin seconded the motion. Motion passed, 6 yeas votes to 0 no votes with President Radick voting. As soon as Armstrong reviews and approves the numbers, YC can proceed to expand their service area.***

In regards to the LTCWP, Sumpter reported that YC needs to finish the outflow to the golf course and the pond lining. YC plans on finishing the work in June. Sumpter said they will use 8" geo-cell for the visible layer of the pond liner.

### **SILVERTIP SEWER & WATER SERVICE REQUEST**

Threlkeld reported that they have two requests for the Board to consider – Phase IV Summit View (AKA Silver-tip) public water service and public sewer service. The water service request is for the District to provide 1,830 gallons of water per day for peak flow. The original agreement with Silver-tip was for 15.53 SFEs of water use. Threlkeld said the Board has options for supplying water, including annexing the property. Threlkeld noted that there would be two hydrants. President Radick responded that the Board does not have a problem staying within the original agreement, but the fire flow demand is a concern. Threlkeld doesn't believe the request

is a change, but it may be something different than what was printed on paper as the SFE equation was difficult to put into gallons per day. Threlkeld is concerned in that they want to have the same water capacity as the sewer treatment capacity. President Radick asked Edwards if he agreed with Threlkeld's calculated gallons. Edwards stated, now that the District is metered, we could provide some average numbers on like use. President Radick said the Board would like to find a way to stay consistent with the original agreement. Dennis Roeger reported that the easement was never recorded, and it would need to be drafted and recorded. Director Olson asked why the District cannot have an agreement, similar to the one with YC, which provides a maximum amount of water, but exchanging the water for an easement. Threlkeld commented that the day of the SFE may disappear. President Radick would like to come close to a capacity that is similar to what was originally agreed to in the agreement. Director Cronin asked that staff calculate what 15.53 SFEs are in water use. Edwards said SFEs have always been compared to wastewater flows, and the District could take the total flows and calculate the gallons per day per SFE. Edwards recommended taking a similar development and calculate gpd per SFE to alleviate calculating in leak loss. President Radick said the Board needs to have the capacity identified by District staff and then present it to the developer for agreement as to the number of gallons of water. Threlkeld stated that the District would have to identify the gallons as average, or peak. Edwards said the YC agreement allows for a 7-day average. Based on the capacity of the sewer system, Threlkeld calculated 1,830 gallons per day. Edwards reported that the 15.53 SFEs came from Bayliss Architecture and the development plans that were proposed. Edwards doesn't believe the 1,830 gpd is much different than the SFEs. The Board supports eliminating the clause "to take water away", and to make it a permanent water supply. The Board will work with the structure of the plan and define the quantity with staff review. The agreement with YC allows the District to serve its own boundary before serving the YC. The agreement for Summit View will need to be the same. Director Cronin does not want to handicap the development, but it has to be a surplus water supply. The Board unanimously agreed to have an agreement to provide surplus water. Muscat reminded the Board that the YC agreement had YC drill a well to replenish the water the District would supply. Director Olsen said if we need to have them drill a well like YC, then we could. Edwards reported that supplying surplus water out of the District is allowed by statute. *The Board directed Muscat to calculate capacity based on the SFEs.* Hoeger asked the Board to agree, in principal, and to not have them wait for another month. Edwards reported that the original agreement is recorded, but the letter rescinding the agreement has not been recorded. *The board will act on the water service agreement at the next meeting, with staff providing gpd data based on the SFE calculation.*

Threlkeld also asked the Board to consider the development for connection to the public sewer service with the same capacity as allowed with the on-site wastewater system proposed. Threlkeld reviewed the statutes which would allow the District to provide for annexation and/or service. Threlkeld provided calculations on District wastewater capacity, showing a significant reduction of load with the improvements recently made in the system, and felt that the District has capacity to serve this development at 1,830 gpd. Threlkeld believes annexation would be a way to clean up the area, but ultimately just wants wastewater service. Threlkeld asked the Board to not discourage annexation requests, to evaluate each request, and to use the high-tech plant they have. Threlkeld also stated that it just makes sense for the District to serve this property that is adjacent to the lake rather than risk contaminating the water shed. Edwards reported that many things have been done to deal with capacity since the original agreement.

President Radick said the capacity is here now, it won't be in 20 years, and how does the District decide whom to serve when all the property around the District would fall into Threlkeld's argument for service. President Radick stated that our challenge has not changed, we cannot set a precedent with this request. Threlkeld commented that the criteria could be property contiguous to the District, close to water, slope issues, etc. President Radick stated that the District is not capable of handling every septic system next to the District. Threlkeld asked if the District denies superior treatment capabilities, doesn't that affect the quality of ground water. Threlkeld believes the time to think about this is now, as that the District has a plant and disposal capability-the closed door and no annexation possibility is not the right one. Threlkeld doesn't believe that the system he has designed will contaminate the water. Director Shropshire asked, "What is this Board's fiduciary responsibility to its current service area for both sewer and water service?" If the Board exceeds its current capacity on either side, the District will be responsible. Director Olson stated that it is DEQ's problem to protect our watershed, not the responsibility of this Board. Threlkeld argued that the District now has capacity. Director Cronin said the Board needs to look at Table 3.1 and re-examine the SFE usage within our boundaries. Director Olson suggested having an agreement to sell surplus wastewater capacity. Edwards stated that the District totally relies on winter storage and disposal to the golf courses, and build out is only at 40% now. With the new golf course, we don't have the data on disposal capability. Edwards said the District does, sort of, have a closed door policy; but would like to consider annexation in the future-not now. Threlkeld explained that the gpd flows have gone down and will continue to go down. President Radick said the Board cannot jeopardize the current service area by allowing annexation at this point. Threlkeld reported that the DEQ approval for the system is still standing.

***President Radick asked for a motion to accept the property into the District. Without a motion, the request failed.***

Armstrong feels that the numbers for disposal on the golf courses are soft numbers and the District should be conservative. Armstrong also reported that the treatment is not a problem, it is the storage and disposal where capacity is a concern. Edwards noted that another golf course is being built and it has been discussed to use this area for irrigation, but there is no agreement. President Radick views "surplus" as above and beyond full build out. Director Olson believes that the same definition needs to be used on the water issue. President Radick reminded the Board that the original reason to provide water was because it is a benefit to the District; there is not a benefit to the District to provide sewer. Edwards said the definition of "surplus" needs to be considered-is it today, or at full build out. Threlkeld reported that in 1978 the issues for not providing service were real, now today there is a surplus.

President Radick asked for a motion to sell the property surplus sewer capacity. Threlkeld and the other Summit representatives were comfortable with surplus capacity.

***Director McRae moved to sell the development surplus sewer capacity as long as it exists. Director Olson seconded the motion. President Radick called for discussion. Director Shropshire does not know how surplus is defined. Director Allgood asked if there could be an agreement where they would install their septic system, but use it only if the surplus is no longer available. Motion failed; 2 yea votes to 4 no votes with President Radick voting. Dennis will work with Edwards to get the easement filed.***

### **AMEND AGENDA**

*Director Cronin moved to amend the agenda to accommodate the Spanish Peaks representative. Director McRae seconded the motion. Motion passed, 6 yeas votes to 0 no votes with President Radick voting.*

### **SPANISH PEAKS**

Ralph Walton reported that he is researching options to operate the Spanish Peaks water system and he has discussed the possibility of the District operating the system with Edwards. The system should be operational in 30-60 days, with 13 cabins. Once the State's 15 unit rule is met, they will need to operate as a public system. Walton described their system and discussed their golf irrigation flows. Walton asked the Board if they want to manage the complete water system, including the golf course. Or, if the District wants to manage a portion of the system. Edwards stated that the area is in the Sewer and Water District, the sewer will be connected to the public system, and he feels that it is the District's obligation to eventually take over the water system. Edwards would initially like to be involved, but not have total responsibility in year one, possibly year three. It would still be Spanish Peak's system, and they would be responsible for all maintenance and repair costs. President Radick doesn't feel like this is any different than any other development in the District, and would be subject to all the regulations the District applies to other developments. Director McRae feels there are advantages to operating and owning the system. Walton said that not all the area is in the District, but the area currently being served is in the District. President Radick said the Board needs to determine if it is in the District, and if it is, we would follow District ordinance. *The Board directed Edwards to review the agreement and annexation agreement and determine the Boards' course of action.* Walton said the first use will be in June for golf course irrigation. Muscat stated that he would look at the golf course irrigation as a single service if the District is to take over the system. *The Board requested Armstrong to review all Morrison-Mairele information.* President Radick stated that the first thing is to establish District responsibility. Due to the complexity of the system, Edwards recommended looking at it as a contract system, possibly for a year, and then agree to take it on. *Edwards is to consult with legal counsel and find out the District's legal obligations. Director Olson recommended that this system be included in HKM's waterfeasibility study. Edwards will provide information at the next board meeting.*

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### **SEWER OPERATIONS**

Burroughs was not available to present the sewer flow reports.

### **WATER OPERATIONS**

Muscat distributed his flow reports stating that there has been very little use at Lone Moose other than the incident with a pipe freezing. Muscat said he intends to track the Yellowstone Club's 7-day average as specified in the agreement. Muscat said YC will need to fix their leaks to be able to provide water to all their projects. *The Board asked that the District give YC plenty of notice so that they can rectify the potential overuse.* According to Muscat, the rest of the flows are pretty normal.

Aspen Groves Water System: The submittal to treat the water will require state approval, which will take two months. The type of treatment will require disinfection, but it is a system that will be cost effective. Edwards stated that \$100,000 could easily be spent by drilling another well.

Edwards has asked HKM to submit a proposal to do the engineering work and state submittal for the Aspen Groves well using Pure Water Technology information, at a cost of \$3,728. Edwards said HKM looked at the feasibility of the Lone Moose system connecting to the Aspen Groves system with an estimated cost of \$6,300. Third was to look at a new place to drill a new well, or move an existing water right at a cost of \$9,485. Director McRae stated that if we have to go to DEQ for approval, he would recommend that the District just bring the line from the mountain to Aspen Groves and not do a separate connection to Lone Moose. All Board members concurred with Director McRae's suggestion. Edwards believes that we still need to be looking at drilling another well in the meadow and we need to prioritize. *The Board wants a feasibility study that would go from the mountain to Lone Moose to Aspen Groves.* Muscat asked if the feasibility could include wells in the Lone Moose area.

***Director Shropshire moved to approve the HKM Engineering's proposal for Aspen Groves at \$3,728 with the scope of work as presented, plus the Pure Water Technology estimated cost of \$9,593. Director Cronin seconded the motion. Motion passed, 6 yeas votes to 0 no votes with President Radick voting.***

***Director Cronin moved to approve HKM Engineering to proceed on the feasibility of the last two items as discussed at a cost not to exceed \$25,000, and to provide a revised scope of work to Edwards. Director McRae seconded the motion. Motion passed, 6 yeas votes to 0 no votes with President Radick voting.***

President Radick reported that he has talked to other people in the area that are having the same problem.

#### **LONG TERM COMPLIANCE WORK PLAN**

Ray Armstrong and Chris Clark discussed the pond lining cover options, recommending a liner cover at a cost of \$250,000 for all three ponds. The geo-cell would look more natural, going down about 20 feet, but would not be recommended for area below any high water mark; it would also be more expensive. The Board wants the pond lining to be as aesthetically pleasing as possible, but to also keep costs in line. Edwards said that whatever the Board decides for additional pond lining material, it will be a change order. Armstrong recommended starting with the aeration pond and to look at the possibility of upgrading the other ponds if the geo-cell works.

***Director Shropshire moved to approve Ray Armstrong using a geo-cell for installation in the aeration pond and, if it works, then to explore using it on the other ponds. Director McRae seconded the motion. Motion passed, 6 yeas votes to 0 no notes with President Radick voting.***

Armstrong will prepare design drawings for use of partial rock and natural landscape and to ask Bode11 for a formal bid. *Director Cronin suggested getting a 20-foot (or so) section sample of the materials and tying it. The Board asked that "Mount Edwards" stockpile also be addressed.* Director McRae suggested using this material for berms, or rolling hills. Armstrong said they have a topo map that they can use to determine how to use the stockpile. *Armstrong will expand on the geo-cell, get a bid from Bodell, and get 20-foot samples of the material.*

Bode11 has a start up schedule for the spring, around May 1, to finish the items in their contract.

### **MOUNTAIN VILLAGE WELL 7 AND WELL 4 PUMPHOUSE BIDS**

Edwards reported that the total bid from Burke Excavation was \$243,926. The electrical portion was around \$60,000. Edwards plans to meet with the engineer to see if there are ways to knock the cost down. Since only one bid was received, the District can try to negotiate the cost down. Edwards does not have to accept the bid as is, but could accept portions of it such as the piping. Edwards will check to see if the District needs to follow Davis-Bacon wages.

*Director McRae moved to approve the bid from Burke Excavation for just the well pump and the water line from the well casing to the existing water line, at the cost presented. Director Cronin seconded the motion. Motion passed, 6 yeas votes to 0 no votes with President Radick voting.*

### **LEGAL**

Water Tank Easement: Edwards reviewed the current access that is provided through an agreement with Gerrard, but the property has been sold to Tinney. Tinney is offering an easement to the District with the ability to possibly connect his property to the public sewer and water. The property is in the District. Edwards reported that there is an easement corridor for power that Tinney could follow but it is a long ways. *Since the property is in the District, the Board will give him permission to connect in exchange for the easement.* Edwards said Tenney has a 40gpm well that the District may want to try to acquire. The Board will need to sign off on the formal easement. *The Board directed Edwards to correspond with Tenney to get the easement prepared, and to pursue acquiring the well.*

Sarah Hall: The case is rescheduled for court on April 14.

### **PROPOSED DEVELOPMENTS & SUBDIVISIONS**

Cascade: Gaston Engineering has submitted plans for the Speaking Eagle and Spotted Eagle Roads area of Cascade.

Town Center: Edwards reported that the Town Center SFE allocation needs to be cleaned up. They currently sell the parcel and make the close out subject to our final walk through. Edwards feels additional language needs to be added for dealing with Town Center SFES. *The Board directed Edwards to write proposed language for Board approval.* The Board is still concerned about the checkerboard development occurring at the Town Center. Edwards has mentioned the Board's concern to Ryan Hamilton and this could be tied into cleaning up the SFE allocations. *President Radick suggested requiring a master plan before approving any further development at the Town Center.*

### **PERMITS**

No permits required Board action.

### **RESORT TAX APPLICATION**

Resort Tax Applications are due April 20. Edwards suggested requesting \$200,000 for debt service, maybe even \$300,000. The Board also recommended requesting funding for the geo-cell liner on the aeration pond based on the engineer's estimates of approximately \$100,000.

**GENERAL CORRESPONDENCE**

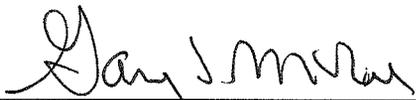
There was no general correspondence for the Board to address. Edwards said with the low snow pack, the District will have to institute water restrictions and there will have to be notices.

**NEXT MEETING**

The next Board meeting is tentatively scheduled for April 26, 2005, at 8:00 am. Director Olson will be gone in April, President Radick will be gone April & May, and Director Cronin will be gone until April 22.

**ADJOURNMENT**

*Director Allgood moved to adjourn the meeting at 12:22 pm. Motion passed.*



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Gary McRae, Secretary

03-22-05. min (Board Approved 4/ 26/05)

BIG SKY WATER & SEWER DISTRICT NO. 363

**Regular Meeting Minutes – February 22, 2005**

WSD Community Room

The Big Sky County Water & Sewer District No. 363 scheduled a regular meeting for 8:00 AM on Tuesday, February 22, 2005, in the WSD Community Room. Board members present were President Skip Radick, Vice President Packy Cronin, and Secretary Gary McRae; along with Directors Dick Allgood, Dick Fast (left at 9:15 am), and Bill Olson. Director William Shropshire was not present. WSD staff present were Ron Edwards, Marlene Kennedy, and Jim Muscat.

**PUBLIC FORUM**

With no public comment, President Radick called the meeting to order at 8: 10 AM.

**MEETING MINUTES**

*Director McRae moved to approve the minutes of January 18, 2005, as written. Director Fast seconded the motion. Motion passed, 6 yeas votes to 0 no votes with President Radick voting.*

**FINANCIALS**

Smith was not available to prepare, or present, any financial reports.

**SILVERTIP BANKRUPTCY PROCEEDINGS**

Edwards has not received any information in writing from Silvertip representatives following up on the January meeting with the Board. However, they have requested to be on the agenda for the March meeting. Edwards believes that they will only ask the District to reinstitute the original water agreement.

**SEWER OPERATIONS**

Burroughs did not prepare a wastewater flow report for the packet and was not present at the meeting to discuss the flows.

**WATER OPERATIONS**

Muscat did not prepare a water production report for presentation to the Board.

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Aspen Groves Water System: Muscat and Edwards reported on the Aspen Groves water system.

Muscat distributed data showing all of the individual wells that have gone in the area of Aspen Groves and believes that the increase in wells may be the cause of some of the turbidity problems with the Aspen Groves wells. Muscat said it is apparent that both wells are turbid, and asked the Board if they wanted to drill a new well. Muscat reported that the two big wells in the Spanish Peaks development are in the same aquifer and may be another reason for the big change in the AG wells, plus other wells in the area. The Board discussed cleaning up the HV well and tying it into the AG system. Muscat said the AG water is safe to drink; it just has turbidity with fine particles of suspended bentonite. Edwards suggested drilling a well in a lower area, which currently has a good water supply and pump it to the AG tank, Edwards believes, that with the District hydrant in that area, the homeowners would be cooperative even though they are out of the District as they will benefit by the District leaving the hydrant in their area. Muscat said there is a way to treat the water, but then it would create another set of problems. *The Board directed Muscat to get options for treatment from Pure Water Technology.* Edwards reported that he looked at options for tying the Mountain system into Meadow Village and it would also be possible to tie into the Aspen Groves system. Edwards said it makes more sense to tie into the

Lone Moose system since it is closer. Edwards outlined the footage requirements and costs in his manager's report, with an approximate cost of \$350,000-500,000 without including engineering costs. Edwards said he however does not know what the full build out is in Lone Moose. Director Cronin suggested developing the Lone Moose site to provide water for Aspen Groves, Lone Moose and the Meadow. Director Cronin also suggested following along the highway instead of continuing along the poop shoot. Edwards and Muscat did not feel that option would be viable and said the poop shoot is the straight shot. Director McRae suggested coming up with an agreement with Horse Shoe Bend development to put in a well their and use that water. Edwards is certain that Spanish Peaks development will need all the water they can produce for their golf course. Edwards said at some point Spanish Peaks will want the District to take over their water system and the District could agree to that with the understanding that the District will tie Aspen Groves into the Spanish Peaks system. Director McRae reported on an 800' capped test well that the District might want to look into using. *The Board directed Edwards and Muscat to contact Pure Water Technology to lay out all the options for treatment to present to the Board at the next meeting.* Edwards stated that he is an advocate of finding a new water supply and not tapping into an existing system. Edwards said that a new water supply will need water rights and a portion of the water right from the HV well could be allocated to a new well. President Radick stated that all the options presented for a new water source will be time consuming and that the District needs to come up with a short-term solution through treatment, now, so that we have time to permanently fix the system. Director Fast asked if the District needs to start objecting to all the other new wells being drilled in the area. Edwards responded that individual wells under 35 gpm do not go through hearings. Muscat and Edwards will get a treatment option from Pure Water Technology. Director Cronin said the Board needs to work on fixing the system now. *The Board directed Edwards and Muscat to come up with recommendations for presentation at the next board meeting for providing an adequate, acceptable water supply for both Aspen Groves and Meadow Village. For now, the Board wants a band-aid fix (treatment) for Aspen Groves and then for Edwards and Muscat to present options for permanently fixing the Aspen Groves and Meadow Village water systems that can begin this summer.*

Director Fast asked if the District has been getting calls about the Aspen Groves water. Edwards reported that District staff have been receiving calls, but the water is drinkable and the callers are being informed of that. *The Board directed Edwards to write Aspen Groves' owners about the water system, including that the water is safe to drink and what the District is working on to fix the system. The Board also directed Edwards to have the letter go out as quickly as possible.*

Release Westfork Tank Easement: Edwards sent Don McBride information to clean up land records to release, or vacate, the easement for the old water tank above Westfork. Don said that Ken McBride will continue to handle his own affairs and Edwards will contact Ken about the easement. Edwards said the issue is really between Dudes Development/Reichstetter and McBride, but he is working as an intermediary for now.

## **LEGAL**

Sarah Hall/Teton Tract: Edwards reported that the depositions and court hearing have been delayed again and the hearing is now scheduled for April 21. Edwards also has had inquiry from a private party that is trying to purchase and develop the property.

### **MOUNTAIN VILLAGE WELL #7**

Edwards reported on the project for completing the Mountain Village Well #7. The proposal is out for bid with a March 17, 2005, deadline for bid opening. The pre-bid meeting is scheduled for today at 10:00. Numbers should be available to be presented to the Board for the next meeting. Through the agreement, Yellowstone Club contributed \$28,000 for the project that the District can use.

### **PERMITS**

No permits required board action. The North Fork Creek Lot 1 development asked the Board to cost share the water line improvement--this has no benefit to the District. The SFE allocation was cleared up

### **SFE REALLOCATION APPLICATION**

Boyne SFE Pool to Mountain Village Tract 5B: Edwards explained Boyne's request for a reallocation of 14.0 SFEs from the SFE Pool to Cascade Tract 5B so that they can add more Powder Ridge cabins. The reallocation request is in accordance with District ordinance.

*Director Olson moved to approve the reallocation application to transfer 14.0 SFEs from the Boyne SFE Pool to Cascade Tract 5B. Director Fast seconded the motion. Motion passed, 6 yea votes to 0 no votes with President Radick voting.*

### **NEW DEVELOPMENTS & SUBDIVISIONS**

Town Center, Avenue West: Edwards explained the development plan for the area, which starts across from the new Big Sky Western Bank According to Edwards, the project is being pieced together for water and sewer service as they pre-sell the parcels. Muscat is concerned that there is no overall plan for water and sewer service. Edwards added that you cannot see a direction with the master plan. *The Board directed staff to require that the developer/owner follow an appropriate master plan and they can then phase in the lines following the master plan. Edwards and Muscat will meet with the engineers and owner to discuss this. The Board wants to go on record that the end product needs to work and directed Edwards to draft a letter that has been reviewed by District legal counsel prior to sending.*

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Due to a commitment, Director Fast excused himself from the meeting at 9: 15 am.

### **DRAFT LEGISLATION**

Edwards reviewed the legislation on SB 376 and HB 251. SB 376 will provide the funding for the outstanding resource water designation for the Gallatin River. HB 666 cleans up the water and sewer districts state statutes and Edwards intends to write a letter on behalf of the District supporting the legislation.

### **GENERAL CORRESPONDENCE**

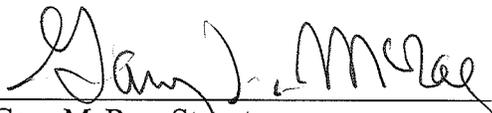
Neubaurer Correspondence: Edwards will relieve the Neubaurer's of the interest on this account while they are working with an adjacent condo owner on prorating the cost share of the water and sewer charges.

### **NEXT MEETING**

The next Board meeting is tentatively scheduled for Tuesday, March 22, 2005, at 8:00 AM. The annual dinner is scheduled for March 4 at Lone Mountain Ranch.

**ADJOURNMENT**

*Director Cronin moved to adjourn the meeting at 9:30 am. Motion passed, 5 yea votes to 0 no votes with President Radick voting.*

  
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Gary McRae, Secretary

2-22-05. min (Board Approved 3/22/05)

BIG SKY WATER & SEWER DISTRICT NO. 363  
**Regular Meeting Minutes – January 18, 2005**  
**Public Hearing – January 18, 2005**  
WSD Community Room

The Big Sky County Water & Sewer District No. 363 scheduled a regular meeting for 8:00 AM on Tuesday, January 18, 2005, in the WSD Community Room. Board members present were President Skip Radick, Vice President Packy Cronin, and Secretary Gary McRae; and Directors Dick Allgood, Director Bill Olson, William Shropshire, and Dick Fast (arrived at 8: 14. WSD staff present were Ron Edwards, Marlene Kennedy, Terry Smith, and Jim Muscat. Others present were Silvertip representatives Terry Threlkeld, Dennis Hoeger, and Eric Ossario.

**PUBLIC FORUM**

With no public comment, President Radick called the meeting to order at 8: 10 AM.

**MEETING MINUTES**

*Director Shropshire moved to approve the minutes of December 21, 2004, as written. Director McRae seconded the motion. Motion passed, 6 yea votes to 0 no votes with President Radick voting.*

**FINANCIALS**

Smith reviewed the financials, noting operating revenues as favorable and operating expenses as unfavorable. The higher expenses are due to the depreciation cost for additional water and sewer extensions conveyed, plus the high heating and electric expenses of the new treatment plant. According to Smith, there are sufficient operating reserves to cover the additional operating expenses. The audit extension will be through March 31, 2005, and Knaub should be at the March meeting to present the audit to the Board before submitting it to the state. Smith explained that the extension was necessary as he had delayed Knaub and Knaub also pushed out the audit. The Board agreed to Smith's request to approve SRF payments as a recurring wire with Big Sky Western Bank.

*Director Cronin moved to approve the December financials as presented. Director Shropshire seconded the motion. Motion passed, 7 yea votes to 0 no votes with President Radick voting.*

**SEWER OPERATIONS**

Edwards reviewed Burroughs's report stating that the flows are going through a new flume and he believes this data is more accurate. Graphs in the board packet showed the comparative analysis with the mountain village now at 56% of the flows. Spanish Peaks will be connected sometime next year.

**WATER OPERATIONS**

Edwards reviewed Muscat's flow reports including a year-end summary that was provided in the board packet. The Yellowstone Club is at 41.6% of their allocation with the agreement with the District and they will have to do some work at finding leaks. The Meadow Village production was down from 2003, and the Mountain Village was higher than 2003. Aspen Groves was also higher in 2003 which is due to more hookups in that subdivision. Director Cronin felt that the lower water use in 2004 was also due to the amount of rain received. Total water production for each year was summed together in a graph in the board packet.

Edwards reviewed the pump run times, or the hours each pump is running. Meadow Village wells run times average 15.9 hours per day, but the critical time is the summer months when they are running approximately 22 hours per day. At 24 hours per day, we will run out of water. Edwards said we still have some work to do in the meadow to regulate the run times of the pumps. Director Shropshire said if the data is accurate, we have no reserves in the summer. Additionally, concern was raised a few meetings ago and these numbers now show the seriousness of the issue. Edwards said the District has not factored in the recent improvements, which is about 260,000 gallons per day increase. President Radick noted that Muscat alerted the Board of the situation in the critical months. Muscat reported that the good news is that a pump has been changed out and production went from 80-90,000 gallons per day to 260,000 gallons. Muscat noted that the aquifer in the meadow is low in the winter and the MV well is pumping less volume. Muscat also reported that the HV #3 well could produce at 50 gpm with successful treatment,

The Aspen Groves wells are experiencing turbidity and Muscat is working on identifying an obvious problem, with no success as yet. One of the AG wells is drastically different in water quality with high turbidity. The cleaner of the two wells is back on line, and Muscat plans to not use the second well this winter so that he can try to get acceptable water. Muscat has talked to Jim Potts, Potts Drilling, about the AG system and Muscat would like the Board to consider drilling a new large volume well where the excess water would be used to fill both the Aspen Groves and MV tanks Muscat believes that there is water, we just need to tap into it. Edwards stated that the problem the District will have with a new well is on water rights and we may need to purchase a water right. If the District drills a new well, it would probably take a year, or two, before we could put it on line. For now, the District will need to maximize the existing wells. Edwards explained that the Yellowstone Club pulls water from the mountain system, and they have drilled a well to replace the water they are purchasing. President Radick said that infrastructure needs to control development. Edwards does not want to use surface water and treat it. Director Cronin suggested that we look at taking water from the mountain to supply the meadow. Muscat stated two wells at the mountain, #5 and #6, have H<sub>2</sub>S that would need to be treated. Edwards reported that the Spanish Peaks water system will probably be tied into the meadow system in the future. Director Cronin stated that the District needs to look at the water as a pressing issue, starting right now, to get improvements in place within a year. Director Shropshire concurred, stating that the demand will be considerably greater as the community continues to grow.

Edwards reported that when the Town Center was developed, Simkins drilled a well on the south end of Section 1; but with objections filed, the well never came on line. Edwards stated that if a water right can be obtained for this well, it would be a good addition. Also, Westland has expressed an interest in working with the District on this. Edwards feels that the District would stand a much better chance at getting the water right than Simkins.

Director Fast asked how we quantify the capacity on the water available in the aquifer. Edwards reviewed precipitation data in the area, stating that we may be in line for another dry year. Terry Threlkeld recommended tying the two systems (mountain and meadow) together as a long term plan and added that all the other quick fixes discussed would just be a Band-Aid. Muscat reiterated that the Board needs to remember that mountain wells #5 and #6 need to be palatable

to be used. *Director Cronin directed Edwards to prepare a study on what it would take to get the mountain water connected to the meadow and to present his findings at the February meeting.* Director Olson is concerned about production and that, at some point, we need to start looking at additional water rights and this should be started now. *The Board wants to know the total build out demand volume, and what is required to secure water rights.* Edwards will work on what it will take to secure an 186 1 water right and report to the Board. Director Fast asked what the District could do to restrict landscaping and irrigation. Director McRae asked if additional storage could be built. Edwards said mountain water could be taken and put into the existing storage. Muscat said, as time goes on, the District will have to increase storage beyond the new million gallon tank. *Edwards will put together a feasibility study on bringing the mountain water to the meadow and obtaining water rights.* Edwards would also like to do more line replacement since production is 1/3 higher than the metered use. Muscat agreed with Edwards' recommendation. President Radick stated that the budget allows for repair and maintenance and the District can plan for replacement through that line item. Director Allgood asked if the technology of using a pipe liner would make a difference. Muscat responded that the service lines would have to be tapped and this would make it nearly impossible. *The Board directed Muscat to present a replacement schedule at the next meeting.*

**AMEND AGENDA:**

*Director McRae moved to amend the agenda to accommodate the Silvertip representatives. Motion unanimously passed.*

**SILVERTIP BANKRUPTCY PROCEEDINGS:**

Dennis Hoeger informed the District that he has been appointed by the court to sell the Silvertip (Berlin) property to settle with creditors of the development. His mission is to sell the property as quickly as he can, for as much money as he can. Eric Ossario has been appointed as the realtor to sell the property. Hoeger hired Terry Threlkeld because of his familiarity with the original development plans. According to Hoeger, Bob Berlin no longer has any say in what happens to sell the property. Hoeger asked the Board to consider allowing the property to come into the sewer and water district with connection to both services. Hoeger believes that there would be benefits to the community if this property was allowed into the District. Ossario said that the challenge to selling the property is that the water agreement with the District was terminated in October and he would also like the property annexed. Ossario believes a well could be drilled, and there is also onsite sewer capacity for about 25 SFEs. Ossario would like the District to agree to a conditional service agreement that would then allow the District and community to control the development. Threlkeld reported that the original plan was for on-site sewage treatment and the District would provide water. Now with the agreement terminated, the development may have to start over and Threlkeld is uncertain if approvals could be obtained from the State and he also feels that it makes more sense to bring the agreement back into play. Threlkeld recommended bringing the property into the District as it would make sense since it is essentially surrounded by District property. As an incentive to the District, Threlkeld proposed the use of an accelerated plant investment charge on the property. Threlkeld would like the Board to consider "an intent to annex" the property with a range of 25-50 SFEs made available. The Silver-tip representatives would like an agreement in principal for service with the District that a potential buyer/developer could then use to prepare a development proposal for final approval from the Board. If that is not possible, the representatives asked the Board to just resurrect the water agreement. Threlkeld also stated that DEQ would prefer that the property be

in a public system, the District. Director McRae asked how much protection the bankruptcy court has from the original developer. Hoeger assured the Board that any language could be added to the agreement to protect the District. President Radick reported that the District made it plain in the beginning that it was never the intent for this property to be in the District. However, the water agreement could probably be resurrected under the original reason. Additionally, the public utility does not have a responsibility to cover private development. Director Shropshire asked what type of risk there is for pollution from an onsite sewage system. Threlkeld responded that DEQ will require data on solution by dilution. Threlkeld said having an on site sewer system is not a good idea. President Radick said the District would open a can of worms if we open the doors by providing SFEs and annexation into the District for the Silvertip property when there isn't a great benefit to the District. Director Cronin noted the Board's lengthy conversation on the District's water capacity and that capacity is an issue along with it being unfair for the District to give a "maybe" answer in order to market the property. Director McRae asked how the property was eliminated from the District in the first place. Edwards reported that, in error, Lone Mountain Springs put in a water line through the corner of the parcel in their sloppiness; but it was never contemplated that the property would be served. Threlkeld stated, additionally, that no one envisioned the development potential of Big Sky in the initial planning stages. President Radick summarized that the problem presented for marketability of the property is whether the property can be in the District. President Radick stated it is difficult to justify allowing the property into the District. Ossario reiterated that allowing the property to join the District can provide for control of what is developed. President Radick said it is not the District's responsibility to control the use of the property, it is up to the seller to set the development limits of the property. Edwards reported the water development capacity was for 15.53 SFEs in the original agreement. Threlkeld said the treatment plant capacity is not the reason for denying the annexation request. Threlkeld suggested having the Board come up with something that would be a gain for the District to allow this property into the District. Director Cronin commented that the District can fix its own lines, build its own storage, and drill its own wells. And, that the District cannot do deals unless it is a benefit to the District that the District cannot provide for itself. In response to Board questions, Hoeger said the property would have to be sold for \$3.5 million for Berlin to benefit. Additionally, about \$2 million is owed to Berlin's relatives and these claims have been approved as valid by the court. Edwards asked if employee housing could be a stipulation. President Radick responded that the Board would be held accountable for something somebody may not like and it is not this Board's responsibility to regulate what kind of development should be allowed on this property. Director Olson stated his concern is about the property having a drain field next to Lake Lavinsky and, for that reason only, the District should try to consider this a special situation with an open mind. Director Radick reminded Board members that we had a similar situation with Pariser and his Firelight development, which is next to the Gallatin, and we did not allow Firelight into the District. President Radick doesn't feel this situation is any different. President Radick asked if technology has changed in the last seven years to allow more development. Threlkeld responded that an advantex system may work better than a sand filter, but this would not allow additional development. Threlkeld said this is a unique situation, and when Firelight approached the District the treatment capacity wasn't available. Threlkeld said they will review all the opinions and information shared by the Board members and then they will come back to the District with a formal proposal. Threlkeld informed the Board that DEQ will require that the District either formally deny the request for annexation, or allow annexation. President Radick stated that even the original water agreement was limiting and recommended that they come back to the Board with a formal agreement. Hoeger stated that he has until May 2006 to sell the property before it goes to the court for auction.

### **LONG TERM COMPLIANCE WORK PLAN**

Edwards stated there is no work being done by the contractor now. The outstanding issue is the finish of the aeration pond and Ray Armstrong will make a presentation of different options at the February, or March, meeting. Director Allgood asked about the high operating costs. Edwards said the costs per kilowatt hour is probably higher than what the engineers originally estimated. Director Allgood asked if Northwestern has been asked to check the reliability of the meters. Director Cronin asked if the District gets a better rate for off hours. Edwards said we do not get special rates. Initially, Edwards felt the aerators might have used more electricity, but now that they are down, it isn't the case. *The Board directed Edwards to look at getting special rates for running pumps at off hours, especially when the booster station to Yellowstone Club is used.* Bodell's retainage was held at \$60,000. Edwards reported that about 1,000 yards of sludge is stockpiled below the ponds and he hopes to use it at Spanish Peaks as it would be cheaper using it locally. There are about another 1,000 yards of sludge to process. Director McRae stated that the land below the plant needs to be restored and the District should look into the land owner using the sludge in its restoration process. Edwards reported that EPA has approved the sludge use for the golf course.

### **PUBLIC HEARING--RESOLUTION 01-04: Exclude Uplands Residential Cluster B Subdivision From the Water System Jurisdictional Area**

President Radick called the public hearing to order at 10: 10 am without any public in attendance. Edwards reviewed the history of the exclusion request and described the property to be removed from the water jurisdictional area. By removing this property from the water jurisdictional area, it will take the property off the tax roles for repaying the bond debt for water improvements.

*Director Allgood moved to adopt Resolution 01-04, which excludes Uplands Residential Cluster B Subdivision From the Water System Jurisdictional Area. Director McRae seconded the motion. Motion passed, 7 yea votes to 0 no votes with President Radick voting.*

### **WATER FACILITIES PLAN**

Vacate Water Tank Easement: Edwards reported that the easement on this Westfork property is no longer needed and he has asked John Brown to draft a document to remove the easement..

### **LEGAL**

Sarah Hall: The board packet included the discovery document and Edwards has met with John Brown. Edwards and Brown will prepare a response to the questions directed to the District and copy the related files.

### **PROPOSED DEVELOPMENTS & SUBDIVISIONS**

Cascade Ridge & The Knob: Edwards said the District is at a point to approve the development. Ray Armstrong has reviewed the engineering work and agrees with the plan.

### **HIDDEN VILLAGE ROAD REPAIR AGREEMENT**

Edwards had sent the agreement to the HV chair to sign, and their response came from an attorney to add language that will not release the District forever for road damage for future work. The Board directed Edwards to have District legal counsel to review the suggested changes to the document. If counsel approves the language change, then the Board agrees with the proposed change.

### **SPANISH PEAKS ANNEXATION PETITION**

Wade Panel1 has withdrawn the Spanish Peaks' petition for annexation of property in Section 32 and Edwards believes their development plans have changed overtime. Edwards also believes that their onsite septic systems are working well now and they don't need to connect to the District's sewer system.

### **CAR WASH PROPOSAL, MEADOW VILLAGE LOT 3A**

Edwards attended the zoning advisory meeting on January 3 where they were requesting a conditional use permit. With the exception of one person, which was the land owner, most of the comments were calling for rejection of the proposal. Edwards feels the proposal for a car wash at this site will be denied. The request will now go to Gallatin County for review and approval, or denial.

### **PERMITS**

Edwards reported that only one permit application was approved, which was for adding a bathroom to a commercial unit in Westfork Meadows. Director Allgood asked if the total SFE number is correct. Edwards explained that the sum is accurate with the changes made in the database.

### **HOUSE BILL 251**

Edwards reported that he has received six calls on this bill, but he doesn't believe it affects the District. However, Edwards recommended that the District continue to hold on to its discharge permit even though the District doesn't plan to use it. Edwards said the term "permit" is vague in the bill, but he believes it means discharge permit. Director Shropshire said the intent of the bill is to force DEQ to do an environmental impact study. The bill could also be used broadly with the vague term "permit." The Board feels that this bill could limit septic permits, too. Edwards will talk to representative Mike Wheat about the bill.

### **GENERAL CORRESPONDENCE**

Aspen Groves. Amended Lot 6, Jim Jones: The Board previously agreed to the amendment with both lots being connected to the system. Jim Jones has agreed and Edwards will comment to the engineers that the preliminary proposal is consistent with what the Board has agreed to.

### **SILVERTIP DISCUSSION**

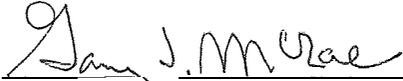
Director Fast asked if the Silver-tip could come up with SFEs from another development would the Board then allow them into the District. President Radick stated that the property is outside of the District and we should not annex the property in due to the precedent it would set. Additionally, the District has no benefit by annexing the property and the Board does not want to fall into their proposal of being in control of what is developed on the property. President Radick stated he felt that there was no compelling reason to allow annexation other than to get rid of an eyesore to the community. Director Allgood stated that if a specific development plan was proposed to the Board, he would consider it for approval. Director McRae feels that the property would sell for \$1.5 million if the District would agree to providing water, as in the original agreement. The Board is prepared to agree to the 15.53 SFEs for water service.

**NEXT MEETING**

The next Board meeting is tentatively scheduled for Tuesday, February 22, 2005, at 8:00 AM.

**ADJOURNMENT**

*Director Cronin moved to adjourn the meeting at 10:43 AM. Motion passed.*

  
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Gary McRae, Secretary

1- 18-05. min (Board Approved 2/22/05)