



Board of Trustees
Minutes of Regular Meeting
Tuesday, February 5, 2013
6:00 P.M.
Board Room
Minden-Gardnerville Sanitation District
1790 Hwy. 395
Minden, Nevada

Board Members Present:

Robert Allgeier
Mark Dudley
Michael Henningsen
Barbara Smallwood
Raymond Wilson

Staff Members Present:

Frank Johnson
April Burchett
Brian Buffo
Bruce Scott
Bill Peterson

Others Present:

Rob Anderson
Greg Urrutia
Jeremy Hutchings
J.S. Sullivan

Board Members Absent:

None

Meeting called to order at 6:00 p.m. by Michael Henningsen, Chairman

Claims Review and Approval – The claims were reviewed by the board and questions were answered by Frank Johnson. **Motion by Barbara Smallwood to approve the claims received for January, 2013 in the amount of \$64,289.70, and to approve the claims paid during January, 2013 in the amount of \$120,100.45.** Seconded by Ray Wilson. Motion carried unanimously.

Minutes of January 3, 2013 Regular Board Meeting and January 25, 2013 Special Board Meeting – The minutes of January 3, 2013 and January 25, 2013 were reviewed by the Board. **Motion by Robert Allgeier to approve the minutes of the January 3, 2013 Regular Board Meeting and the January 25, 2013 Special Board Meeting.** Motion seconded by Mark Dudley. Motion carried unanimously.

Public Comment – There was no public comment.

MGSD Heat Loop Project – Frank Johnson reported that West Coast Contractors mobilized last Friday and it is anticipated that construction will begin later this week.

New Beginnings Housing LLC – Extension of Time Request and Reconsideration of Fee Waiver - Represented by Jeremy Hutchings, Rob Anderson, Greg Urrutia, and J.D. Sullivan. Mr. Urrutia requested a reconsideration of the decision that was made at the January meeting regarding the capacity



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fees. He noted that one of the reasons the project was previously extended was that it was an affordable housing project, and he noted that the project is still an affordable housing project, and that no precedent is being set by granting the extension. Mike Henningsen requested a legal opinion from Bill Peterson. Bill Peterson discussed the history of the ordinance, and noted that the ordinance was implemented at a time when the District was facing an active construction and development climate, resulting in developers wanting to bank capacity. That situation does not now exist. He stated that sufficient reasons have been presented by Mr. Urrutia for the board to allow an extension of the capacity under Chapter 22 of the Code. He also suggested that the forfeiture policy in the Code has outlived its usefulness and that it is time to make some adjustments to the ordinance to cover the District's concerns. Mark stated that his concern at the January meeting was that this project had been extended for 13 years, and he wondered how to keep track of capacity allocated to a project over the long term, but there are other properties in the District that have additional capacity. He thought the project is a good project and would like to see it go forward, and that perhaps the Board was hasty last meeting in making the decision to deny an extension. Discussion followed regarding the current status of the project and the project schedule, the break-ground date is March 1st, the plans have been submitted to MGSD, and bonds have been paid for the sewer main extension. Greg also pointed out that the forfeiture process also delayed extension requests. Discussion followed regarding the number of units needed for this phase of the project, and additional capacity needed for further development on the property located behind the project. Greg requested an extension of all the capacity for 2 years with status updates every 6 months. He felt that if the project hasn't moved forward by that time, then the units would be forfeited. Barbara Smallwood noted that the applicant purchased the property knowing the capacity had expired, and she felt the forfeiture policy was a good policy, so she did not support extending the capacity. Robert Allgeier stated that the District is in good shape because prior boards conformed to the Code, the Code did not state a legal obligation to continue extensions to new property owners, and he also did not support extension of the capacity. Ray Wilson pointed out that the Code states the Board can grant only one 6-month extension, but that prior boards did an excellent job keeping user fees to a minimum, so he felt that the prior boards had good reasons to keep extending the project. Ray also noted that at the January meeting the applicant asked for reinstatement of 30 units to serve the first phase of the project. Ray stated he was torn between an obligation to the rate payers and following the Code. J.S. Sullivan pointed out that with granting extensions in the past, the Board had set a precedent. Rob Anderson stated that it is in the interest of the ratepayers for the Board to extend the capacity, since the connection fees of \$275 per unit will be payable to the District, and the increase in the taxable value of the property will benefit the District. Bruce Scott asked for clarification of Chapter 22 of the code. Mike Henningsen stated the Board's reasoning of extending the capacity in the past due to various reasons, including the economic downturn, but he also felt it was time to bring this project to a resolution.

Motion by Barbara Smallwood to deny the request for extension of 73.6 units of capacity for New Beginnings Housing located at 1331 Stodick Parkway. Seconded by Robert Allgeier.



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Discussion: Ray asked for more information from Greg about what he is willing to do to satisfy MGSD's need to bring this project to completion. Greg asked when the condition regarding forfeiture becomes satisfied and extensions are no longer required. Bill said it's when the developer enters into a binding contract with a contractor and has approved plans. Ray stated he is willing to do one 6-month extension, but only one. Mark asked for something in writing that states the developer acknowledges the project will be under construction in 6-months or the capacity will be forfeited. Greg was amenable to the 6-month condition and he was willing to sign a release. Bill pointed out the project must be constructed in 6 months after entering into a construction contract. Discussion followed regarding what constitutes completion of construction, completion of the sewer improvements or completion of the buildings and entire project. Discussion also followed regarding whether completion of the stub to the additional parcel satisfies MGSD's requirements to allow extension of all 73.6 units. Bruce pointed out that it is not possible to completely construct a project in 6 months, so he believed connection to the collection system should constitute project completion. Bill Peterson stated that the Code allows the board to use its discretion to set the conditions for extension. Ray felt that if there is not a current plan for use of the additional 43.6 units of capacity, then those units should not be extended.

Vote: Ayes: 2 (Allgeier, Smallwood); Nay: 2 (Dudley, Wilson); Chairman voted Nay. Motion failed.

Robert Allgeier and Ray Wilson suggested a recess for legal counsel to meet with 2 Board members to draft motion language to grant a conditional extension for a portion of the capacity. Meeting recessed at 7:05 p.m.

Meeting reconvened at 7:20 p.m.

Motion by Ray Wilson to grant a one-time extension for 30 units of capacity to New Beginnings Housing subject to use of the capacity as stated in the MGSD Code, which is: entering into a binding contract with a contractor within 6 months of the date of approval of the motion; completion of the project within 6 months after entering into the contract; and if less than 30 units of capacity are used, then the additional capacity is not subject to refund; and this grant of extension is conditioned on and subject to the applicant's acceptance of these conditions, which includes loss and forfeiture of all remaining units in the original allocation including 43.6 units. Discretion was exercised in making this motion, in that granting of the extension would be of benefit to the ratepayers of the District due to the creation of additional income to the District from connection fees and increased tax revenue, and applicant acknowledges that this extension and forfeiture of remaining allocation is fair and that the extension would not be granted without forfeiture of the remaining 43.6 units. Seconded by Mark Dudley.

Discussion: No further discussion.



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Vote: Aye: 2 (Dudley, Wilson); Nay: 1 (Smallwood); Abstain: 1 (Allgeier); Chairman voted Aye. Motion carried.

Mr. Urrutia and Mr. Sullivan specifically acknowledged that they understood and agreed to the conditions laid out and the applicant accepted them all without reservation. (correction noted per March 5, 2013 minutes).

Greg Urrutia withdrew his request for a waiver of the fees and thanked the Board for reconsideration of the extension of the capacity.

Attorney-Client Conference – Bill Peterson reported on the following:

Open Meeting Law: Bill stated that a question arose about taking action on staff reports. The basic rule in the Attorney General's Open Meeting Law Handbook is that the agenda should be clear of what will be discussed or acted on. The Handbook notes that the board should not take action on an item under the manager's report unless the item is listed under the report. Bill stated that if something requires a motion, it should be listed on the agenda. Bill offered to look at the agenda prior to posting to make sure it meets the Open Meeting Law. The Board concurred. Discussion followed regarding how the Attorney General's office handles violations against the Open Meeting Law and regarding various questions about how to handle specific situations that arise during board meetings, including calling other board members, deciding on issues in a timely manner, continuing items to another meeting.

Capacity Forfeiture Policy: Bruce suggested that the Board direct Bill to look at the Code and provide some suggestions for changes, since some of the policies may now be outdated. Bill suggested that the Board, District Engineer, and District Manager decide what the Board wants to accomplish. Mike Henningsen requested an item be placed on the March agenda regarding the Code policy on the forfeiture of capacity.

Secretary-Treasurer Duties: Bob Allgeier stated that he did not feel that he could carry out the duties of Secretary as outlined in NRS, and he suggested that April Burchett be formally nominated to be the Secretary to the Board with no increase in pay, because she is already performing the duties. Bill stated that the Board must have a Secretary, but the Secretary does not have to be a member of the Board. Bob stated his intent is to resign as secretary at the March board meeting. April thanked the board for their confidence in her abilities, but due to ongoing and anticipated increase in office workload, she respectfully declined the position. She suggested another board member be nominated Secretary. Barbara related that in her experience with board officers, the title is held by a board member, but the duties are performed by staff. Bob Allgeier requested an agenda item on the March agenda to elect a Board Secretary.



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Restricted Funds: Bob Allgeier requested an item be placed on the March agenda to begin discussions about the possible re-allocation restricted funds, specifically odor control. Bill said he issued an opinion to the Board that states the Board is allowed to re-allocate the restricted funds. He asked that the opinion be provided to the Board members.

Board Compensation: Ray asked if compensation for the MGSD Board as outlined in NRS Chapter 318.085.5 is up to \$9,000 per year as opposed to \$6,000. Bill agreed that the Board can earn up to \$9,000. Ray requested an item be placed on the March agenda to increase the Board's compensation.

Discussion followed regarding business impact statements. Bill noted that MGSD does business impact statements only on items that impact fees. MGSD does not note on the agenda a business impact, but the agenda item cannot go forward unless a business impact statement is completed.

Engineer's Report –Bruce Scott reported on the following:

Carson Valley Inn: MGSD still hasn't received an annexation submittal for the proposed Events Area in the parking lot. He anticipates that this item will be on the March agenda.

Maverik: The Maverik station has completed construction, and is opening tomorrow.

Pretreatment Ordinance: Bruce reviewed the history of the Pretreatment Ordinance as mandated by the EPA, and MGSD's proactive action on drafting an ordinance in order to bypass review and possible requirements by NDEP. The draft Pretreatment Ordinance is proceeding and will be available for review in next couple of months.

Collection System Master Plan: Bruce anticipated that the Collection System Master Plan will be available at the March meeting.

District Manager's Report – Frank Johnson reported on the following items:

Capacity: The Ranch at Gardnerville purchased 2 units of capacity during January.

Reno Rendering Contract: Frank presented a contract with Reno Rendering for grease receiving. Bill and Bruce reviewed the contract language and they both agree the language meets MGSD's needs. Discussion followed regarding the number of times per week the grease is received by each supplier. The contract is for one year at a time, since it was not possible to get Reno Rendering to agree to a longer-term agreement. Bill stated that the Board does not need to make a motion to approve the contract. This contract will be used as a basis for contracts with other suppliers. Frank asked Bill to make changes to



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the section on the delivery schedule. Bill will make the changes and get the revised agreement to Frank for signature.

Walmart: Frank stated that the Chairman signed the easement presented by Walmart at the January meeting, but changes have been presented to MGSD after the easement was signed. Frank asked that Bill and Bruce work with Walmart on the easement language. Walmart cannot get their final Certificate of Occupancy until the easement is recorded. Bill recommended that the easement language be provided by MGSD not the developer.

Pond Repair: Frank has been corresponding with Warren Reed Insurance regarding the claim for the pond repair. The insurance company requested additional information, and Frank provided the information to them

Secretary's Report – April Burchett reported that she will have 5 or 6 annexation ordinances for board approval in the next couple of months. The annexation agreements and updated boundary map have been recorded, but the ordinances need to be approved by the Board.

Discussion followed regarding the list of properties provided by GRGID each quarter. Ray asked to see the list that is provided by GRGID. April stated she printed the current GRGID boundary map and will review the next printout in March or April to see if anything new is added outside the boundary.

Public Comment – Discussion followed regarding the staff bonuses awarded in January. Frank stated he met with the staff and the bonuses were awarded. Brian Buffo stated the staff members were happy to receive the bonuses. Ray noted that he is impressed with how hard-working and dedicated the staff members are. The plant is very clean and problems are addressed immediately. This contributes to the District's ability to keep the user fees low.

Board Comment – There was no Board comment.

Meeting adjourned at 8:45 pm

Approved _____ By _____.



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Date

District Secretary

/ab