



Board of Trustees  
Minutes of Regular Meeting  
Tuesday, December 2, 2014  
6:00 P.M.  
Board Room  
Minden-Gardnerville Sanitation District  
1790 Hwy. 395  
Minden, Nevada

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Board Members Present:

Raymond Wilson  
Barbara Smallwood (portion)  
Mark Dudley  
Michael Henningsen  
Robert Allgeier

Staff Members Present:

Frank Johnson  
April Burchett  
Bill Peterson (portion)  
Brian Buffo  
Bruce Scott  
Sarah King

Others Present:

Chad Walling  
Greg Weyland  
Jeremy Hutchings  
Lynelle Hartway  
Michael King  
Rob Beltrano

Board Members Absent :

None

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*Meeting called to order at 6:00 p.m. by Ray Wilson, Chairman.*

Public Comment: - There was no public comment.

Claims Review and Approval – Ray questioned the bill for Zalreich Chemical and Frank explained that the product is bought in bulk once a year. Bob asked what the Gap Vax was and Frank stated it was the line cleaning truck and that was the brand of that particular truck. Bob also asked about the Power and Control Solutions bill and was informed that it had been in the operating budget for a repair to Pump Station # 1. Bob then spoke about the SCADA system failure and asked what could be done to prevent such an event in the future. Mike mentioned that that currently sewer plants have secure apps on their phones that interface with the operator phones and if that was something MGSD could have. Frank stated that with the future upgrade this could be included. **Motion by Mike Henningsen to approve the claims received for November, 2014 in the amount of \$181,546.76 and to approve the payroll-related expenses paid during November, 2014 in the amount of \$82,459.59.** Seconded by Mark Dudley. Motion carried.

Minutes of November 4, 2014 Regular Board Meeting – April informed the Board that Barbara Smallwood had called to point out a missing line in the minutes which had since been revised. **Motion by Bob Allgeier to approve the minutes of the November 4, 2014 Regular Board Meeting with the amendment on page 2 noting the waiver of sovereign immunity.** Seconded by Mike Henningsen. Motion carried.

Washoe Tribe of Nevada and California Capacity Request – Represented by Chad Walling of R.O. Anderson Engineering and Lynelle Hartway, Legal Counsel for the Washoe Tribe. Frank asked Chad if they wanted to postpone the allocation of EDU's as the plans were not ready. Frank stated that the Board had agreed to allocate up to 50 EDUs. Bob wondered why it could not be done at the present time so as



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to not have them come back in the future. Bruce agreed that it could be done subject to review by the staff. The 50 EDUs could be allocated and when the plans were ready they could pay for the connection and capacity for up to 50 EDUs. There would still be a review of the plans but it should be pretty straightforward. Bob wanted to know if the National Indian Gaming Commission had been contacted with an approval. Lynelle stated that they had been contacted and had not responded, but they did not have to approve the project. Mark asked if more EDUs were required if they would have to come back before the Board and Frank informed him that he could approve up to 5 EDUs. Jeremy wanted to make sure that if the capacity came in under 50 they would not be required to pay for all 50. He was told that they would only have to pay for what they used, and mainly the Board did not want to hold them up. **Motion by Mike Henningsen to allocate up to 50 EDU's of capacity to the Washoe Tribe of Nevada and California for 36.6 acres located at 950 Hwy 395 N. (portion APN 1220-11-002-009), subject to the terms and conditions of the final annexation agreement between MGSD and the Washoe Tribe of Nevada and California. All rules, regulations, and requirements of MGSD are to be met and all fees paid.** Seconded by Mark Dudley.

Discussion: Bob asked if this was the motion prepared by Bill but was informed that this was a separate item just to allocate capacity. Motion carried unanimously. **(Motion later rescinded; see Page 4, below).**

**Attorney-Client Conference—It was decided to come back to this item later as Counsel for MGSD was not present.**

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

Bruce wanted the Board to know that on the County Commissioners agenda for Thursday, there is a discussion on Division 11 of the Douglas County Code. This deals with engineering standards for development. The County was going to include an appeal process for a contractor or a developer. Bruce has indicated to the County that MGSD does not have a problem with it as it allows the County to delegate more authority to MGSD.

**Barbara Smallwood arrived with an apology as the traffic signals were out which caused a buildup of traffic.**

The main item that Bruce had for the Board was the framework for the conclusion for the County Road Sewer Project. There are two things that can't be done until the spring. The County wants slurry seal for half of County Road from 5<sup>th</sup> to 2<sup>nd</sup> and to have some of the Minden streets which connect into County Road repaired, as they have been badly gouged. This would be the contractor's responsibility. There is money in retention which is about \$46,000 and will be held. There are a few recommended additional costs which are still less than the bid that was approved by the MGSD Board. Change Order 1 is deductions from the cost of the project. There was a sewer spill where MGSD had the vac truck and personnel and coordination with NDEP. Secondly the asbestos cement pipe was removed and a couple



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pieces were ground into the trench and had to be removed. Also a plug was left in the manhole at 8<sup>th</sup> St. It was plugged for a while, which caused the sewer to back up and Summit Plumbing had to be called in. The biggest single back charge is for the 29 days of extra time required to complete the project by the contractor. RCI is recommending a substantial amount of liquidated damages at \$500 a day and an approval of Change Order number 1 which is a deduction. A few things were done under the force account. With the deductions and the final quantities, the force account was not exceeded. Money left from the force account and the deductions have made it under the budget. It has cost the contractor money and also MGSD due to the extra work by RCI and the extra time. The contractor has been made aware of this and has signed the application and certificate for payment. It was felt that liquidated damages was the way to go as the contract allowed for up to \$1200 for liquidated damages a day. Bruce explained the method that he used to come to the number of \$500 which he felt was fair, and thought that 29 days late was a lot of time, and it had caused a lot of headaches for the residents. Mark felt that this was the problem with going with the lowest bid. Ray wondered if they would be used again. Bruce explained that they were easy to work with but had to be watched constantly. Ray also asked if the damages could have been avoided and Bruce stated that had a different contractor been used it may have been avoided. Bruce recommended the approval of Change Order 1. There would be a final payment request sometime in the future when the work is finished on County Road.

Bob had a question about the expense summary and asked what was being owed and being held. It was explained that it was the extra cost to RCI. **Motion by Bob Allgeier to approve the RCI Change Order 1 accepted by the contractor and approved by RCI on 11/12/2014 in the amount of \$19,077.50.** Seconded by Mike Henningsen. Bruce asked to have it noted that the change order is a deduct. It was decided to withdraw the motion and second to include the deduct. **Amendment to the original motion by Bob Allgeier to approve the RCI Change Order 1 accepted by the contractor and approved by RCI on 11/12/2014 in the amount of (\$19,077.50) which is a deduct.** Seconded by Mike Henningsen. Motion carried.

**Bill Peterson arrived at this time. It was decided to resume item 6 on the agenda that had been postponed until his arrival.**

**Attorney-Client Conference:** Bill apologized for being late and asked the Board to explain to him about the 50 EDU approval and what had transpired. Ray explained that up to 50 EDUs had been approved for the Washoe Tribe of Nevada and California. Bruce stated that plans would be submitted, reviewed, and then Frank would calculate how many EDUs would be required, and payment would be made before a permit would be issued. Bill pointed out to the Board that once the EDUs have been approved the clock starting ticking. Barbara questioned why a document that was not on the agenda was being discussed. It was explained that this document was part of the attorney client conference. Bill explained that once capacity is allocated it has to be paid for within nine months. Bruce felt that if they did not pay for it within the nine months then they would lose it and have to start all over again. He felt that within a



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month or two there would be a firm capacity request. Bill explained that this was a reservation of capacity and not an allocation. April informed Bill that this was how it was done in the past and that she sends reminders by certified mail to the customer that the time is running out. Bruce explained to Bill how the Board had come to the decision to allocate up to 50 EDUs to save them coming back. Frank stated that the Board is allowing him to allocate up to 50 EDUs. However Barbara felt that if these EDUs were allocated to the Tribe without being purchased then they are not available for another person's use. She also wanted to know what the motion had said. Discussion followed about what was said. Mike wondered if the payment was not received within the designated time frame, if the capacity was lost. April stated that it was so. Mike spoke about allocation where the customer wanted the money back. So he felt allocation did not mean anything until money is received. April explained there have been several projects that have been handled in this way. Mike referred to a past incident when allocation was made and money was paid but the capacity was never used and then the person wanted the money back and he felt that MGSD should be clear on due process. Discussion followed and Bill questioned why it was being done differently this time. He felt per the ordinance that the capacity should be allocated when a person knows how much they need and then payment is required within nine months to be used within two years. Ray explained to Bill that the customer was going to do it that way and come back to MGSD the following month with a request for capacity but the Board had decided to go ahead and approve it to avoid them coming back. Jeremy approached the Board and spoke about the old days when capacity was short and that policy was in place but felt that the motion was correct as they would be using the capacity within the next three months unlike the previous client who the Board had mentioned. He stated that it is not the case here and felt it was an administrative deal to allow Frank to approve the allocation. Bill stated the Board was being logical but explained that the ordinance was written a long time ago and if the Board went with the motion then they were not following the rules and the contract that he had written would be wrong. Bill also stated that they would not need to come before the Board as Bruce would present to the Board the capacity requirement. Bill wrote the contract that they would get annexed and when they knew what the capacity requirement was then they could request it and not even have to show up before the Board. Bob asked if the Board should rescind the prior Board action and withdraw the action on that item. Bill stated he felt more comfortable with doing it that way. Bob stated that the Tribe could not go forward with the project until the National Indian Commission approves the project which had not yet happened. However Lynelle informed Bob that was not correct. The Indian Gaming Commission is not involved in the approval of the project but is involved in other various aspects of the project. **Motion by Mike Henningsen to rescind the previous motion to allocate up to 50 EDU's of capacity to the Washoe Tribe of Nevada and California which was item 5 on the agenda.** Seconded by Mark Dudley. Motion carried with Barbara abstaining as she had been absent for the prior motion.

Jeremy asked if going forward they would be required to pay for all the capacity when it is allocated. He was informed that was so. Bill explained that in the old days capacity was scarce and the old Board stated that if a person wanted capacity they had to pay for it and use it within a certain time to prevent people banking it. An extension could be requested. Bruce also informed the Board that in the midst of that time there had been a rate increase so people were rushing to buy capacity at the lower rate. Bill also



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explained that the procedure was simple, when the property is annexed then they could come for the allocation of what they needed and then pay for it. Frank also stated that once the plans were ready, to come in with a request for allocation of the EDUs, and he would calculate them.

Ray asked about the contract and whether it could be discussed as it was not specifically mentioned in the agenda, and if it was considered an on-going matter. The annexation publication had taken place the prior month. Bill thought it was on the ragged edge and felt it should be noticed. However he felt the Board could approve it and take the action, then have it on the agenda for the next month to ratify the action. This way Lynelle Hartway, Counsel for the Tribe would not have to come back for the next meeting.

Bill stated that he had been charged by the District to prepare a Contract of Annexation as opposed to a contract of service for the Tribe. Certain provisions of the ordinance are being waived which the Board is entitled to do as a condition for annexation because they are not going to be annexed to either the Town of Minden or Gardnerville. That condition is waived for purposes of being annexed. The important thing for purposes of annexation, was that the Tribe would be treated like everybody else who is annexed into the District and so they would pay the acreage fee and annexation fee and the capacity fee when it is allocated and approved. This is how the contract is set up. April interjected that the acreage fee is not paid until it is signed by them and approved by MGSD. They have 60 days to sign and approve the contract and then pay the fee. Bill also explained that there would be the monthly fees for the use but the taxes would be an in lieu charge which would be determined by the Board and would be what they would be if they were a tax paying entity. It would be similar to a contract of service. The easements would be granted in the typical form which gives MGSD an exclusive right to keep other encroachment away. The Tribe would also give an easement through the property to go upstream. Unlike other users, there will be no lien rights and there is no ability to sue as the Tribe is a sovereign nation. Bill had written a document to waive the right to sovereign immunity which Lynelle had reviewed and revised. If payment is not received there would be mediation, followed by arbitration, and then the right to go to the local court. The rights are limited to collection. The Tribe is required to post a letter of credit equal to two years estimated payment. If MGSD wins, the recourse is against the letter of credit and then the Tribe would have to replenish the Letter of Credit as it is a revolving ongoing two years Letter of Credit. Lynelle stated that she was in agreement with Bill. Frank asked if more capacity was requested if the Letter of Credit would need to be increased. Bill explained that the Letter of Credit is to be reviewed once a year and amended as needed. Barbara questioned the agreement that was highlighted and wanted to know who held the Letter of Credit. Bill stated that the bank holds the Letter of Credit and explained that the highlighted items were only informational as they were the changes presented by Lynelle which are included in his document and he had no problem with it. Barbara had a question about the easements and Bill stated that the only change with the easements was to make a provision as required by applicable law. He referenced Section 3 of the contract. Barbara wanted to know what the applicable law was and Lynelle explained that easements through Trust property are governed by Federal law and any grant of easements has to follow the requirements of the Federal government. Barbara wondered since the Tribe wanted water if a 20 foot easement would be enough for both water and sewer. Bruce stated that 20 foot



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easement was required for sewer. Barbara asked if they had a separate easement for water and Lynelle informed her that they were working on it. Bruce explained how the easements could be worked to have both water and sewer mains with a ten foot separation and stated that it has been done in the past in other places.

Lynelle stated that if the Board approved the process then she could take it back to the Tribal Council for review and final approval, have it signed and then get it back to the Board. Bob asked if both exhibits included needed to be approved when the motion was made and asked for a wording for the motion so that they could start with the annexation agreement with the sixty days starting today, 12/2/2014. April explained that she would final it up and then they would have 60 days to respond with a check. It is then given to the Chairman to sign before being recorded. Bill also stated that the easements and letter of credit amounts would not be known until later. **Motion by Bob Allgeier to approve the agreement for the annexation contract pages 1 thru 11 with the Washoe Tribe of Nevada and California related to APN# 1220-11-002-009, the northern 36.6 acres including attachments exhibit 1 and exhibit 2 that were presented with the Board agenda.** Seconded by Mike Henningsen.

Discussion: Bill stated the agreement does not describe the property. Bob asked if the engineer would come up with the metes and bounds. April informed the Board that she would attach that and it had been received. Motion carried.

**Continue with the Engineer's Report:** Bruce stated that he did not have anything more as the monthly activities would be discussed by Frank including the sewer main dealing with Saletti's. Ray wanted to know if County Road from 2<sup>nd</sup> going west was always without a sidewalk. He was told that was so and that County Road was left exactly as it was to start with. Ray also had a question about Sonic and Bruce stated that a letter had been sent to them asking them to allow Frank and Brian to check MGSD's main when the digging started as they are changing several laterals. Most of the hurdles are over and they should soon be breaking ground.

Barbara wanted to know about the multi-family project at the Ranch at Gardnerville. Bruce stated it was in flux as they want a minor variance to have some RV spaces. They are still within the number of approved units but Bruce is waiting on revised plans. They started off as apartments but the contractor would like to change it to condominiums and has been informed that would require individual sewer and water lines which requires revised plans. Barbara also asked about the laterals to Sonic and Bruce explained that they would be using one or two of the existing laterals and installing one or two new ones which is why periodic inspection by MGSD was required.

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

EDU Allocations: There was 1 EDU sold during the Month of November. Bob questioned why the cost was different and Frank explained that it was the grandfathered rate for the old part of the District.



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County Road: Bruce had already covered this under the Engineer's report.

Saletti's Grease Interceptor: During a routine inspection of the line behind Saletti's Restaurant a lot of grease was discovered. This was because Saletti's has an antiquated grease trap. A certified letter has been sent to Saletti's and a meeting set up for 12/3/2014. The owner of Saletti's stated that he was grandfathered and also thought the grease came from the jail. Frank informed them that the MGSD Code does not include a grandfather clause. The jail line was checked and is clean.

Board Training: The training is scheduled for January 15<sup>th</sup> in the MGSD Board Room at 11:30am and would be noticed. Ray thought there would be more training in the future and hoped all would be present.

Truck Purchase: There have been funds allocated in the budget for the purchase of an additional truck. MGSD goes through State purchasing and it has been very difficult to get a response from the different dealers. Three bids have been received from Chevy, Ford and Dodge. The one being considered is from Champion Chevrolet with a bid amount of \$27,370 which is well under the \$40,000 that had been budgeted. There were questions about the costs for additional lights and racks. Frank explained that it would be a crew truck mainly for use by Brian Buffo and would have a rack, lights and a tool box. He was comfortable with getting the Chevy and delivery was out by about 8 to 10 weeks. Bob asked if \$35,000 was enough and Frank stated that would cover the cost. **Motion by Barbara Smallwood to have MGSD purchase a ¾ ton full size truck through Champion Chevrolet not to exceed \$35,000.00.** Seconded by Mark Dudley. Motion carried.

PERS Contributions: Frank informed the Board that he did not have this on his report but the contributions to PERS would be going up by 2½%. MGSD is a non-choice agency and this increase will be addressed in the next budget.

Retirement Party: The retirement lunch for Mike Henningsen would be held on December 9<sup>th</sup>, at 11:30 AM at JT's.

Frank had an interesting presentation for the Board on coring on County Road for the man holes.

Bob asked when the annual financial statement would be given to the Board and was told it would be at the January Board meeting. He also asked if the evaluation of the parts inventory had been done and if Frank had an amount. Frank stated that he had and his numbers were pretty close to the Accountant's numbers and it would be in the annual report.

Barbara asked about the letter from Allison MacKenzie that had been handed out at the meeting. Frank explained that the letter had just been received that day. Bruce explained that it looked like a certain portion of the acreage, in the Muller lane area, was being withdrawn from the effluent application and



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maybe Park was looking at selling this land. They had considered this in the past but it had not gone anywhere.

**Secretary's Report** – April explained to the Board that they needed to enroll into PERS as contributions would be made for them as of January 1, 2015.

**Public Comment** –There was no public comment.

**Board Comment** –Ray said it was a real pleasure working with Mike Henningsen and MGSD was going to lose a Mike and gain a Mike.

Mike thanked the Board for the experience of serving. He explained how he got onto the Board because of Leonard Anker. He spoke about the past when there was intense growth before the Board at all times and HDR, the engineering firm, was down a lot. He thanked Frank for his forethought in getting the Co-Gen and felt that it would be a positive step in the long run as GE is currently investing in wind projects. Stodick Ranch cut heating costs substantially by installing underground pipes etc. He felt that the Co-Gen was a shining example of progress. Mike wanted the Board to know it was a pleasure serving and he had really enjoyed it.

Barbara also wanted to thank Mike for serving. Mark thanked Mike who he has sat next to for a long time. Frank spoke about Mike being instrumental in a lot of personnel policies that are in place and working out personnel issues in the past.

April informed the Board that they may bring a partner to the lunch but she needed a head count by Friday.

Barbara wanted to thank April for amending the minutes and wanted to know if she could still sign them as she had not been present for their approval. Ray stated that the minutes were always well done.

***Meeting adjourned at 8:05 pm.***

Approved \_\_\_\_\_ By \_\_\_\_\_.

Date

District Secretary

:/smk