

**BIG SKY WATER & SEWER DISTRICT NO. 363**  
**Regular Meeting Minutes – January 13, 2009**  
**WSD Community Room**

The Big Sky County Water & Sewer District No. 363 held a regular board meeting on Tuesday, January 13, 2009, in the WSD Community Room. President Packy Cronin called the meeting to order, with the following Board members present: Vice-President Gary McRae, Secretary Dick Fast, and Directors Dick Allgood, Jeff Daniels, Bill Olson, and William Shropshire. WSD staff present were Ron Edwards, Marlene Kennedy, Terry Smith, Jim Muscat, Nic Wellenstein, Eric Daniels, Denny Black, and Grant Burroughs. Others present were Lone Peak Lookout reporter Amy May, Spanish Peaks representatives Burt Mills and Bryan Tate, Northwestern Energy representatives Ernie Hulit and Matt Micklewright, Big Sky Search & Rescue representatives Steve Johnson and Tom Reeves, HKM representative Ray Armstrong, Boyne representatives Brian Wheeler and Jamie Roberts, and adjacent property owners Ordean Anderson and Bill Erwin. District auditor, Rosie Barnes/Holmes & Turner CPAs, participated via telephone on the financial issues.

**PUBLIC FORUM**

President Cronin called for public comment at 8:10 am. Steve Johnson, Big Sky Search & Rescue, stated that they need a lease or effort to rezone the parcel for a conditional use permit and would like to get that done this winter. Johnson asked that that process move forward with haste. *The next zoning meeting is on February 2 and Edwards will follow up.* Edwards noted that the District had done a draft lease for the parcel and it was given to Search and Rescue and they were not thrilled with the terms of the draft lease. Edwards said the District is following the lead from District counsel, Susan Swimley. Johnson said the lease just avoids a subdivision review and a rezoning makes it cleaner. If a lease is the only option, they can live with it; but believes that rezoning is a better long-term action. Edwards noted that rezoning is the direction that the District is going. Edwards stated that *a rezoning application could be presented for the February zoning meeting and Edwards will file the application.*

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

**MEETING MINUTES**

*Director Olson moved to approve the minutes of December 9, 2008, as corrected. Director Fast seconded the motion. Motion passed, 7 yea votes to 0 no votes with President Cronin voting.*

**AMEND AGENDA**

*Director McRae moved to amend the agenda to address the audit and financial report and then the Northwestern Energy substation site issue. Director Shropshire seconded the motion. Motion unanimously passed.*

**FINANCIALS**

**FY 2007-08 Audit Report:** Rosie Barnes noted from last month's board meeting regarding the discussion on the YC bankruptcy, they do not need to make an adjustment to the audit as YC has made their payment. They have made a note in the Audit Report regarding the bankruptcy and Barnes also reported that the audit report was filed at the end of December. It does not need to be refiled as long as the Board does not make any changes to the document.

*Director Allgood moved to approve the FY 2007-08 Audit Report as presented. Director Shropshire seconded the motion. Motion passed, 7 yea votes to 0 no votes with President Cronin voting.*

November Financial Report: Smith reported that the state revolving loan payment was made on January 2, 2009. According to Smith the financial reports only go through November as moving the board meeting date up prevented him from preparing the December report. Smith said that with the January report all categories should be on target, or favorable. Director Shropshire asked about the significance of the banks pledged collaterals. Smith noted that water usage number as of 12/31/08 came in marginally lower than last year.

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

#### **NORTHWESTERN ENERGY SUBSTATION**

Edwards reported on the recent meeting with Northwestern Energy representatives and the adjacent property owners where another site was to be looked at that would be west of the site originally proposed. Matt Micklewright distributed an aerial view and HKM rendition of the proposed site for the new site for a substation. Bill Irwin and Ordean Anderson said they feel that the new proposed site looks acceptable for now. Anderson said he represents the owner of the property, Betty Kass, and he will need to get Kass's approval. Irwin said the meeting was a good call and appreciated Edwards facilitating the meeting and feels this new site is a lot better than what was being looked at. Edwards said that the District will ask that NW put together a formal landscape plan. President Cronin noted that nothing will grow without water. Edwards said that there is water availability from the plant. Edwards noted that a trail extension would be part of this land use agreement. Edwards said the site needs to be staked and then viewed from the highway and other areas. Micklewright stated that they are committed to getting a landscape architect working on this after getting a committal from the District. President Cronin noted that with a different location be presented the District needs to review what it needs—the first site was certainly the best site and now we need to evaluate the District's future needs. Director Allgood noted the need to evaluate the District's needs if the geotech on the new site comes back at the same cost, then Northwestern should go back to the original site. President Cronin said the new alternative site creates somewhat of an unusable finger on the parcel, where are we leaving ourselves without options for the use of land. Director Olson commented that in working with BSCC on the road easement their new proposal is to lease some land for more park. *President Cronin said this whole District site needs to be master planned.* Edwards said this definitely is a middle ground consensus to move ahead with agreeing. Director Allgood stated that the District is the easiest victim for Northwestern to come ask for land from, but we need to consider working with them. Director Olson said the real issue is that there is really about 10 acres of useable acreage out of the 30 acres. Edwards noted that the site was originally planned for constructing another storage pond but it was not cost effective and he feels it should stay off the table for future consideration. Edwards reported that the other entities that have talked to us about land use were transportation for buses and he denied their request. Steve Johnson asked if the cost of the road and the geotech work would offset each other. Director Fast stated that if the new site is approved, the District is precluding any development in the area. Micklewright noted that Bozeman requires Northwestern to put in bike racks and benches at their new locations in the city. Edwards said the next step would be to get better drawings with scaled footprints. President Cronin polled the board asking if they want to move forward. Director

Olson said that he needed to think about it further—and asked if we will be back with the Irwin and Kass if we want to put something on that land in the future. Director Fast shares President Cronin's thought on the lack of master planning. Director Allgood does not feel approving the new site would prevent the use of the remaining land. Director Allgood also stated that he feels that all of the land was initially intended for future sewer needs. Director Olson feels that anything that would be done for sewer needs would be done next to the plant and feels that the question is what to do with the other land. According to Director Olson, it is a question of what we are doing by plunking something down in the middle of everything and if we are compromising what we can do with the land. Director Olson appreciates what has been done, but feels it is a little more visible from the highway but that probably won't be an issue. Director Olson would like to see more detail. Director Shropshire would like more detailed information with the next step being a topo map and he would not obligate the district until detailed plans and profiles are provided to the District and reviewed. Director Shropshire doesn't feel sound from the substation would be a major issue if the substation is no noisier than the substation in Sweetgrass Hills. Micklewright felt that he could have site work, landscape plans, elevations and paperwork plans put together for the February meeting. *President Cronin noted that he believes the site name is Potter's Gulch and, if it is, then it should so be named on the proposal.* Edwards said if the neighbors agreed to a site prior to the rezoning application it would make that issue a lot easier. *President Cronin asked that Anderson/Kass and Irwin be informed on the rezoning issue.* Amy May of the Lone Peak Lookout said that they have not received any comments on their recent article regarding the Northwestern Energy site.

#### **SPANISH PEAKS RESORT LODGE PERMIT PAYMENTS**

Edwards had asked Spanish Peaks to come to this meeting and fill us in on their request to temporarily suspend their permit payment and to delay the permit payments until they restart construction. Edwards reported that Spanish Peaks has made three payments thus far. Burt Mills of Spanish Peaks Resort sent a letter to the District to report that the Lodge construction project was temporarily suspended in November 2008 with plans to resume the project in 2009. They also intend to resume making their monthly payment in 2009. Burt Mills said the letter does tell the story, but the financial situation in the area has delayed their plans. They need an increase in sales to put the project back in full tilt. Their proposed 2009 start up is just that—they don't know what will happen, but they want to get to the finish line when they start up again. They have 7 payments still due and are asking a delay until they get restarted. President Cronin reviewed the history of the original Spanish Peaks request to delay the payments that included payment terms with a 6% interest. There is nothing in the clause about what the District would do for nonpayment. The request for connection with monthly payments was originally approved because of the depth of connection and backfilling. Bryan Tate said, in their defense, the District has been paid 3 payments. Burt Mills would like the board to consider relief on the other payments. Director Olson doesn't feel that the District is a bank and it was silly of the District to give a loan in the first place. Now we are in the cash flow boat like every other bank and now Spanish Peaks wants more accommodations. According to Director Olson, Spanish Peaks made a deal and that is the deal. Director Olson reported that he was reluctant to the deal in the first place and that he will never vote for a loan again unless we change our ordinance. It is not the District's job to act as a bank and we got into areas that we shouldn't have been. Burt Mills offered to disconnect, ask for a refund, and then they will apply in the future. Mills did say that it would be a big project to disconnect. Director Allgood suggested

leaving the project alone and to have Spanish Peaks continue accruing interest with a lien on the project until the fees are paid off. Bryan Tate said that there will be other projects of this magnitude in the future and the District should advance to the big picture to deal with this and other projects in the future. Edwards said that there is technically no connection to the main; they are connected to a main extension that is not connected to the main. Mills and Tate did not know the feet needed to connect. Terrence Smith reported that delaying the payments does not affect the District. Director Shropshire said a bank would try to work it out and in the event of default there would be a penalty. Director Fast stated that if it doesn't start up, ever, it wouldn't hurt us as we already have partial payment with interest. Burt Mills reported that their desire is to start up this summer, but the economy is the deciding factor. Mills said they do not have a problem with leaving the partial payment of \$167,000 in the District's hands. They haven't transferred that section of the main to the District and they are not connected to the District's sewer system. Mills stated that if they had been full steam ahead with construction that the transfer would have been done. Director Olson said that with Spanish Peaks' main extension not being conveyed that we probably shouldn't even be dealing with this. President Cronin suggested leaving the money already paid to the District where it is, and then to have Spanish Peaks start paying on the permit fees when they start construction. *Director Fast said that we should look at this issue 6 months from now.* Director Shropshire said that the District should retain the partial payment, continue to accrue interest, and file a lien on the project. Then the District can decide later on if the District wants to suspend the interest. Director Allgood agreed with Director Shropshire. Burt Mills commented that Spanish Peaks will need to come back to the District to complete the project—they owe the permit payments—however, he doesn't feel that a lien is appropriate and it is punitive. Mills appreciates the District's consideration to their request and will honor what the board decides and would appreciate the District's leniency. Director Olson wants to see the District readdress the ordinance on how to handle this type of large project so we do not go through this again—the ordinance would solve this type of situation. Edwards said there is no cost to us on this connection. Director Fast noted that the cost to the District is that we have committed service storage capacity. President Cronin said the question would be lien or no lien and asked Burt Mills if it causes a problem with them. Mills said it is not a deal breaker. The board discussed having Edwards talk to District legal counsel.

***Director Allgood moved to approve Spanish Peaks' request by suspending payments until construction resumes, to continue to accrue interest on the unpaid balance, and to review the issue in 12 months if Spanish Peaks has not come back to the District. Director Shropshire seconded the motion. Motion passed, 6 yea votes to 0 no votes. Director Olson abstained.***

*Director Olson does not want this situation to be forgotten and asked that the District work on amending the ordinance to address this type of situation. President Cronin suggested changing the ordinance to possibly delaying all fees until the water is turned on.*

***Director Olson moved that the board and staff look at a modification to the ordinance to address the permitting section of the ordinance as to when fees are to be paid. Director McRae seconded the motion. Motion passed, 7 yea votes to 0 no votes. Edwards said this issue will be on the agenda for the next meeting.***

## **218 SOCIAL SECURITY ADMINISTRATION AGREEMENT**

As directed by the Board in December, Edwards provided an overview in the board packet of the Social Security 218 Agreement that would be needed for the District to continue to participate in the social security system. Edwards and Rosie Barnes discussed the options if the Board decided to opt out of the SS system. Barnes reported that the SS Administration started checking into whether the special districts have a 218 Agreement in place and she has verified that the WSD has not adopted a 218 Agreement. This agreement allows local government to participate in the social security program. Barnes said that the only thing outstanding is whether the District can fall under a blanket agreement from the state and counties. Smith said according to the IRS if the District does not have an agreement in place the District should not be paying social security. Edwards said if the board's decision is to not do an agreement, the deductions from staff payments could go to another retirement plan and then the board would need to decide what to do with the employer's contribution. It could be invested in a general fund for retirement plans chosen by the employees. Edwards recommended that if it is legal to opt out then the employee and employer shares should be given to the employees for a retirement plan at their choosing. Edwards feels that staff support the notion of getting out of the social security system if the employee and employer contribution remain the same for retirement of the employee's choice. Edwards said the SS credit sitting out there after backing out the 39 months stays there and feels there is no down side to getting out of the SS system. Edwards reported that the fire district just approved a motion to not participate in the social security system and they maintained the employer contribution to the employee's retirement plan. Smith said approximately \$100,000 combined will be owed employees and employer. Smith reported that most of the fire district employees are changing to another retirement plan. Smith said the board could do a 457 retirement plan, or a matching plan, or a plan of the employee's choice. Edwards said that he does not want the District to be copping an employee's retirement plan. Director Allgood asked if opting out of social security will cause a problem in hiring staff in the future. Smith noted that in the State of Colorado they do not pay social security and they do not have a problem in attracting employees. According to Smith, the District could set up a retirement plan. Director Olson said it would be better to have a matching system to encourage the employee to plan for retirement. Edwards likes the aspect of individual retirement plans as compared to social security. Edwards said staff also needs to decide on this issue once the board makes a decision. Edwards does not know how staff would feel if the board attached strings to their employer match. Director Shropshire does not see any risk to the District by opting out as long as it is legal to opt out and he would support opting out. Director Shropshire said there will be discipline involved in planning for retirement when it isn't mandatory. Director Olson said if there is a matching program then there is an incentive to invest in a retirement plan. Directors Shropshire and Olson do not want the District to administratively monitor a retirement plan. Smith reported that staff can already participate in a 457 plan and feels that it is a well managed plan. Director Fast feels that the social security system is not a bad pay back system in that it only takes 2-3 years of receiving social security payments to get your contributions back. Edwards does not know if a matching retirement resolution is required by the District if all the employees would agree to opt out. Smith said the District cannot require the employee to participate in a 457 plan. Smith said that the board would have to amend the resolution regarding the 457 plan to include the employers 6.2% contribution.

*Director Shropshire moved to opt out of the Social Security system and to not execute a 218 Agreement and to match 6.2% as the long as the employee contributes. On the employer and employee 39 month refund, the employees get to decide on their contributions and the employer contributions go into a matching retirement account* Smith reported that there is a \$16,000 annual contribution cap and doesn't think that the District can designate another retirement plan, so it might take two years to pay into the 457 retirement plan. Muscat feels that the issue is the employees possibly losing the 6.2% employer contribution and he wants assurance that the employee gets the employer's contribution as he does not want to lose any funds from the 39 month refund. Smith reported that the employer's share can be given to the employee but it would be taxed unless they invested in a retirement plan like a 457 plan or IRA plan. *Director Shropshire withdrew his motion asking that staff come back to the board as to what they will accept. The Board agreed that the employer 6.2% contribution will stay the same.* Barnes said the employees just needed to know the board's intent. *Director Olson moved to allow the staff to vote on whether to participate in a 218 agreement. Director Allgood seconded the motion. Motion unanimously passed. Staff are to present a plan, or resolution, regarding what they would like the board to act on at the next meeting.*

#### **MOUNTAIN LAKE CONDOMINIUMS ANNEXATION ELECTION**

Edwards reported that 298 ballots were received, with 232 ballots voting for annexation (78%) and 66 (22%) ballots voting against annexation. Edwards noted that Richard Maus and a couple of other developers voted no all of their property and stated that the developers felt that the market value was at about \$25,000 per SFE when land deals were done and this deal for \$10,000 makes their SFEs worth less. Brian Wheeler said that at one point they were being offered lots of money for SFEs and now with the market slow down they are devalued. Wheeler said Boyne did not want Lake Levinski contaminated and voted for annexation. Wheeler stated that *Boyne would also like an evaluation of capacity for additional SFEs.* Director Shropshire said the lessons learned on the density calculations using the ordinance stuck with the developer for this project. With almost 80% favoring the annexation, Edwards said an ordinance needs to be adopted for annexation but, before that is done, he has told Liston that the well needs to be completed and the permit fees for the 6 existing units needs to be paid, plus the payment of the back tax obligation needs to be paid prior to approving an annexation ordinance.

*Director Shropshire moved to approve the annexation agreement and for the general manager to negotiate the agreement with the developer. Director Daniels seconded the motion. Motion passed 7 yeas votes to 0 no votes.*

#### **SEWER OPERATIONS**

Edwards reviewed Burroughs' flow reports. The numbers are up from 2007, but are on par with 2006. The jump in numbers is attributed to the growth in the District. Director Olson said the increase in the spring was reported in the past as I & I. Edwards said that Burroughs feels that there may be I & I by the Huntley and there was also cooling water at the Shoshone that was either discharged into the ground or the sewer system.

### **WATER OPERATIONS**

Muscat reviewed the year end flows with the meadow down 31 million gallons which he attributes to fixing leaks. Overall, the District has gained a lot of ground on usage with the leak repair and it will improve more next year when the Silverbow project is complete. Later in January, Edwards and Muscat will meet with DEQ on the whole disinfection issue. Edwards would like to just do a small UV treatment on the two new wells in the meadow to get them on line and to not have to chlorinate the whole system. With UV there is no residual and he prefers that option from our customers' standpoint. TD&H Engineering is working on a plan and profile for the piping to use the new wells.

Director McRae asked if the Santec system at Lone Moose was still full on sewage. Edwards thought the system was still in the ground.

### **MEADOW VILLAGE WATER SYSTEM PROJECTS**

The manager's report included a summary table of construction contracts and their status.

### **YELLOWSTONE CLUB**

There was nothing reported regarding the Yellowstone Club.

### **BSOA ACCESS AGREEMENT**

Director Olson distributed an email letter from Kevin Frederick where he asked for leasing the District's 30-acre parcel east of the treatment plant for 99 years at some minimal rate. President Cronin said the WSD road easement needs to be established and then BSOA/BSCC can come back to the District for a lease request. As requested by Director Fast, Edwards reviewed the history of the parcels and there ownership transfers and the leverage that the District may possibly have on the parcels. Director Olson said that BSCC does not want to grant the road easement unless they have control of the 30-acre parcel. They don't have a problem with Search & Rescue and Northwestern Energy plans. Edwards feels that there is still an easement for a bridge that was originally proposed when Simkins Taylor owned the 30-acre parcel. Directors Allgood and Shropshire feels that we have a prescriptive easement on the road. Edwards said the District has agreed to plow and maintain the road and we have also allowed the BSOA's snowplower (Wayne Heath) to store his equipment on District land. Edwards said that government entities can use eminent domain powers for a road easement. BSOA/BSCC does not have any SFEs to develop their park property, and they would also need water and sewer extensions that the District would have to approve, and they are asking for use of our water rights for their ponds. *Director Olson and President Cronin said the road easement has to come without restrictions for possible future needs of the District.* Director Shropshire says the District should not want to open the door to the 99-year lease offer. President Cronin said there is no reason to budge without the road easement that was promised a long time ago. Director Fast asked what the requirements are for a prescriptive easement. Director McRae reported that there is a 7-year time span of use without objection for there to be a prescriptive easement. *Director Olson will talk with Kevin Frederick and let him know that the District will not be considering a lease without a road easement.*



### CANYON AREA STUDY

Edwards reported that the canyon area study group will meet later today. The preliminary engineering report has been submitted to DEQ. The analysis reports that piping could be done and the data estimates 1 million gallons of flow a day at build out. Armstrong said flows could go to 1.5 million gallons per day if the allowed accessory build out was allowed at Ramshorn. Ray Armstrong said that the collection system could be built in the canyon and then pumped up to the District at today's cost of about \$10 million. Bringing in the canyon flows to the treatment plant would increase the treatment flows to an amount that would exceed current capacity, causing the need for treatment plant expansion and then storage would also be an issue. Armstrong noted that the engineering report includes having snowmaking as an option. They are asking DEQ if snowmaking is viable and would it be permitted. Overall, the costs to serve the canyon would be \$25-\$30 million. Edwards said the repayment is the issue--if it only benefits the canyon do the existing district customers share the cost or does just the canyon property owners pay the costs. Armstrong feels that there would have to be sizeable contributions to make it work. President Cronin suggested that Armstrong approach the canyon as its own District. *If the canyon wants to use the district's service, President Cronin said the canyon needs to pay their share of any costs associated with any expansions that the District may have to do to serve the canyon.* Edwards said the logical thing to do is phase in the canyon, starting at the Conoco and Big Horn development areas to be served by the district. With the economic times,

Edwards cannot see anyone shelling out \$10 million for a collection system. *President Cronin wanted it to be clear that the District needs to be in total control of any plans that would include the District participating.* Edwards said that some of the questions being directed to DEQ are of benefit to the District, such as a snowmaking option. Smith reported that the District contributed \$10,000 to the study and the rest of the funding came from other sources. Edwards said the technical end of the study is complete and now they plan on having a couple of public meetings to present the information to the community.

### GENERAL CORRESPONDENCE

There was no general correspondence that required board action.

### ANNUAL DINNER

Edwards will check on January 30<sup>th</sup> for availability of the Corral and February 6<sup>th</sup> as the back-up date for the annual dinner

### NEXT MEETING

The next Board meeting is tentatively scheduled for Tuesday, February 17, 2009, at 8:00 AM.

### ADJOURNMENT

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



Dick Fast, Secretary



**BIG SKY WATER & SEWER DISTRICT NO. 363**  
**Regular Meeting Minutes –February 17, 2009**  
**WSD Community Room**

The Big Sky County Water & Sewer District No. 363 scheduled a regular meeting for 8:00 am on Tuesday, February 17, 2009, in the WSD Community Room. President Packy Cronin called the meeting to order with the following Board members present: Vice-President Gary McRae, and Directors Dick Allgood, Jeff Daniels (left at 9:48 am), Bill Olson, and William Shropshire (left at 11:00 am). Secretary Dick Fast was not present. WSD staff present were Ron Edwards, Marlene Kennedy, Terry Smith, and Grant Burroughs. Others present were Mountain Lakes representatives Leonard Liston and Lenny Liston; Allied Engineering representative Doug Chandler; Big Sky Search & Rescue representative Steve Johnson; Northwestern Energy representatives Matt Micklewright, Emmett Rierdan, Ned Johnerson, Ernie Hulit, Pat Asay, and Sid DeBarathy; and adjacent property owner Bill Erwin.

**PUBLIC FORUM**

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

**MEETING MINUTES**

*Director Olson moved to approve the minutes of January 13, 2009, as written. Director Daniels seconded the motion. Motion passed, 6 yea votes to 0 no votes with President Cronin voting.*

**FINANCIALS**

Smith noted that the December and January financials were combined and, with the exception of contributed capital and net income, all items are either favorable or on target. Smith said that there were no other particular items of note to bring to the Board's attention. Director Olson noted the accounts receivable aging is about as high as it has ever been. Smith said in January 2006 the aging receivables were about the same. According to Smith, a big chunk of the delinquency is from Farmhouse Partners and Smith has spoken to them and they have said they were putting a check in the mail last Friday. The interest rate for delinquent accounts was raised to 12% last year.

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

**MOUNTAIN LAKES CONDOMINIUMS ANNEXATION AGREEMENT**

A revised annexation agreement for annexing Mountain Lakes Condominiums into the Big Sky County Water & Sewer District was included in the board packet. Edwards stated that he met with Leonard and Lenny Liston last week and then distributed and reviewed an amended annexation agreement from the revisions that were made at that meeting. Edwards said the document is the first step in the annexation and then once all the conditions are met an ordinance can be done by the District. Edwards stated that a timeline was not in the agreement document, but that a timeline could be added. President Cronin felt that timelines are standard in an agreement. Leonard Liston said everyone is sitting at the same spot where we are waiting for the economy to change. President Cronin said that there should be a reasonable timeline in the agreement that allows for the adjustment in the economy. Edwards said the document is

amendable if they didn't perform within a timeline. Liston reported that they cannot move forward without the agreement. Liston considered bonding, but said that is even difficult in today's economy. The board asked that a two-year timeline be added where the agreement will be reviewed if the conditions are not met. Liston asked for a three-year timeline. *Edwards will add the timeline of December 31, 2011 to the agreement for review if the conditions are not met.* Liston believes that the document clearly states who is responsible for what. Edwards stated that the per SFE is still \$10,000 and they are also on the hook for repayment of bond debt from year one. They also have to pay for all costs of the election and they have to provide a new 8-inch well that has been pump tested and provides at least 35gpm. The developer also has to provide recordable easements for the pipeline and Edwards would like that in the plat if possible. If the easements cannot be done with the plat, then Edwards agreed that a separate recordable easement could be done. Doug Chandler asked about where a pump would need to go. Edwards doesn't feel a pump house would be necessary, just an RTU for the telemetry. Chandler explained their reasoning for adding the \$30,000 cap for their improvements. President Cronin and Director Olson felt that a list of items to be completed would better serve the District then putting a dollar cap on the improvements. Director Allgood felt that specking the improvements should take care of the developers concerns. *The board agreed to a clear set of specs to be included in place of a dollar cap.* Edwards noted that the District is in a better position to get water rights and it will be the District's responsibility to provide a water right for the new well by re-appropriating some of its existing water rights from Cascade wells 5 & 6. The agreement goes to any successors if the project is sold. Edwards will make the changes as discussed and email the revised document to board members for review.

#### **BIG SKY SEARCH & RESCUE LEASE AGREEMENT**

The final draft of the BSSAR lease was provided in the board packet. Susan Swimley stated that the lease is written specifically to not give BSSAR any interest in the ground, thereby avoiding the county subdivision regulations. The District acquires up to \$250,000 interest in the BSSAR building through a monthly fee. Edwards feels that the document legally skirts the county subdivision regulation. Steve Johnson said that BSSAR fully understands why the lease agreement is written the way it is and doesn't know of any other way to have a BSSAR building on the land. If improvements are required for parking BSSAR will take care of it. Johnson feels that the resort tax district just wants the building done and they probably won't care how the lease agreement is drafted as they are well aware of the permitting process at the county level. Susan Swimley said that the documents should not be recorded.

***Director McRae moved to adopt the lease as written. Director Shropshire seconded the motion. Motion passed, 6 yea votes to 0 no votes with President Cronin voting. Director Daniels declared a conflict since he serves with BSSAR. Steve Johnson will work with Edwards to get an executed copy of the lease agreement.***

Edwards reported that he submitted documents to the county for a zoning change and a waiver on the fee as a public entity and he will attend the county zoning meeting in March.

#### **AMEND AGENDA**

***Director Shropshire moved to amend the agenda to address the sewer and water operations. Director Daniels seconded the motion. Motion unanimously passed.***

### **SEWER OPERATIONS**

Burroughs stated that flows are about where we were last year. Director McRae reported that a storm sewer manhole is open by Choppers and Burroughs will check it out. A manhole by Hill Condos was damaged and that has been repaired. Burroughs reported that they are testing out a new product that fills in around the manholes to prevent snowplow damage. The District is testing the fill at a manhole in South Fork and by the District office building at a cost of about \$180. If it works, Burroughs said they will start retrofitting other manholes. President Cronin reported that the retrofit seems to be working well at South Fork.

### **WATER OPERATIONS**

In the absence of water operator Jim Muscat, Edwards reported that they met with the State and that the State has finally determined that the mountain water is ground water and they have withdrawn their requirements to have specs submitted for full-time disinfection by June 2009. Additionally, they agreed on a population number and letters have followed up that document the number they will use. Although the groundwater rule starts in December 2009, Edwards feels that the District has a good chance of deviation on the existing meadow wells and even possibly the new meadow wells. For the short term, the District is trying to stay out of disinfecting.

*In regards to the Mountain Lakes development, President Cronin commented that the District may want to have a building at the well site and to allow for that in the agreement. Edwards will follow up.*

### **NORTHWESTERN ENERGY**

Matt Micklewright distributed rendering documents and introduced Sid DeBarathy, Pat Asay, and Emit Reardon. DeBarathy reviewed the renderings stating that the site has been lowered about 15 feet and not much of the substation will be in view of the adjacent property owner. The most visibility will be from the south looking back from the sewer plant road and from the spur road. With the trees coming off the site, they will try to replant them on the slope of the transfer station site. They have also changed the color to a darker grey to blend better with the colors of the landscape. The 12-foot wall will minimize sound from the transfer station and most of the equipment will also be obscured from site by the wall. The only lighting is for emergency and will only come on if people are working at the substation in an emergency. A 20-foot wide road would serve the site. No trees will be removed that are not necessary. Micklewright commented that, if it is acceptable, they would put some of the spade trees on the eastern side by the Kass and Erwin properties. Susan Swimley stated her concern was that only 4 acres are left on the other side of the property and asked about getting an easement through the substation so that the remaining property is accessible to the District. DeBarathy said that a trail can be reintegrated by their slope. Mr. Erwin stated that the plan shows the substation site is proposed where all the trees are. DeBarathy said that after much geo-tech work the original site was not appropriate due to the potential slide area and now the proposed site is being located on the flattest of the areas available. DeBarathy stated that they do not yet know if this new site will be acceptable until geo-tech work is done. They are just trying to represent the substation visually with the best information they have available without geo-tech work. They tried to press the substation into the site with the least amount of visual impact, trying to avoid a huge fill. DeBarathy said they are trying to avoid long-term issues. If the site is acceptable to the board, Asay said they will get the geo-tech work done. Mr. Erwin reported that the Anderson/Kass

family told him that they feel the location should be farther to the west, instead of where the thickest cluster of trees is located. President Cronin feels that the board needs to have a consensus on Northwestern's request to lease the land if Northwestern's geo-tech work finds the site acceptable. Director Olson feels that Northwestern Energy has done a good job of the renderings, and feels that they have done what the board has asked for. President Cronin said that the view impact is both from the District property and the highway, but doesn't feel the view impact from the Kass and Irwin property is as affected. Steve Johnson noted that there is a bridge easement in place somewhere. President Cronin asked the board if they are okay with the renderings. Directors McRae and Shropshire feel that NW has done an excellent job on presenting their renderings. Northwestern stated that they do not have a lot of options for other places to go to build a substation and felt that they would probably do what the District wants to get the approval to build the substation at the proposed site. Pat Assay said they haven't even talked about compensation, just a dedicated feeder to the treatment plant, and, as far as the trails go, they would probably do what the District would want them to do. Speaking from experience on working on trail development, Director Olson said it would be more efficient for NW to fund trails than to put in a trail. Susan Swimley felt that NW would have to plant not only more trees, but more mature trees on the south side entry corridor to get county approval. DeBarathy reported that they can buy down 6-7% decibels by using low noise units. Director Daniels feels that if there is commitment from NW to hide the substation the best they could then he would agree with the site. Director Allgood asked how much land the District needs to take care of the District's future needs for the next 3 millenniums. Edwards feels that the overall site plan provided by HKM shows the third SBR basin and future undesignated expansion and doesn't feel a substation at the proposed location will interfere with District expansion. Additionally, the site constraints would make expansion on the parcel cost prohibitive. Director Allgood would not want the property to the east of the substation to be unusable or unserviceable due to the substation location. DeBarathy said the road would be improved or maintained to the standards that the District asks. Both Directors Olson and Shropshire feel that the proposed substation site provides for the least amount of impact on the least amount of people. Director McRae supports the request if the adjacent landowners are in agreement. Micklewright stated that getting geo-tech work done would be first and then, depending on the results of that, they would get some of the dirt work done and possibly some of the fence done. NW representatives felt that they could get the geo-tech work done in May and get an answer as to whether the site is acceptable. According to DeBarathy, if it came in good, they would get the site work done, order transfer equipment and by mid-September get the concrete work done, but they probably would not start on the fence. December 2010 would be the projected date for having the project completed. DeBarathy felt that the wild card is in the zoning, so before they can go beyond the geo-tech work, they need to get approval on the zoning. Swimley said that if we get the zoning change that we have applied for, then getting an approval for Northwestern's substation should not be a problem. (Director Daniels left the meeting at 9:48).

***Director Shropshire moved to approve in concept the site for a substation, to have Northwestern continue with the geo-tech work, and have Swimley work with Northwestern and the county to get zoning approved. Director McRae seconded the motion. Motion passed, 5 yeas votes to 0 no votes with President Cronin voting. Director Daniels was not present to vote. Edwards asked NW to write up a purpose of need for the project and get that to him.***

### **BIG SKY COMMUNITY CORPORATION ACCESS EASEMENT**

A draft access easement for WSD through the BSCC park was provided in the board packet. Edwards stated that there is still cleanup work to be done on the document, but feels that the document is workable. The alternate access is the old bridge plan through James Taylor's property and Edwards doesn't feel that it states anything that isn't already a public document. Through the easement document, Swimley said the District agrees to have public hearings on any planned developments to the property, but doesn't feel that is a big concession since the District is a public entity that would have a public hearing any way. Edwards said a public hearing will not bind the District on decision making. Director Allgood and President Cronin discussed the need to delete the text on Limitation on Transferability. Swimley feels that the wording still allows for the lease of property. President Cronin feels that the District needs to maintain the flexibility of selling the tract, for instance to sell property to Big Sky Search & Rescue where their building will be located. Swimley said the property cannot be subdivided as the easement is written. Swimley stated that the District does have the right to eminent domain, but the District also has the ability to develop the bridge and gain access through James Taylor's property. President Cronin stated that, in his opinion, the document is an attorney's gold mine with the way it is written and it can be argued over for eternity on its interpretation. Director Olson stated that the only land with value/development possibility is the land that the District is agreeing to lease to Northwestern Energy. Director Allgood feels that the remaining land is the only logical location to plan for future wastewater from the canyon. Swimley said that parceling off land to a new sewer district would be allowed. Director Olson feels that this easement is a good compromise with BSCC. Director Shropshire feels that as long as we are not precluding the mission of the Water and Sewer District then he would agree to the language in the easement. Director Olson said if future development is needed for another entity, then we would just lease the land. Director McRae and President Cronin said the access needs to be a 60 feet easement—which would follow county regulations—and this must be changed in the easement document. Director Allgood stated onus needs to be put on them to ask for certificate of insurance with a 30-day response time allowed. A segment will be added that allows the property to be leased or sold to search and rescue.

*Director Shropshire moved to conditionally approve the easement agreement subject to the amendments as discussed with the easement changed from 30 feet to 60 feet, changing the insurance clause, adding that the land can be leased or sold with respect to BSS&R, and for Swimley to go back and negotiate the changes with BSCC. Director Olson seconded the motion. President Cronin called for discussion. With no further discussion, motion passed 4 yea votes to 1 no vote that was cast by President Cronin.*

### **BIG SKY COMMUNITY CORPORATION PIPELINE UTILITY EASEMENT**

An easement that covers the water line that runs through the park area from Little Coyote Road to the treatment plant was included in the board packet. Swimley reviewed the locations of the three pipelines, noting that the easement is written to allow for maintenance and replacement. Like the previous easement, the certificate of insurance needs to be changed so that BSCC will have to ask for it.

*Director Olson moved to accept the easement with modification to paragraph 5 on the insurance to be the same as the previous easement. Director Shropshire seconded the motion. Motion passed, 5 yea votes to 0 no votes with President Cronin voting.*

### **BIG SKY COMMUNITY CORPORATION PARK IRRIGATION AGREEMENT**

The BSCC submitted a letter and a revised irrigation agreement for their park expansion project and also requested 3 SFEs in capacity to cover the future park expansion needs. Edwards provided a history of the irrigation agreement, stating that this document will update the original irrigation agreement by expanding the irrigation to accommodate future expansion of the park. With this agreement, Director McRae feels that the cart is a mile and a half in front of the horse on this project so that BSCC could go to resort tax and others for funding options. BSCC planned on the bid letting on the 25<sup>th</sup>, but Director McRae feels that they won't be going forward as they do not have the funding. Directors Olson and Shropshire feels that the District doesn't even need to talk about the irrigation agreement as this point. The board tabled any action on the agreement.

*Director Olson moved to table any action on the irrigation agreement. Director McRae seconded the motion. Motion passed, 5 yea votes to 0 no votes with President Cronin voting.*

Swimley reported that, essentially, the BSCC wants 3 SFEs for the access and pipeline easements and that is their requested consideration for giving the District the easements. Edwards explained his formula for computing the 3 SFEs, which will give BSCC service to the concession stand and a future pavilion.

In response to BSCC's February 13, 2009, non-exclusive consideration letter, the board tabled any action.

### **YELLOWSTONE CLUB**

Susan Swimley discussed the Yellowstone Club bankruptcy issue as it relates to the operations of the District, stating that it does not affect the District in any way. YC may change their name and then the names in the documents may need to be updated. (Director Shropshire left the meeting at 11:00 pm) Director Olson noted that the storage for treated wastewater still needs to be expanded by YC.

### **RESOLUTION 09-01 TO WITHDRAW FROM FICA**

Smith noted that this resolution is just for the District to pull out of social security. Prior to Director Shropshire leaving the meeting he stated that he supported withdrawing from social security and amending participation in the District's participation in the 457 plan. Kennedy noted that at a staff meeting, where the issue was voted on by all staff, it was agreed that staff could either participate in the 457 plan or another retirement plan of their choosing. For the record, President Cronin stated that all the staff supported withdrawing from social security with the condition of a personal choice for a retirement plan.

*Director Olson moved to approve Resolution 09-01 to withdraw from the FICA social security program. Director McRae seconded the motion. Motion passed, 5 yea votes to 0 no votes with President Cronin voting and recognizing Director Shropshire's absentee vote.*



**RESOLUTION 09-02 TO PARTICIPATE IN MONTANA 457 RETIREMENT PLAN**

Smith noted that this resolution updates the District's current agreement to participate in the Montana 457 retirement plan.

*Director Olson moved to approve Resolution 09-02 to participate in the Montana 457 Retirement Plan as presented. Director McRae seconded the motion. Motion passed, 5 yeas to 0 no votes with President Cronin voting and with recognizing Director Shropshire's absentee vote.*

**MEADOW VILLAGE WATER SYSTEM PROJECT**

Edwards did not have any new information to report on the meadow village water system.

**SEWER & WATER PERMITS**

Edwards stated that this is a new record where two months have passed with no new permit applications.

**GENERAL CORRESPONDENCE**

George Button's correspondence was discussed with Smith explaining that the water use was an overlap from the prior reading (3<sup>rd</sup> qtr) that was taken before the end of September and then the October-December period being listed for the 4<sup>th</sup> quarter statement.

**NEXT MEETING**

The next Board meeting is tentatively scheduled for Tuesday, March 24, 2009, at 8:00 am. Director Olson reported that he will be out of town that week.

**ADJOURNMENT**

*Director Olson moved to adjourn the meeting at 11:26 am. Director Allgood seconded the motion. Motion unanimously passed.*



Dick Fast, Secretary

## **BIG SKY WATER & SEWER DISTRICT NO. 363**

### **Regular Meeting Minutes –March 24, 2009**

#### **WSD Community Room**

The Big Sky County Water & Sewer District No. 363 scheduled a regular meeting for 8:00 am on Tuesday, March 24, 2009, in the WSD Community Room. President Packy Cronin called the meeting to order with the following Board members present: Vice-President Gary McRae, and Directors Dick Allgood, Jeff Daniels (left at 9:55 am), and William Shropshire. Secretary Dick Fast and Director Bill Olson were not present. WSD staff present were Ron Edwards, Marlene Kennedy, and Terry Smith. The Weekly reporter, Laura Bell, was also present.

#### **PUBLIC FORUM**

With no public comment, President Cronin called for public comment at 8:09AM.

#### **MEETING MINUTES**

*Director Daniels moved to approve the minutes of February 17, 2009, as written. Director Shropshire seconded the motion. Motion passed, 5 yeas votes to 0 no votes with President Cronin voting.*

#### **FINANCIALS**

Smith reported that non-operating revenues are not on target due to the decline in new construction. The outstanding receivables are higher than they have been in previous years which will mean that Smith will be turning more accounts over to the counties for collection. The board discussed their decision from a previous meeting on approving the Spanish Peaks Resort's request to delay making their hookup payments. Smith reported that the Spanish Peaks Resort made their first 3 payments on their hookup fees prior to the board approving the delay for future payments. Smith also reported that the financing fees are prime plus one and that the balance due is accruing interest. Edwards reported that he met with Spanish Peaks representatives last week and was told that there is about a 60% chance that they will be completing the project. President Cronin reminded the board that, proportionately, the small homebuilder feels the same effect when paying their connection fees. Director Shropshire recommended that the board not concede if/when the Spanish Peaks Resort comes back to the board for further concessions. *Director Allgood directed Smith to send Spanish Peaks Resort a quarterly statement that picks up the payment schedule and the back interest.* President Cronin doesn't feel that the board did anything wrong by approving the delay in the permit fees since they are not technically connected to the sewer main. Edwards reported that no concessions were made to Boyne when they built the Summit even though they asked for a delay. According to Director Shropshire, precedence has been set by the District through the approval of the request from Spanish Peaks Resort.

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

#### **MOUNTAIN LAKE CONDOS ANNEXATION AGREEMENT**

Edwards reviewed the minor changes made to the Mountain Lake Annexation Agreement from the board's discussion at the February meeting. Edwards noted that if the well pumps more than 75 gpm then the District has the discretion to increase the pump size with the District paying any additional costs. President Cronin asked if the agreement included the maximum SFEs allowed and if it states that the SFEs are non-transferrable. *President Cronin directed Edwards to make sure that that information was in the agreement and to communicate with Director Fast on these changes.* President Cronin also noted that at the February meeting the board wanted to have the agreement to include the ability to have a pump house.

*Director Shropshire moved to approve the annexation agreement document with the addition of listing the maximum SFEs available to the project and to state that the SFEs are not transferable from the property. Director Daniels seconded the motion. Motion passed, 5 yea votes to 0 no votes with President Cronin voting.*

#### **TOWN CENTER EASEMENT RELEASE**

Edwards stated that the Town Center developers want to eliminate the redundant easements and that the release is essentially clean-up work. Edwards has discussed this request with Ryan Hamilton and Edwards does not have a problem with the easement release because it is now covered by the new plat that has been recorded in Town Center. *President Cronin directed Edwards to review the plats to make sure all the lines are platted as installed.*

*Director McRae moved to approve the document to release the easement in the Town Center within the platted area of Plat J-336-C recorded as Document No. 2070337. Director Daniels seconded the motion. President Cronin called for discussion. Director Allgood wants Edwards to make sure that the recorded easement covers all the District's lines installed as is. Edwards reported that all of the lines on the Town Center plat are correct. Motion passed, 5 yea votes to 0 no votes with President Cronin voting.*

#### **DISTRICT PERMITTING POLICY REVIEW**

Edwards stated that he didn't feel that the board should take any action on this topic until Directors Fast and Olson are also in attendance. *The board tabled the review of the permitting policy until the next meeting.*

#### **SEWER OPERATIONS**

Burroughs was not present to discuss the sewer operations, but distributed the flow reports. Edwards reported that a crew from the Livingston Public Works is coming to Big Sky this Thursday to look at our compost facilities.

#### **WATER OPERATIONS**

Muscat was not available to review the production reports provided in the board packet. Edwards reported that a Big Horn unit froze up last week and he does not recall any problems there in the past.

Mountain to Meadow: Since the mountain and meadow water systems are now connected, Edwards sent a letter to the State requesting that the Big Sky water system be classified as one system. The letter will be reviewed by the State tomorrow, but Edwards feels that it will probably take a couple of months to get the approval. The end result will be that less sampling will be required and one system will also be administratively easier. Edwards reported that there is a little bit of paving that needs to be done in Lone Moose and he plans on giving Lone Moose a payment in lieu of the paving and then that will finish the project done by SMI.

Weather permitting, the Silverbow Project is planned to start on May 4 with Johnson beginning on Black Otter Road. *President Cronin informed Edwards that 3 Rivers does have a public relations person (Sheri) that he would like Edwards to make contact with. Edwards will invite 3 Rivers to our pre-construction meeting.* Edwards reported that the installation of 3 Rivers' fiber optic cables last year was not coordinated with the District and their contractor was not willing to delay their work. *Edwards will also include Klip TV in the pre-construction meeting as they will be doing upgrade work in Big Sky.*

Other than a little clean-up work that the District is responsible for, the Hidden Village project is done.

The Bough water line replacement (the old Faubert property) needs to be completed. With this being a wet area, Edwards reported that the pipe may need to be installed later in the season—possibly in September, or October.

Meadow Pipeline: Edwards reported that he met with Brian Wheeler and Jeremy Olson on the pipeline location to serve the new meadow wells. Wheeler will take the information to CNL for approval. TD&H is working on the profile engineering so that the project can go out to bid.

Future Mountain Water Tank Easement: Edwards is working with Brian Wheeler to get an easement for the future mountain tank recorded. This will also have to go to CNL for approval. *President Cronin directed Edwards to stay on track with this easement and to get it done.*

#### **NORTHWESTERN ENERGY SUBSTATION**

Edwards reported that a rig will be moved in to start doing the geotechnical work next week. Northwestern has changed their engineer and they will now be using HKM for the work because they did our plant work and are familiar with the area. Once completed, a copy of their geotechnical report will be sent to the District. From Northwestern's standpoint, they will determine if the site is appropriate based on the geotechnical work. For the record, President Cronin stated that the board spent a lot of time considering the substation options and the board felt that this is the best location option for the community. Edwards reported that the letter from Lisa Kass stating that they offered the Kass property for sale to Northwestern was in the board packet. Director Shropshire asked if Kass is working with NW on this. Edwards doesn't think that NW is considering purchasing the Kass property. Edwards reported that the board packet includes the request for comment from the forest service on the line upgrades. Once the new substation is in, it will replace the Sweetgrass substation. President Cronin stated that the District is holding NW to high standards with the least impact to the community and there will be more benefits to the community. *President Cronin directed Edwards to put together a proposed compensation package for Northwestern's lease of the land and present it at the next board meeting.* Edwards stated the land use will be allowed through a lease just like what was done for the Big Sky Search and Rescue. *President Cronin asked that all board members think about fair compensation from NW for lease of the WSD land.*

#### **DISTRICT LAND REZONING**

Edwards reported that the rezoning was approved on March 12, 2009, by the Gallatin County Planning Board. The 32-acre parcel and the water tank parcel are now zoned community service. Edwards feels that the rezoning resolves the Search and Rescue issue and they now have their land use permit.

#### **BSOA EASEMENT**

Edwards reported that they went back to BSOA with the changes and they have agreed to everything but changing the width from 30 feet to 60 feet. Edwards distributed a letter dated 3/23/09 from Susan Swimley asking the board to reconsider the 60 foot requirement as it would create a conflict with BSOA's existing and future park improvements. President Cronin and Director McRae stated that the county requires a 60-foot easement and the world operates with a 60-foot easement. President Cronin feels that the District would be hugely disadvantaged if we do not have a 60-foot easement. *The board was in consensus that a 60-foot easement is necessary and Edwards will inform BSOA and Swimley of their decision.*



### **DISTRICT BOARD ELECTION**

Edwards reported that the terms expire on 11/3/2009 for Directors Daniels and Shropshire with the candidate filing period running from 7/2/2009 to 8/20/2009. There will be five positions up in 2011. Director Shropshire intends to rerun for another term. Edwards will remind Daniels and Shropshire when the filing period opens up.

### **2009 RESORT TAX APPLICATIONS**

Edwards reported that the applications for resort tax funding are due on 4/22/2009. The Q & A forum is 5/20/2009 and the appropriation meeting is 6/11/2009. Director Shropshire reported that he has inspected the test baskets on the ponds and feels that they are not damaging the liners and that there does not appear to be any problem with stabilization. Director Shropshire also reported that there is no corrosion on the metal baskets and no rock displacement--no degradation. Director Shropshire said that the liner definitely improves the view shed and that the District needs to make an effort to complete a significant portion of the liner—it is the perfect time to do it with material and labor costs down. Smith reported that there is \$750,000 left in the bond. Director Allgood also feels that the economic conditions should bring the price down so the timing should be good. Director Shropshire recommended that we ask for additional resort tax funds for the project. *Director McRae directed Edwards to come up with the number to complete the highway view length.* Edwards reported that he is looking into new quotes on the steel baskets. *The board asked Edwards to look into getting federal stimulus funds.* Edwards said pond 3 is not in the plans for the liner. Edwards feels that the resort tax funds available this year will be less than last year. Edwards knows that funding requests will come from the BSOA/BSCC for their park improvements, the fire district since their bond did not pass, and the Morning Star for their day care school. *Edwards will prepare a resort tax funding request as a cost share.* Edwards doesn't like the idea of changing the contractor from Burke and we have been able to get the work funded through SRF. (Director Daniels left the meeting at 9:55 am.)

### **GENERAL CORRESPONDENCE**

The Board discussed the correspondence in the board packet on the RID for the Ousel Falls Road.

Smith noted that the financials will be presented in May along with the FY 2009-2010 budget. Considering the economic times, *President Cronin asked Smith to be critical and take a fresh look of how we do things and where we spend money when reviewing the new budget.*

### **NEXT MEETING**

The next Board meeting is tentatively scheduled for Tuesday, May 5, 2009, at 8:00 AM. There will not be an April meeting.

### **ADJOURNMENT**

*Director McRae moved to adjourn the meeting at 10:02 am. Director Allgood seconded the motion. Motion unanimously passed.*

  
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Dick Fast, Secretary

**BIG SKY WATER & SEWER DISTRICT NO. 363**  
**Regular Meeting Minutes – May 5, 2009**  
WSD Community Room

The Big Sky County Water & Sewer District No. 363 scheduled a regular meeting for 8:00 AM on Tuesday, May 5, 2009, in the WSD Community Room. President Packy Cronin called the meeting to order with the following Board members present: Vice-President Gary McRae, Secretary Dick Fast, and Directors Dick Allgood, Jeff Daniels (left the meeting at 9:57 am), Bill Olson, and William Shropshire. WSD staff present were Ron Edwards, Marlene Kennedy, Terry Smith, and Jim Muscat. District legal counsel Susan Swimley participated via telephone until 10:54 am. The Big Sky Weekly reporter, Laura Bell, was also present.

**PUBLIC FORUM**

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

**MEETING MINUTES**

*Director Shropshire moved to approve the minutes of March 24, 2009, as written. Director Daniels seconded the motion. Motion passed, 7 yea votes to 0 no votes with President Cronin voting.*

**FINANCIALS**

Smith reviewed the March financials, stating that the April and May financials will be presented next month. Only contributed capital was not on target, but according to Smith that will change next month as one extension was recently conveyed. Edwards reported that Boyne made their annual payment. The cause of positive change in operating revenue was discussed, but Smith projects that those numbers will turn around at the end of June.

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

Social Security Refund: Smith distributed a summary of the receipts on the reimbursement of social security. In the month of April the District received the entire SS refund, both employee and employer contributions—from 2005-2008. The employee refunds have already been made and the employer portion will be the same. The employer refund will be going through payroll and MPERA so that the district does not have any additional cost for the refund. The employee can take the second half as income and pay the taxes upfront, or when they take it out of their 457 plan. The employees have until June 24, 2009, to decide how they want to take the employer's refund. Director Shropshire said his concern is that an employee will take the funds and not put it into retirement. President Cronin stated that is was unanimous from the employees to have the two options. Smith noted that staff were told that it was the board's desire for the employer refund to go to a retirement vehicle, but it was up to the discretion of the employee.

FY 2009-2010 Draft Budget: The draft budget was provided in the board packet using the increased water and sewer rates that were approved last year. Smith projects that revenues will be down about 6%, and he felt this was leaning towards the optimistic side. Smith reported that line items were identified that could be lowered—such as the rug mat service, eliminate or downsize some of the dumpsters, and reduce the number of water samples as allowed by DEQ. All areas of operating costs will be going up, but the staff squeezed where they could. The previous SS retirement contribution is now going into individual 457 plans for retirement. President Cronin asked for comments on the draft budget. Smith reported that there will be another staff meeting this month to review the budget to make minor changes. Edwards said his goal is to have the budget adopted at the June meeting so that the budget is effective July 1.



Edwards reported that last year the Board adopted the rate increase for this year and a new public hearing will not be needed as long as the budget stays with the rates adopted last year. Edwards said with this new sewer rate increase it will get us off the subsidy of the sewer operations. Smith reported that we have used up the reserves a little more than he would like to—we have about a \$230,000 cushion where he would have liked to have about \$300,000 in reserves. In third quarter 2009, we should be breaking even—the money coming in will cover the expenses going out. The District is putting about \$50,000 a month away for repair & replacement of sewer infrastructure. Director Shropshire asked if he calculated assets on the balance sheet. Smith has not, but said he will do it. At the request of President Cronin, Edwards provided a quick review of the PIC funds—including the Boyne surcharge and their \$250,000 annual payment for another 2 years plus the Simkins exemption, the land exchange, and the District's purchase of the extra 30 acres from Simkins—where we now have about \$4.5 million dollars in PIC funds. The funds could be used for debt service, historically the board has looked at it for sewer debt, but the board could elect to use the money for other projects through board action. Director Shropshire said the District might consider using some of the funds to pay down the debt. Smith said he would prefer to wait 12 months to see what happens. Edwards said the debt is being reduced through the use of some of the funds. Director Shropshire said we fix on the operating statement and a lesson that he has learned is that we need to *manage WSD assets and it needs to be part of budget process*. Smith said the PIC funds will decrease this year with the decline in connections and that we are currently using 10% to reduce the debt. President Cronin said the District should *consider using the PIC funds to pay down debt*. Edwards noted that the Board could do a rate analysis and make adjustments—where we charge a PIC on sewer connections, but not on water connections. President Cronin advised against changing the \$3,500 per SFE for sewer connections since it is tied to a lawsuit.

**2009 Estimated Mill Rate:** The projected mill rates are 18.91 mills for the water bond debt and 19.02 mills for the sewer bond debt. Smith asked for board approval on the projected mill rates for submission to the counties. The rates are where the District had told the taxpayers where they would be—adjusting the rates through the use of reserve funds. Edwards and Swimley reported that the bond has been reviewed by Mae Nan Ellingson.

***Director Shropshire moved to approve the estimated mill rates of 18.91 for water project debt and 19.02 for sewer bond debt, as presented. Director Allgood seconded the motion. Motion passed, 7 yeas votes to 0 no votes with President Cronin voting.***

## **WATER OPERATIONS**

Muscat reported that Meadow Village production is up a little bit, and that the Mountain is also up. A leak was found on the mountain, but Muscat did not have an explanation for the extra use in the meadow. The Yellowstone Club has their use under controlled. Muscat reported that the State recently classified the District as one water system now that the mountain and meadow are connected. Now that the District is one water system, fewer samples will be taken than previously required. However, Muscat said that the District is not fully aware of ramifications with consideration to total coliform sampling and the groundwater rule. The reduced lab costs are reflected in the budget. Muscat was confident that we are taking enough samples for having data to dispute any future need for chlorination—he feels that the sampling we do is representative of the system. TD&H is finalizing the plan to get the new meadow village wells on line.

## **SEWER OPERATIONS**

Burroughs was not available to review his flow report. *Edwards reported that we do not know why the flows are up and he will talk to Burroughs as to what he thinks is going on.*

## **MOUNTAIN LAKE CONDOS ANNEXATION AGREEMENT**

As directed by the Board at their March meeting, Edwards made the changes to the agreement by adding the 52.5 SFEs build-out limit, stating the SFEs are non-transferrable from the parcel, and that the easement allows construction of a well pump house. The timeline was added at the last draft. A copy of the agreement signed by Liston was provided in the board packet. Edwards asked the Board to approve the document if there are no other changes desired.

*Director Olson moved to accept the Mountain Lake Annexation Agreement as presented. Director Shropshire seconded the motion. Motion passed, 7 yea votes to 0 no votes with President Cronin voting.*

## **BIG SKY COMMUNITY CORPORATION**

Road Access Agreement: Edwards reported that two months ago the easement width was discussed and the Board had asked that the issue be revisited with BSOA to make it a 60' easement. There are a few park improvements that would be within the 60' easement, but Edwards did not see that as a problem. The District would make any repairs, at their cost, to the park improvement if necessary. Swimley feels that all the issues previously discussed have been resolved—30' easement to 60' easement, insurance provision, and tweak the language on access through the park that is consistent with water and sewer district uses (Search & Rescue and Northwestern Energy) then access is granted. The Board was concerned that the access language may be too specific and would not allow other access if the District wanted to allow other uses on its land within the zoning regulations. The way the document is written the board felt that BSOA/BSCC would have a veto power of use on any entity other than Northwestern, Search & Rescue, and the WSD. Swimley stated that it is a private easement and if we are not transferring the property (only leasing/renting), then we have broad authority to grant road access as long as it meets zoning requirements. Swimley did not feel that the District is being restricted by this language and feels that we are reserving every right we have as long as we are not transferring the property. The Board feels that the document is pretty much what we started with years ago, other than it is a lengthy document.

*Director Allgood moved to approve the Road Access Agreement as presented. Director Shropshire seconded the motion. Motion passed, 7 yea votes to 0 no votes with President Cronin voting.*

Park Irrigation Agreement: Edwards reviewed the agreement noting the term is 20 years and his initial reaction was to make it 10 years, and the second issue he had is providing free water. Edwards suggested rewording it to make it possible for the District to charge for treated wastewater. This agreement would supersede the previous irrigation agreement with BSOA, expanding the irrigation area to approximately 8.5 acres. Edwards noted that the Boyne golf course irrigation obligation is first in line, the Yellowstone Club is second in line, and the District is solely in charge of when and what volume of treated wastewater they will receive. Director Allgood suggested making the agreement for 5 years and to have the ability to charge for treated wastewater. The SFE consideration for their building was not tied to this document. (Director Daniels left the meeting at 9:57 am) Swimley read a capacity letter from BSOA sent in

February that stated they want WSD to grant 3.0 SFEs for their development plans. Edwards said there is nothing in the irrigation agreement that makes a commitment of SFEs. Edwards reported that they have submitted a million dollar resort tax request and Edwards doesn't feel that they will be doing any building this year as they will not know the allocations until June. Edwards said BSOA has a separate issue on the pond and the need for water rights—either getting permission to drill wells, or obtain water rights from the WSD. Director Allgood asked if there is any liability from BSCC/BSOA on the use of treated wastewater. President Cronin asked the board if they wanted to table the irrigation agreement.

*Director Shropshire moved to approve the park irrigation agreement subject to a 5-year renewal term, to allow a charge for the treated wastewater after 5 years, include a 30-day termination, and BSCC/BSOA must have a proof of insurance certificate. Director McRae seconded the motion. President Cronin called for discussion. The Board wanted to make it clear that by signing this agreement, it does not make a commitment for SFEs. Motion passed, 6 yeas votes to 0 no votes with President Cronin voting. The board will delay signing the irrigation agreement provided by BSOA until the road access agreement is signed*

*President Cronin asked that future agreements be drafted by the District, not the party asking for concessions—all board members were in agreement.*

#### **PERMITTING POLICY REVIEW**

Edwards stated that at the last meeting the permitting policy review was tabled until we had a full board. The issue stemmed from the Spanish Peaks permit where the board agreed to delay the payment of their permit fees via a payment schedule. Spanish Peaks subsequently asked to stop the payment schedule after 3 payments due to the down turn in the economy. The board agreed to their request while accruing interest on the balance. From that, the Board decided it should review its permitting policy. President Cronin feels that the District is on solid ground for making the concession they did at the time. Director Allgood directed Smith to send Spanish Peaks the schedule with interest. Edwards recommended voiding the permit and refunding the permit fees already paid. Director Olson stated that, proportionately, the payment of fees has the same affect on a homeowner and asked if we should be making any future concessions. President Cronin called for a straw vote and discussion on refunding the Spanish Peaks permit fees already paid. Director Allgood is concerned that they would build the entire building prior to paying any fees. Director Shropshire feels that the permit fees need to be refunded so that the WSD is not in violation of its current ordinance. Director Fast asked how we can hold their feet to the fire, where the fees must be paid prior to construction re-starting. Director McRae reported that all they have done is put a stub out from their building, they are not technically connected. Director Fast stated that if the District wants to have flexibility in the future, then we need to leave it the way it is. If we don't want to be flexible then we need to refund the permit fees and void the permit. The current ordinance states that the permit fees must be paid within 60 days of the conditional approval.

*Director Shropshire moved to refund the 3 permit installments paid by Spanish Peaks and to rescind the deferred payment schedule and to void the conditional approval with a letter stating that they cannot reapply for 180 days unless they make full payment of all permit fees within 30 days from the date of the letter. Director McRae seconded the motion. President Cronin called for discussion. Swimley felt that the Board is doing the right thing in refunding the permit fees and voiding the conditional approval. Director Allgood reported that two*

*project supervisors are still on site and feels that it would be appropriate to send them a letter that they are delinquent in the payment schedule and they have to pay the total fees within the 30 days or the permit is voided. Director Shropshire stated that a refund should be included in the letter. The District is to copy Gallatin County of correspondence to Spanish Peaks. The interest will be forgiven on the payments they have not paid. The administrative cost of \$100 will be retained, per District Ordinance, but the accrued interest on their payment will be refunded. Motion passed, 6 yeas votes to 0 no votes with President Cronin voting.*

President Cronin asked what the Board's direction will be if approached for a payment concession in the future. Director Shropshire feels that since the Ordinance states 60-days is required for payment, then that is the policy the Board should follow. President Cronin feels that the Board can make an exception on the 180-day penalty to reapply if someone comes to the District with permit fees in hand. Director Olson stated that we are not a bank and we should leave the ordinance the way it is. (Susan Swimley left the meeting at 10:54 am.) Edwards discussed what would be allowed under closed session, which is very limited. *Director Shropshire advised the Board that we should disclose to our attorney what public members are present when they are participating via telephone.*

#### **MEADOW VILLAGE WATER SYSTEM PROJECT**

Mountain to Meadow Pipeline Project: Snow Machines Inc has completed the mountain to meadow pipeline project and their last pay request was processed. Monthly summary reports for this project will be closed out for future board meetings.

Hidden Village Water System Repairs: The replacement of Bough's water line that runs along the west side of Hidden Village was approved by DEQ. Edwards reported that the work will be done during the fall after the area dries out. *Director Fast asked that Edwards look at the placement of the rocks by the beaver ponds as they may need to be moved.*

Silverbow Water System Repairs: A pre-construction meeting for the Silverbow Project was held on April 15. A start date of May 5 was set but, with the weather, it was pushed back a week. Edwards reported that there will be a meeting with 3 Rivers onsite today and a determination will be made on abandoning their old lines. Edwards feels that the locates are right, but if the lines are not located within 18" then the contractor is not responsible. The new 3 Rivers fiber optic line is at risk, but their locator will be there to help our contractor to avoid hitting their line. There is approximately 1,000 feet of water line to install next to the fiber optic line. Last year 3 Rivers made the decision to install their fiber optic line by Silverbow even though they knew we would be installing new water lines in the area soon. Muscat stated that he felt like he fell on deaf ears when asking them to delay their fiber optic work last year. *President Cronin recommended that the District hold off on any easement considerations for 3 Rivers, if needed, until this is resolved.* Edwards stated that *Kristen Ramirez is the manager at Silverbow and recommended giving her a dinner gift certificate once we are done with this project.*

Meadow Village New Water Wells Completion: Edwards reported that TD&H submitted the pipeline plans and specifications for the new Meadow Village wells 4 and 5 to DEQ for review and approval.

Meadow Village Water Projects Costs: A table showing the contracts and their status was provided in the manager's report in the board packet. *The Silverbow project will be added once we start up.*

### **NORTHWESTERN ENERGY SUBSTATION**

Edwards reported that HKM has given them a favorable geotech report with a cost of about \$100,000 for site improvements. Edwards needs to work on a lease agreement with Northwestern. President Cronin and Director Allgood suggested *having an industrial appraisal be done to aid the District at making decisions on the lease value and on the concessions the District will require*. Director McRae will provide Edwards with a name of an appraiser. The District will pay for the appraisal, but *build the cost of the appraisal into the lease payment*.

Edwards stated that there is no lease cost to the Search & Rescue.

### **2009 RESORT TAX APPLICATION**

Edwards submitted resort tax applications for \$300,000 for combined water/sewer debt service projects, \$20,000 for cost sharing a pilot snowmaking project above the Yellowstone Club storage pond, and \$50,000 for the storage pond liner cover project. The Resort Tax Board received 20 applications totaling \$4.173 million dollars, plus \$535,000 of rollover requests and \$500,000 for the District's annual commitment. Edwards has not heard the total dollars available but thinks they will have about 3 million to allocate. The Fire District is requesting \$800,000. The chamber is asking for about a half million dollars. The Q & A will be 5/20/09

### **DISTRICT LAND RE-ZONING**

Edwards reported that we received our re-zoning that we applied for—everything in now zoned community facility.

### **SEWER & WATER PERMITS**

One permit for 2.6 SFEs for a house in Cascade was received. Edwards noted that the Spanish Peaks Lodge SFEs were never booked on the table so their SFEs will not have to be backed out.

### **GENERAL CORRESPONDENCE**

A copy of the Yellowstone Club creditor correspondence was included in the board packet. Edwards said a CD with additional information on the bankruptcy assets was also received and it is available if any board members want to review it.

### **NEXT MEETING**

The next Board meeting is tentatively scheduled for Tuesday, June 16, 2009, at 8:00 AM.

### **ADJOURNMENT**

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

  
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Dick Fast, Secretary

**BIG SKY WATER & SEWER DISTRICT NO. 363**  
**Regular Meeting Minutes – June 16, 2009**  
**WSD Community Room**

The Big Sky County Water & Sewer District No. 363 scheduled a regular meeting for 8:00 am on Tuesday, June 16, 2009, in the WSD Community Room. Vice President Gary McRae called the meeting to order with the following Board members present: Secretary Dick Fast, and Directors Dick Allgood, Jeff Daniels (left meeting at 10:00 am), and Bill Olson. President Packy Cronin and Director William Shropshire were not present. WSD staff present were Ron Edwards, Marlene Kennedy, Jim Muscat, Grant Burroughs, Nic Wellenstein, and Terry Smith (participated via telephone for the financials agenda items). District Counsel Susan Swimley participated via telephone. Others present were Lone Peak Lookout reporter Amy May, Search & Rescue/BSCC representative Steve Johnson, and Northwestern Energy representatives Matt Micklewright and Ernie Hult.

**PUBLIC FORUM**

Vice President McRae called for public comment at 8:24 am. Steve Johnson noted that the Search & Rescue sent a thank you note to the District and he wanted to also extend a personal thank you to the Board and District staff for their cooperation in working with the Search & Rescue.

With no further public comment, Vice President McRae called the meeting to order at 8:24 am.

**MEETING MINUTES**

*Director Olson moved to approve the minutes of May 5, 2009, as written. Director Daniels seconded the motion. Motion passed, 5 yea votes to 0 no votes with Vice President McRae voting.*

*Director Olson asked that the action items be cleaned up since the list goes back to 2007. He would like it to include just the issues that need to be addressed at every meeting. Edwards will review, edit, and email the list to Director Fast for review and further clean up.*

**FINANCIALS**

April & May Financials: Smith noted that the April financials are pretty much in the same situation as reported last month and that there were no surprises to report. Smith did not have the May financials prepared.

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

FY 2009-2010 Budget: Smith reported that the depreciation expenses and miscellaneous expenses were adjusted. According to Smith, overall on the budget, we are at break even due to the rate change of last year. Edwards recapped the budget presented and approved last year, explaining that the rates for the 2009-2010 fiscal year were approved then. The rates summarized in the manager's report were: 1) sewer base rate--\$23.91 per month and \$5.82 per 1,000 gallons; and 2) water base rate--\$15.46 per month with the tiered volume rates charged per 1,000 gallons as follows: \$2.49 for 0-60,000 gallons, \$3.74 for 60,000 to 90,000 gallons, and \$4.99 for use over 90,000.

*Director Daniels moved to approve the FY 2009-2010 Budget as presented. Director Allgood seconded the motion. Motion passed, 5 yea votes to 0 no votes with Vice President McRae voting.*



**Amended 457 Agreement:** Smith noted that the Board previously passed a resolution affecting the change and this is the amended adoption agreement according to what was passed at last month's meeting. The percentage went from 5% to 6.2% with an employee match.

***Director Fast moved to approve the amended 457 Agreement. Director Daniels seconded the motion. Motion passed, 5 yea votes to 0 no votes with Vice President McRae voting.***

**Procedure for Levying Taxes:** Director Allgood asked for additional information on the notification from Gallatin County where they were proposing procedures to a unilateral change on bond payments. Edwards explained that we don't operate under the procedure that was proposed, that our bond counsel sent an opinion, and that the counties scope was wrong and should not affect the District.

### **SEWER OPERATIONS**

Burroughs reported that the flows are down a little from last year, which may be due to the cooler weather this spring. Burroughs recommended that we change the irrigation control panel to an In-Control system so that we can operate it. With the current panel, the District has to bring in a computer engineer from out of town every year and it costs the District money each time. Edwards stated that the panel expense could be run through replacement funds. Burroughs said that they have found one crack on a sewer line at the Silverbow Project and that has been fixed.

### **WATER OPERATIONS**

Muscat reported that leak detection was recently done and some more leaks were found in the meadow and the mountain. We will soon have real-time reporting as a software change over was recently done. In tearing down Boyne's old maintenance shop, a leak was found and it will be repaired. The Yellowstone Club water use is down about 25% and they now seem to have control over their use. According to Muscat, the Silverbow project is going pretty well and the first section of the new main will be turned on soon.

### **DIRECTOR ELECTIONS**

Edwards explained that two director positions, currently held by Jeff Daniels and William Shropshire, will be up on 11/3/2009. The Gallatin County Election Office asked that the Board adopt a resolution regarding the election, which is a new request from the county. To be considered for the November 3, 2009, election, an Oath of Candidacy form along with the Petition for Nomination with a recommended 8-10 signatures must be filed with the Gallatin County Election Department no later than August 20, 2009. Susan Swimley noted that if no one files petitions, the sitting Board fills the vacancies. If the sitting board members file petitions and no other individuals file, then there does not have to be an election. If three or more people file, then an election will be required.

***Director Fast moved to approve Resolution 09-03: Calling for a Board of Directors Election as presented. Director Olson seconded the motion. Motion passed, 5 yea votes to 0 no votes with Vice President McRae voting.***

**NORTHWESTERN ENERGY SUBSTATION**

Edwards asked Matt Micklewright to provide the Board with an update. Micklewright distributed a brief outline of the proposed construction activities for the site. The appraisal has not been done and Edwards has not got a firm commitment (neither a yes or no) from Keith O'Reilly to even do an appraisal on the site. Matt Micklewright commented that they would do whatever the District Board wants. Director Allgood said that there are other companies that provide appraisals of this nature. Micklewright offered to contact Pat Assay to get names of others that can provide appraisals. According to Swimley there will not be a problem with the agreement with BSCC/BSOA if the land is either sold, or leased, to Northwestern Energy. Edwards said a quit claim deed and sale could be done and if the substation were ever abandoned then the site would be reverted back to the District. Micklewright said a certificate of survey does not need to be done if the site is leased. Swimley thought it would be easier to have the site as a utility tract of sale. If that is not the Board's desire, than a lease can be worked out that would circumvent the subdivision review. Micklewright said that they would like to stay on track with the schedule if they can, but with a construction envelope he asked that the Board give them a little bit of leniency if they do not stay on track. They still need to do the reclamation of the test pits and bore site of the first site. *Edwards will talk with Micklewright about having Russell Hone doing this work.* Micklewright said that with the new bud growth, the spring transplanting window was missed. After talking to an arborist, Micklewright assured the Board that the trees can be moved as soon as the new growth hardens off. Director Allgood said an appraiser can do comparisons on a regional, or national, scope. Micklewright asked if it would be inappropriate for the Board to just come up with a fair number. The Directors said in fairness to NW we need to get the appraisal done and *Edwards is to contact Norman Wheeler (an appraiser in Bozeman) and then contact the Board via email for a vote.* Director Allgood suggested that *Edwards check online for a qualified/experienced appraiser, too. Edwards is to contact Board members with the appraisal information.* Micklewright said to contact him if he can answer any questions. On the proposed COS a 20 foot utility easement is shown, but Micklewright said a 10-foot utility easement would be sufficient for NW. Edwards said that a combined road and utility easement could work for both. Swimley felt that both options, sale and lease, should be left open until the appraisal is complete.

Edwards reported that Steve Johnson provided some information in regards to extending the walking trail in three stages: 1) extend the trail along the middle fork to nearly the end of the WSD property, 2) add an unimproved trail down the steep embankment for a picnic area, and 3) add a trail through the draw and up above the golf course. Director Olson said if there is not a charge for public access, there is no liability, and through BSCC there would be indemnification. Director Olson reported that trail building prices 4-5 years ago was about \$9.00 per foot and he feels that the quote provided by Land Tech Montana is fair. Johnson said *if this trail is something that will be done, then we should get it put on the site plan.* Edwards said the District could use operating reserves to complete the lower trail now and then be reimbursed through Northwestern Energy. Johnson said it makes sense to coordinate building the trail with Northwestern in their construction schedule so as to avoid damage to the trail. According to Johnson, the trail extension would not tie into the Reflector Trail, which is an easement that Lone Mountain Ranch has, but someday it possibly could. Micklewright said that Northwestern would love to help out with the trail and he will ask for funding now, but he didn't think he could get approval to fund the trail work prior to a signed agreement for the substation site. Edwards said that this trail would be a good resort tax request for next year, but Resort Tax does not favor

refunds for work already done. Director Olson stated that the Land Tech quote provides only one mobilization quote in the proposal. Director Olson suggested waiting a month until we get the appraisal work done with Northwestern. Johnson will contact Zac Cavaness/Land Tech Montana on his schedule. Director Allgood stated that the whole project should be done, not just a portion. *This issue will be on the agenda next month.*

#### **BIG SKY COMMUNITY CORP: WASTEWATER IRRIGATION AGREEMENT**

Edwards distributed the BSCC wastewater irrigation agreement and Swimley's email regarding the agreement. Swimley said the following changes were made to the agreement per the board's direction: 1) a five-year term, 2) no cost for irrigation water for five years, 3) include 30-day right to termination for cause, and 4) mutual indemnification on insurance clause.

*Director Allgood moved to approve the Irrigation Agreement with BSCC as presented. Director Olson seconded the motion. Motion passed, 5yea votes to 0 no votes with Vice President McRae voting.*

#### **BIG SKY COMMUNITY CORP: SFE CONSIDERATION LETTER**

In consideration of BSCC/BSOA providing an easement through the park located on Lot 2-A of Sweetgrass Hills, they sent the District a letter dated February 13, 2009, requesting the following: 1) allocate 3.0 SFEs for BSCC's park development plans, 2) the right to connect the park to the community water and sewer lines, and 3) be exempt from paying any plant investment charges or development surcharges when applying for a permit, and 4) water & sewer connection subject to quarterly charges.

*Director Allgood moved to approve BSCC/BSOA's letter of February 13, 2009, requesting 3.0 SFEs for their future park connections to the water and sewer system. Director Daniels seconded the motion. Motion passed, 5 yea votes to 0 no votes with Vice President McRae voting.*

#### **KUDRNA CORRESPONDENCE**

Dr. Kudrna sent the District a letter concerning his high water bill (\$2,186.15 bill for 228,900 gallons of water) for the first quarter. According to Edwards, the meter's accuracy was checked and was found to be normal and the District staff did not feel a faulty meter was at issue, or that any outside water use occurred. Edwards reported that we have seen big water uses through leaking toilets, and staff feel that this may have been the problem. The properties' meter was not calling in and we only had a quarter end read for billing purposes. The District has adjusted Kudrna's averaging for the winter based on previous use, but no other reductions/concessions were made. Director Allgood noted that when District staff went into Kudrna's unit there were a couple of bottles of wine on the counter with a note thanking the owner for the use of the condo. However, the owner had reported that the unit had not been used at all during the 3 months in the first quarter. Director Fast asked if the fact that the meter not calling in was the District's responsibility, and if it is not our responsibility then we don't need to worry about it. If more frequent reads is something the District tells people will be done, then we are responsible to have the reads. Nic Wellenstein reported that the phone line used for reads was disconnected and that is why no reads were coming in. Edwards said there is nothing in our ordinance that says we will read meters more than for quarterly billing. Muscat feels that people have to be responsible for their own water use, and we should not make any commitment on informing people there water use is high—Muscat cautioned the Board to not set a precedence of informing customers of their use other than for quarter end billing.

## **MEADOW VILLAGE WATER SYSTEM PROJECTS**

Hidden Village Water & Sewer Repairs: Edwards reported that only the Bough extension needs to be completed.

Silverbow Condominiums Water & Sewer Repairs: Edwards reported that it has been virtually impossible to identify all the utility lines in the area of the Silverbow Condominiums. We have a line item for exploratory digging and this will cover those costs. A construction meeting was held a couple of weeks ago and the staff and contractor will continue to hold meetings every couple of weeks.

Meadow Village Water Well Completion Project: Edwards reported that the project has been submitted to the State for approval. The State appears to have a backlog of submittals due to stimulus funding requests.

Meadow Village Water Projects Costs: The manager's report included a table that provided contract status information through April 2009. The Silverbow project has been added.

## **RESORT TAX APPROPRIATIONS**

Edwards reported that the District was allocated a total of \$120,000 as follows: \$50,000 rollover money for the aerial photography, \$50,000 for tax relief out of the \$300,000 request, \$20,000 for pilot snowmaking. The rock liner project was not funded. (Director Daniels left the meeting at 10:00 am.)

## **SEWER & WATER PERMITS**

Edwards said the permitting is slow, but we did issue a couple of permits. The Spanish Peaks permit was voided and the principal they paid was fully refunded with the District retaining the interest accrued. Edwards had discussed this with Spanish Peaks and they did not have any issues with voiding the permit. According to Edwards, the remaining SFEs will last us a decade at the current permit issuing rate.

## **FOLF COURSE**

Edwards said the District has received a few complaints regarding the new folf course, but that BSOA reported that they have received lots of compliments on the folf course. Steve Johnson and Robin Hicks have driven the folf course and didn't feel as if it infringed on the trail or adjacent property.

## **GENERAL CORRESPONDENCE**

The Board did not discuss any general correspondence other than the letter from Kudrna, which was an agenda item.

Matt Micklewright asked about getting approval for Northwestern Energy to put in underground service to the Search and Rescue Building. *Micklewright will get an easement to Edwards.*

### MEETING SCHEDULE

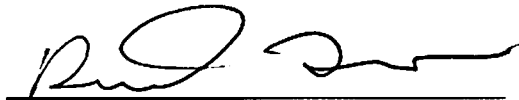
Edwards proposed going to a bi-monthly meeting schedule with the lack of action items on the agenda and stated that District policy does not require a monthly meeting. The only issues that may need Board discussion sooner are the Northwestern Energy easement and the trail.

Director Olson asked if Northwestern would be interested in partially funding the trail now. Micklewright said he thinks it would be a good idea but doesn't know if Northwestern will go for it without having the lease in place. *Micklewright will run the request through his office.* Edwards said the Board can have a special meeting for the trail or, if we get the Northwestern appraisal information, or board members can be polled via email. *Steve Johnson will check Zac Cavaness's scheduled and if his availability dictates starting the trail soon. Edwards will then poll board members via email for using District funds.*

The next Board meeting is tentatively scheduled for 8:00 am, August 11, 2009, (2nd Tuesday).

### ADJOURNMENT

*Director Fast moved to adjourn the meeting at 10:25 am. Director Allgood seconded the motion. Motion unanimously passed.*



Dick Fast, Secretary

6-16-09. min (draft)

**BIG SKY WATER & SEWER DISTRICT NO. 363**  
**Regular Meeting Minutes – August 11, 2009**  
WSD Community Room

The Big Sky County Water & Sewer District No. 363 scheduled a regular meeting for 8:00 am on Tuesday, August 11, 2009, in the WSD Community Room. Vice President McRae called the meeting to order with the following Board members present: Secretary Dick Fast and Directors Dick Allgood, Jeff Daniels, and William Shropshire. President Packy Cronin and Director Bill Olson were not present. WSD staff present were Ron Edwards, Marlene Kennedy, Terry Smith, and Jim Muscat. Others present were District legal counsel Susan Swimley; Tamarack Condo Association representatives Doug Timm, Frances Ackerman, and Jim Ackerman; and Northwestern Energy representatives Matt Micklewright and Ernie Hult. Cottonwood Crossing representative Jim Schultz listened in via teleconference at the end of the irrigation discussion.

**PUBLIC FORUM**

With no public comment, Vice-President Gary McRae called the meeting to order at 8:12 am.

**MEETING MINUTES**

*Director Fast moved to approve the minutes of June 16, 2009, as written. Director Daniels seconded the motion. Motion passed, 5 yea votes to 0 no votes with Vice President McRae voting.*

**FINANCIALS**

Smith only included the June financials, which he said picked up the May financials. Smith reported that the revenues came in slightly above the projected revenues. Smith believes that 100% of all the expenses will be reported in the audit report, which will be presented at either the November, or December, board meeting. The loss on fixed assets is about \$35,000. The Farmhouse note is the plant investment fees that are paid over time, and Smith thought that this note was due in two or three years.

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

Delinquent Accounts Status Report: Smith reported that all customers with delinquent accounts were notified to pay the accounts current by August 15, 2009, or the balance will be turned over to the county for collection through the tax rolls. Smith stated that there are still 142 delinquent accounts.

Tax Levy: The tax levy for the SRF payment is January 1, 2010 and July 1, 2010. Smith asked the Board to approve the rates at 25.9 mills for water and 25.32 mills for sewer. These numbers were increased from the original estimate as the resort tax did not fund the WSD as requested. Per Susan Swimley, the Vice President can sign the mill request.

*Director Daniels moved to approve the rates of 25.9 mills for water and 25.32 mills for sewer. Director Shropshire seconded the motion. Motion passed, 5 yea votes to 0 no votes with Vice President McRae voting.*



## **AMEND AGENDA**

*Director Shropshire moved to amend the agenda to address the correspondence from Tamarack Condos. Director Allgood seconded the motion. Motion unanimously passed.*

## **TAMARACK COURT & COTTONWOOD CONDOS IRRIGATION METERS**

Edwards reported that letters were received from Frances Ackerman of Tamarack Court and Jim Schultz of Cottonwood Crossing regarding the tiered rate system as applied to irrigation for condominium complexes. Francis Ackerman stated that she thinks the tiered rate system is a good idea, but highlighted the situation where she believes it is unfair when applied to multi-unit irrigation. Ackerman reported that Tamarack has 29 units in their association with 5 functional irrigation meters and the tiered system penalizes them. They have tried to conserve and their property manager has been cutting back on the water use when it rains. However, their irrigation meters will still go over the 60,000 gallons in the first tier during the summer. Edwards said that condominium associations are billed under an irrigation meter account and that multiple meters are not aggregated and each meter follows the tiered rate. Ackerman reiterated that their landscape maintenance person is manually adjusting the meters to conserve. Since the tiered system was adopted, Ackerman reported that their irrigation bill has gone up about \$1,000 even though they have been trying to conserve. Vice President McRae stated that the Board did have a long review of the tiered rate system prior to adopting it. Edwards stated that the water charge would even be higher if the irrigation accounts were aggregated. Director Allgood reported that the irrigation season is spread out over two quarters and that the July-September quarter will have a higher use than the spring quarter. Ackerman said that while the tiered system is excellent, it penalizes those who live in congregate living situations. Edwards explained the tiered rate system and, in the case of Tamarack irrigation meters, they are billed on this system for each irrigation meter. Edwards said that the loop hole in this is to add additional meters where the water use is spread out; which would probably reduce the use per meter to under the 60,000 gallon threshold. Ackerman reported that during the summer all their irrigation meters go over the 60,000 gallons and feels that condos are being penalized. Director Fast would like to know how many acres are being irrigated in multi-family complexes in comparison to single family homes. Swimley stated that the Board can review the irrigation rate situation when they review the rate structure. Ackerman thanked the Board for their consideration. Dr. Daniels asked if the total irrigation meters could be added up and averaged for a complex. Edwards stated that there isn't a perfect situation, and said that he will *go over the use and collect data after the irrigation season to review the tiered rate system as it relates to multi-family complexes.*

## **NORTHWESTERN ENERGY SUBSTATION**

Edwards hired an appraiser from Missoula that provided an appraisal on the 3-acre site based on the survey done by Northwestern Energy and a copy of the appraisal at \$120,500 was in the board packet. Edwards reported that a couple of the board members had told him that they felt that the appraisal was too low. Matt Micklewright stated that NW is in a holding pattern right now, and asked that the District make a proposal whether it be doubling or tripling the appraisal. Director Shropshire said all appraisals go on similar conditions, but that the appraisal is reflecting what is in the relevant market place. Director Shropshire asked why the board would want to argue with the appraisal and, if the timing is of the essence for Northwestern Energy, then we need to proceed. Director Shropshire also asked what would be the penalty, or precedence, if we moved forward. Swimley stated that the appraisal only sets the bottom price

for the land and the only precedence the Board needs to set is to make sure the District gets at least the appraised value of the land. Director Allgood feels that the problem with the appraisal is with the comparables as they produced a very low value and he believes that there is information out there where an electric company had to build a substation in an area like Sun Valley, Aspen, or another similar resort facility. Swimley informed the board that the appraisal is the baseline and if the board is uncomfortable setting a purchase price without an additional appraisal they can get one—just take the appraisal as a bottom price. Director Allgood stated that this appraisal establishes a base and we should not go under that price. Of the four land acquisition options, Matt Micklewright stated that the leasing option was the least acceptable to Northwestern Energy. Swimley reviewed the four options, noting that there is no way that NW would be able to accept a lease like we did with Search and Rescue. Swimley feels that if the District wanted the lease option, that the county would come back and require a subdivision. Looking at the interests of the District in the long term, Swimley would prefer that the District not own the property from a legal standpoint. Swimley reported that Northwestern Energy's first option would be to have a utility exemption that would allow the land to be conveyed.

**Director Allgood moved to pursue the utility exemption option if we do anything with the land with Northwestern Energy. Director Daniels seconded the motion. Vice-President McRae called for discussion. Director Shropshire feels that the appraisal will drive what we negotiate with Northwestern Energy and prefers to pick a value and go to Northwestern with that price. Director Allgood agreed. Vice President McRae felt that we would not be in this situation if we hadn't got this appraisal. Swimley stated that the utility exemption option would allow selling the land. Matt Micklewright said that the growth rate will come back and they arguably are approaching capacity with the current substation. Director Allgood asked if the vote of the board is to create a utility exemption. Director Shropshire called for question. Motion passed, 5 yea votes to 0 no votes. Director Allgood stated that the price cannot be below \$120,500.**

Swimley stated that the Board can decide the value of the land based on the information they know as long as the price is above the appraised base price. Edwards reported that other sites on the District's land were explored before this site was selected and we have basically created kind of an island with the proposed location of the substation. Director Shropshire asked if it is permissible to discuss the price in private. Swimley reported that a closed meeting can only be called on personnel and litigation/legal issues. Edwards stated that he doesn't know what rules an appraiser has to follow and if this appraiser could not go out of state for comparables. Director Allgood feels that the property has a higher value than the appraisal. Director Shropshire said that the real issue is to discover the price, which the District can set, and then if Northwestern Energy accepts it then it can be sold. Swimley said the appraisal is the defense that the District has. Director Shropshire suggested that Edwards meet with the WSD Board President and discuss the price to set. Edwards reported that he met with President Cronin last week and Cronin did set a price. The Board members did not want to discuss, or specify, a starting price in an open forum and wants Edwards and President Cronin to work together to present a price to Northwestern Energy. Swimley stated the benefits of the land to Northwestern Energy and then reviewed reasons for raising the value above the appraised price. Swimley also reported that the District has also asked Northwestern Energy for additional considerations, like reducing the impact of the existing substation, beautifying the proposed substation, building a trail, etc. Based on what he has heard, Vice-President McRae stated that Northwestern Energy

feels that the clock is ticking and asked if they wanted a number today. Matt Micklewright stated that if the deal gets to a point where it costs its customers millions of dollars and gets too grossly expensive then they would have to look at a special rate to serve the area. Edwards feels that, with this being a business transaction between two utilities, he wants to know what pool of NW customers would pay for the transaction. Micklewright reported that right now there are no special rates for specific areas, they have a statewide rate. They could potentially go to surcharges for certain areas, but they have not. Director Fast asked Director Shropshire to recap his suggestion. Director Shropshire asked Edwards to consult with individual members of the board on setting the purchase price and then prepare it in a form of a unanimous consent resolution which would be the authorization to establish a mutually agreeable purchase price. The Board would then have to approve the buy-sell agreement. *Director Fast directed Edwards to work on the unanimous consent within the week.* Matt Micklewright reported that the geotech/stabilization work will be \$200,000 and the dirt work will be about \$500,000 with total costs at about \$3 million to put in a substation at this location.

*Director Shropshire moved to direct Edwards and the WSD Board President to establish a selling price offer which will be submitted in a unanimous consent resolution by Friday, August 14, 2009. If after negotiations with Northwestern Energy and the District representative an agreeable sale price is established, a draft buy-sell document will be presented to the board for approval. Director Fast seconded the motion. Motion passed, 5 yeas to 0 no votes. Vice-President McRae directed Edwards to get the information circulated to the Board as expeditiously as possible.*

#### **FARMHOUSE PARTNERS/BIG SKY APARTMENTS**

Edwards reported that Dab Dabney of Farmhouse Partners is out of the area today and was not able to attend the meeting. In Dabney's absence, Edwards recommended tabling the rate reduction issue in Dabney's letter until he can attend a meeting to present the situation.

#### **SEWER OPERATIONS**

Burroughs was not in attendance to present a sewer operations report and review the flow report.

#### **WATER OPERATIONS**

Silverbow Project: Muscat reported that the contractor is about 80% done on the Silverbow project and, overall, they are doing a good job with the constraints that they are working within. About 25% of the people are hooked to the new line already. With alternate #2, they are on the home stretch. The area near the club house will be the most difficult area. All in all, Muscat feels that the project has been going well. In regards to the incident/accident where a gentleman fell in a hole that was fenced and covered, Vice-President McRae wanted to make sure that the District is on top of the situation legally. Edwards provided an update of the situation (which was an accident), stating that everything has been documented, that all insurance companies have been notified, and that he has heard the family has retained an attorney. The District has not been contacted regarding the accident, but Edwards stated that they have two years to file a suit. Edwards had previously notified the contractor that the gaping spaces between the embankment edge and the covering needed to be covered and that is documented in the inspector's reports. Director Shropshire stated that if the case cannot be settled within the contractor's insurance coverage, then we will probably still be liable. Edwards noted that the gentlemen was walking around his deck on the day that the insurance company was inspecting the site and the insurance representative had taken pictures of this.

**3 Rivers Fiber Optic Project:** Muscat reported that fiber optic installation has created quite a bit of havoc with water and sewer lines and anticipates that there will be a few more problems through the summer. Edwards stated that the District has been working with 3 Rivers to get an update of where they are working. Muscat reported that all the boring is to be completed this summer and we have received hundreds of locates that no entity can keep up with.

**Hill Condominium Water Bill:** Smith reported that a Hill Condominium building had multiple toilets leaking which resulted in a very high bill. District operator Nic Wellenstein has worked with their management company to identify the leaks and get them repaired. Muscat explained that the complexes that are on single meters had a choice when meters were being installed to retrofit the building to allow for single meters.

### **MEADOW VILLAGE WATER SYSTEM PROJECT**

Edwards reiterated that the Silverbow project has progressed pretty well so far and that the contractor is trying to get everything wrapped up by September 4.

Edwards reported that we are still waiting for state approval on the meadow village well project and Mark Golz thinks it will be another couple of weeks before they complete their review of the application.

The manager's report included an update on the costs of the water projects.

### **DIRECTOR ELECTIONS**

Edwards reported that Bill Shropshire has filed for re-election and Dr. Daniels will also be filing for re-election. One other person picked up an application, but the election department has only received Shropshire's application.

### **FOLF COURSE**

Edwards reported that the District received a letter from Marlene Kennedy objecting to the location of some of the folf targets where they are in the area of the walking path and he also received two letters supporting the folf course. Edwards said that the folf course layout did go all over the WSD property. He has not seen an actual map of their layout, so he needs to map it and send BSCC a letter to have any course changes made. The BSCC (Big Sky Community Corp) maintains the course. Edwards reported that there is no easement agreement for the folf course use. Director Fast wants to make sure that by having the folf course on District land that it doesn't give them a prescriptive easement. *Edwards will work on an agreement for the land use for a folf course and require changes to its layout where it impedes other activities (substation, walking trails, etc.).* Director Shropshire noted that a folf course through a walking path is hazardous.

### **SEARCH & RESCUE BUILDING**

Edwards reported on the progress of the search and rescue building. Director Fast said that some dead trees have been cut in that area and asked *Edwards to follow up on getting them chipped.*

### **SEWER & WATER PERMITS**

Edwards said that we did receive a few permit applications since June. *Edwards will add the 2008 data back to his report.*

### **GENERAL CORRESPONDENCE**

Responding to Director Shropshire's inquiry on the pond lining project, Edwards reported that 300 more baskets have been ordered even though the project did not receive additional funding from resort tax.

Edwards reported that the bill for repairs on a house where damage was caused by a sewer back up from a broken line are not the responsibility of the District as the line was broken by a 3 Rivers subcontractor that is installing cable for fiber optic. *Director Allgood asked that the District follow up to make sure that 3 Rivers cleans up their staging area that is on District property.*

### **NEXT MEETING**

The next Board meeting is tentatively scheduled for Tuesday, October 13, 2009, at 8:00 am. There will not be a September meeting

### **ADJOURNMENT**

*Director Fast moved to adjourn the meeting at 10:48 am. Director Shropshire seconded the motion. Motion unanimously passed.*



Dick Fast, Secretary

8/11/09 (Board Approved 10/13/09)

**BIG SKY WATER & SEWER DISTRICT NO. 363**  
**Special Meeting Minutes – September 17, 2009**  
**WSD Community Room**

The Big Sky County Water & Sewer District No. 363 scheduled a special meeting for 8:00 am on Tuesday, September 17, 2009, in the WSD Community Room. Vice President McRae chaired the meeting with the following Board members present: Secretary Dick Fast and Directors Dick Allgood, Jeff Daniels, and Bill Olson. President Packy Cronin and Director William Shropshire participated via telephone. WSD staff present were Ron Edwards and Marlene Kennedy. Others present were Northwestern Energy representatives Matt Micklewright, Ernie Hulit, and Pat Asay. District legal counsel, Susan Swimley, participated via telephone.

**PUBLIC FORUM**

With no public comment, Vice-President Gary McRae called the meeting to order at 8:07 am.

**NORTHWESTERN ENERGY SUBSTATION**

Edwards explained that Susan Swimley and Northwestern Energy's legal counsel have been working on a buy-sell agreement. Edwards had sent a copy of the document via email to board members and distributed a hard copy at this special meeting. After receiving comments from Board members, Edwards stated that the issue still to be settled is the park funds. Edwards suggested using that portion (\$75,000) of the proceeds for a restricted fund for road maintenance. Swimley commented that she doesn't have any problem with the \$75,000 allocation to BSCC, as presented in the draft in the document, as it would be considered compensation for the use of the road that originally did not have an easement. Additionally, Swimley was not concerned about the earnest money as she cannot see the deal falling apart. Swimley did not advise changing to another title company as all that would do is delay getting a title policy. According to Swimley, Northwestern Energy would have to maintain the road from the end of the current road, essentially from the treatment plant to the NW substation. Edwards stated that he and President Cronin had discussed increasing the earnest money. Edwards feels that it would be cleaner if the \$75,000 went directly to BSCC than to the WSD and then to the BSCC. At the risk of the park project falling through, Vice-President McRae suggested that the funds be set aside as a separate fund. Swimley said if the WSD takes the \$75,000, it would have to be expended per Edwards's suggestion on road maintenance, etc. Director Olson stated that he is all for the park, but in our responsibility to the WSD members it is water and sewer that we are responsible for, not parks. Director Olson also stated that we are not a philanthropic organization, we are responsible to the District and he does not believe we should fund the BSCC. Director Olson reported that the District has done a lot for BSCC already--built the road, improved the entrance, and many other things. Director Olson feels that if later down the road the District wants to do something like install water and sewer for the park, then the Board can address it at that time. President Cronin agreed with Director Olson.

*Director Allgood moved to change the Agreement to Buy and Sell by increasing the purchase price to \$375,000 with no encumbrances, eliminate the \$75,000 to BSCC, and to change the earnest money to \$30,000. Director Shropshire seconded the motion. Vice President McRae called for discussion. Edwards explained why it was suggested to change the title company. Director Fast asked about a standard amount as earnest money in a transaction. Director Olson asked about Northwestern's previous commitment to help build a trail through the WSD*



*property. Edwards explained that the WSD Board had talked about handling the trail extension and leaving Northwestern Energy out of it. Edwards reported that it would cost about \$20,000 for extending the whole trail and Matt Micklewright thought it was earlier reported by Steve Johnson that the cost would be about \$30,000. Director Allgood stated that the trail would be on District land and the District could use the proceeds to build the trail. Edwards suggested that the \$75,000 could be set aside to maintain roads and build a trail. Director Shropshire stated that the WSD should not obligate the \$75,000 to anything in the document and then the WSD Board can decide how to use the funds. Motion passed, 6 yeas to 0 no votes without Vice-President McRae voting.*

#### **DIRECTOR ELECTIONS**

Edwards reported that three people have filed for two board seats. In addition to Shropshire and Daniels re-filing, Betsy Weltner, who is from the mountain village, also filed. Edwards is working with the Gallatin County election office to hold a mail ballot election with the election date of November 3, 2009.


Director Fast asked that the Board be on the record that it is the District's intent to work on extending the trail on District property.

#### **NEXT MEETING**

The next Board meeting is tentatively scheduled for Tuesday, October 13, 2009, at 8:00 am.

#### **ADJOURNMENT**

*Director Fast moved to adjourn the meeting at 8:30 am. Director Daniels seconded the motion. Motion unanimously passed.*

  
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Dick Fast, Secretary

9/17/09 (Board Approved 10/13/09)

### **LEADERSHIP TRAINING COURSE**

Edwards reported that he will attend the leadership course being offered on November 12. If any board members want to attend they are to let Edwards know—the cost of \$450 will be shared by all the participants with the District covering the cost of their staff and board members that participate.

### **FARMHOUSE PARTNERS REQUEST**

Edwards explained that according to Dabney he has had a lot of vacancies and he also has a regulated maximum allowed rent charge and he is asking for a concession on the water and sewer fees that are charged per unit. President Cronin explained that Farmhouse is in no different of a situation than other property owners that have not been able to rent out their vacant units and with the rental price decreasing because of supply and demand. Edwards said that there is one angle on Dabney's request that might benefit him. They have 3 irrigation meters that might be able to be disconnected if they are not using them, thus eliminating the billing on these inactive accounts. *Edwards said it is possible that the District could ask for resort tax funds for low income subsidy for water and sewer charges.* Director Olson stated that he wouldn't object to assisting low income residents. President Cronin said if it is supported through the community and the resort tax then the District could administer it. Edwards feels that this would be a legitimate resort tax request. *The board directed Edwards to write a letter to Dabney denying his request.*

**Director McRae moved to deny Dabney's request as it would be in violation of the District's ordinance to provide a break on water and sewer charges for a select individual. Director Daniels seconded the motion. Motion passed, 5 yea votes to 0 no votes with President Cronin voting.**

### **GENERAL CORRESPONDENCE**

There was no general correspondence for the board to address.

### **NEXT MEETING**

The next Board meeting is tentatively scheduled for Tuesday, December 15, 2009, at 8:00 am.

### **ADJOURNMENT**

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



Dick Fast, Secretary

**BIG SKY WATER & SEWER DISTRICT NO. 363**  
**Regular Meeting Minutes – October 13, 2009**  
WSD Community Room

The Big Sky County Water & Sewer District No. 363 scheduled a regular meeting for 8:00 am on Tuesday, October 13, 2009, in the WSD Community Room. President Packy Cronin called the meeting to order with the following Board members present: Vice-President Gary McRae, and Directors Dick Allgood (left at 9:16 am), Jeff Daniels, and Bill Olson. Director Shropshire participated via telephone starting at 8:50 am. Secretary Dick Fast was not present. WSD staff present were Ron Edwards, Marlene Kennedy, Terry Smith, Jim Muscat, and Grant Burroughs. BSOA representative, Mary Jane McGarrity, was present for the pond restoration issue.

**PUBLIC FORUM**

With no public comment, President Cronin called the meeting to order at 8:16 am.

**MEETING MINUTES**

*Director Daniels moved to approve the minutes of August 11, 2009, as written. Director McRae seconded the motion. Motion passed, 4 yea votes to 0 no votes with President Cronin voting. Director Olson abstained as he was not present for that meeting.*

*Director Olson moved to approve the minutes of September 17, 2009, as written. Director Daniels seconded the motion. Motion passed, 5 yea votes to 0 no votes with President Cronin voting.*

**FINANCIALS**

Smith reported on the expenses and revenues through August 31, 2009. The past due accounts were turned over to the counties—112 accounts to Madison (90-96 of these were The Lodge accounts) and 32 accounts to Gallatin County. For any owner that had called and made arrangements to pay their account then their account was not turned over to the county for collection. Smith reported that the rate adjustment along with an increase in the number of accounts has had the effect that Smith had hoped and now the revenue is covering the operating costs.

*Director McRae moved to approve the July and August financials as presented. Director Daniels seconded the motion. Motion passed, 5 yea votes to 0 no votes with President Cronin voting.*

Edwards provided a recap on the taxable value certification covering what the District has done since 2004, noting that the District did not receive any additional resort tax funds this year to pay down the debt. Edwards said the taxable values could go down with the current real estate market and explained the adjustments that would have to be made in the mill rates in that event. Edwards said the PIC fund reserve has been used to help pay down the debt.

Smith reported that the auditors were in last week and that the field work has been finished. The auditor will provide a report for the December meeting.

## **WATER OPERATIONS**

Muscat reported that the water use was a little weird in August where the mountain flows were lower than last year and the meadow flows were higher, but he did not have an explanation for this. Once the October flows are in, Muscat felt that we will have a better picture of use without irrigation. The Silverbow walk through was completed last week and it looks good—all pressure tests passed. As in the past, the District will continue to do leak detection on water lines in the spring. Muscat reported that starting today the air bursting will be done on meadow village well #3 and then they will do a 72-hour pump test. According to Muscat, if the well rehab works, that will give the District about another 100 gpm. If the air bursting doesn't work to increase the production to about 200 gpm then Edwards said the District may have to redrill the well. Muscat reported that the mountain well passed the DEQ sanitary survey.

President Cronin asked if the District has any policy on back flow prevention and check valves on fire suppression systems. Muscat said that the District does require back flow preventers and has specs on that, but the District does not do any follow up inspections on the fire suppression systems. Muscat said the District could pass an ordinance that would allow the District to do periodic inspections. Edwards reported on a past failure on the system at the Shoshone where it was contaminating the drinking water. President Cronin asked if the District should have any language on the fire suppression systems on the big projects, or even single family houses over 3,500 sq ft as they are also required to have a fire suppression system--may the District should have a follow-up check system. Muscat reported that he did attend a back flow prevention workshop last week at the water school and the presenter had said that enforcement is difficult. *Muscat suggested that the board president send a letter to the fire department on back flow prevention specifications on fire suppression systems.*

## **SEWER OPERATIONS**

Burroughs reported that the flows are lower and that we are getting ready to blow out the irrigation system and shut it down for the season. In about two weeks, the District will have two bins of compost available. (Shropshire joined the meeting at 8:50 am) Edwards reported that the pond lining project is going well and he will have The Weekly do a story on it this week. The goal is to get one side of the pond completed. Burroughs said that the irrigation pond needs to be drained to inspect the foot valve, but he has been waiting for the rock work to stop.

## **FARMHOUSE PARTNERS BIG SKY APARTMENTS**

Edwards suggested delaying this issue until Dab Dabney is present to discuss his request.

## **BSOA POND RESTORATION & WATER RIGHTS**

Edwards reviewed the history of BSOA's request to the District for their pond restoration project. Mary Jane McGarrity stated that she was attending the meeting to ask if there is a spirit of cooperation from WSD to work with BSOA on the Little Coyote pond restoration project. McGarrity reported that they will amend their request to include irrigation and recreation and wants the approval to work with Ron Edwards and the District's water rights attorney. The District would need to use their water rights on the channel pond for evaporative loss calculated in the pond restoration. Director Olson stated that there been previous correspondence that says it would be to the advantage of the District to show that the District is using its water right



allocation. President Cronin asked about the potential monetary commodity of the District's water rights. Director Olson asked if Edwards has had any discussion with Boyne on their plans for golf course expansion and their potential increased irrigation needs. Edwards reported that he has only seen the expansion plan on paper, no discussion has occurred, and that if additional irrigation was needed they would use treated wastewater. Director Allgood felt that by the delineation change and also giving a small amount of water to BSOA than we make it easier to protect the Districts water rights in the future. McGarrity explained that their project will be a continuous river channel with head gates and the dam would stay as is.

**Director Olson moved to instruct our attorney to amend the WSD water rights by adding recreational water rights and to also advise the District on the pros and cons of changing the water rights. Director Daniels seconded the motion. Motion passed, 6 yea votes to 0 no votes with President Cronin voting.**

#### **LEHMAN GOOD CORRESPONDENCE**

Edwards reviewed the Lehman and Good correspondence where they are requesting the board to reconsider how their permit fees were calculated. They want to have their fees calculated under the old system of bedrooms and bathrooms, not square footage, as they have a very large house and the fees would be less under bedrooms and bathrooms. Good and Lehman claim that they would have applied earlier if they would have known about the change in calculating SFEs as they started their project over a year ago. Edwards also reported that Good is questioning the Boyne surcharge and he has sent a copy of the settlement agreement to Good. Edwards feels that the fee is what it is and with a house this big we could play the game of what is defined as bedroom under the old system. (Director Allgood left the meeting at 9:16). *Edwards recommended sending a letter to Lehman and Good stating there is no basis for the board to consider their request and the permit fees stays as is and the issue of the surcharge discloser is between them and Boyne.* President Cronin stated that the board moved slowly and carefully prior to changing how the SFEs were calculated for the PIC charge and the public was also noticed of a public hearing prior to the change. The board agreed with Edwards' recommendation to deny the request from Lehman and Good.

#### **SILVERBOW ENGINEERING CONTRACT AMENDMENT #3**

Edwards explained HKMs \$80,491 contract amendment request--the inspection taking longer as the daily linear footage was much less than their estimate (40 days estimated compared to 120 actual days of inspections). According to Edwards, Johnston's did get compensation for the extra time on the work as it was built in their contract to be compensated for any additional utility crossings and they are fine. This would come out of the SRF bond project funding. Edwards felt that the under estimated inspections was caused by HKM using Rick Selensky, a less experienced engineer, on the project instead of Ray Armstrong. Edwards also reported that he had negotiated down the amendment amount—housing and PE inspection charges—and this is reflected in the amount HKM requested. Edwards recommended approval of the request.

**Director Olson moved to approve HKMs contract amendment of \$80,491. Director Daniels seconded the motion. Motion passed, 5 yea votes to 0 no votes with President Cronin voting.**

### **BOUGH WATER LINE**

Edwards reported that Johnston will be working on the water line at Boughs as soon as the weather allows. Edwards has met with Bough and everything is in place to get the work done in October. Allied is the engineer on this project.

### **SILVERBOW WATER SYSTEM PROJECT**

The Silverbow project is done with the exception of completing the sod which was delayed due to the weather. *Edwards would like the project completed prior to winter and will talk with Johnston about getting the sod from another source (Idaho) if we cannot get it in the Gallatin valley.*

### **MEADOW VILLAGE WATER WELL COMPLETION**

Edwards is still waiting for DEQ approval on the new meadow village wells water rights. Since the District has asked for a deviation on the treatment, Edwards is afraid that pushing too hard on the water rights approval could affect DEQ's decision on the deviation request. So Edwards feels that it is worth the wait. The District cannot go out to bid on the piping until the approval is received.

### **MEADOW VILLAGE PROJECTS COSTS**

Edwards reported that all the projects are winding down. We should be done with Boughs and Silverbow by the end of October.

### **NORTHWESTERN ENERGY SUBSTATION**

Edwards reported that the sale documents with Northwestern Energy have been signed. Northwestern Energy has a meeting with the county in October for the subdivision (utility exemption) approval and feels that they should be able to close on October 21 after they get their approval from the county. They have SIME as their contractor and have a staging area worked out. They drilled a well at 60 gpm at 90 feet and, according to Edwards, everything has worked out well. President Cronin reported that Steve Johnson would like to get the trail project going, but that Johnson knows that Northwestern Energy needs to get their work done prior to the trail work being done.

### **DIRECTOR ELECTION**

Edwards reported that the board election ballots have been mailed and people have started receiving them. November 3 will be the election and Edwards will meet with Charlotte Mills on election night for election results. Edwards reported that candidate Betsy Weltner could not be at this board meeting as she is at a conference in Missoula. Director Shropshire suggested that the District could have a candidates' night so that there could be a discussion on the candidates view.

### **YELLOWSTONE CLUB**

Edwards stated that the new people at Yellowstone Club seem supportive of the District intent to use their property for snowmaking.

### **SEWER & WATER PERMITS**

Edwards reported that there were three new sewer permits.



**BIG SKY WATER & SEWER DISTRICT NO. 363**  
**Regular Meeting Minutes – December 15, 2009**  
**WSD Community Room**

The Big Sky County Water & Sewer District No. 363 scheduled a regular meeting for 8:00 am on Tuesday, December 15, 2009, in the WSD Community Room. President Packy Cronin called the meeting to order with the following Board members present: Vice-President Gary McRae, Secretary Dick Fast, and Directors Dick Allgood, Jeff Daniels (left at 10:00 am), Bill Olson and Betsey Weltner. WSD staff present were Ron Edwards, Terry Smith, Jim Muscat, and Grant Burroughs. Others present were Rosalie Barndt from Holmes and Turner CPA's, and Dave Schwalbe.

**PUBLIC FORUM**

President Cronin called for public comment at 8:15AM. With no further public comment, President Cronin called the meeting to order at 8:17AM.

**MEETING MINUTES**

*Director Fast moved to approve the minutes of October 13, 2009, as written. Director Daniels seconded the motion. Motion passed, 7 yea votes to 0 no votes with President Cronin voting.*

**FINANCIALS**

**2008/09 AUDIT REPORT**

Rosie Barnes, from Holmes & Turner reviewed the auditor report and noted just one adjustment due to a Johnston Excavation timing issue. Rosie also discussed the internal controls report and she noted that there were no findings. Rosie discussed the 6.5 million dollar SRF loan. There are no compliance issues and no deficiencies. Rosie discussed the YMC issue and said that with consultation with the District's attorney there are no issues with YMC at this point in time. Edwards said that the District will continue to work with YMC with regard to our current agreements. Betsy Weltner disclosed that she does some consulting work for the YMC. Rosie will send the final letter with regard to the audit report to the board. Edwards asked about the due date for the audit report with the State to see if we can push the schedule up next year to meet the filing deadline. Rosie said that they could do that for the next year audit report.

*Director McRae moved to approve the Audit Report for fiscal year 2008-2009 as presented. Director Daniels seconded the motion. Motion passed, 7 yea votes to 0 no votes with President Cronin voting*

**MONTHLY FINANCIAL REPORT**

Smith gave a summary of the financials through November of 2009. He noted that the new rates that were effective 7/1/2009 have done what the board intended. Smith said it appears that the District is very close to meeting all system operating expenses with projected system operating revenues. The sewer system should be at or near break-even this fiscal year. Smith explained that the proceeds of the sale of District land to Northwestern Energy were deposited back into the sewer system accounts because the funds for the original purchase of the land were from the sewer system accounts. Specifically the deposit of \$375,000 was split between the sewer operating reserve (\$200,000) and the sewer operating account (\$175,000). Smith said that since the sewer system was running deficits for the last five fiscal years that the two accounts had been

depleted during that period. As a result, Smith used the proceeds to restore the two accounts, sewer operating reserve and sewer operating account, to acceptable levels. Smith said the November financials as presented include the Northwestern land sale proceeds being deposited into those two accounts.

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

#### **TAX REFUNDS**

Edwards discussed the tax refund issue. He noted that the Department of Revenue (DOR) has not complied with either our verbal or our written requests to take certain properties in Section 1 off of the tax roll for sewer bond debt. Edwards said that it is easier for the owners to come to the District for a refund rather than going to the DOR for a refund. In a letter to the Grey Drake Subdivision Association, Edwards suggested removing the subdivision from the District as an option to correct the problem. The District offered to help GD draft a petition if they wish to pursue removal from the District. Edwards said that he has not yet heard back from them on this option.

#### **SEWER OPERATIONS**

Edwards reported that the sewer flows are looking good going into calendar year end. The report shows that the flows are down from the previous year. Allgood noted that the first five months of the year show the inflow from the big snow last year. Edwards explained that unlike the water system, a sewer system is not pressurized so inflows into the pipe can occur throughout the system. Other sources of inflow included manhole lids, broken manholes frames and cleanouts.

#### **WATER OPERATIONS**

Jim Muscat gave the operators report for the water system. He reviewed the water well production report and highlighted it by noting that the Meadow Village has the lowest flows that we have seen in years. He also reported on the water tank inspections done at the Sweetgrass 50,000 and 250,000 gallon water tanks. Muscat said the reports show that these older tanks are on the downside of their life cycle. There is some minor maintenance that needs to be done at this time. The Board briefly discussed options for replacing both of these older tanks in the Meadow Village area. Edwards noted that a new Mountain Village has more of an impact because the water can be shared from the Mountain Village down to the Meadow Village. Muscat reported that the Meadow Village Well #3 rehabilitation work did not produce the results that we were hoping for. Muscat also reported on the Mountain Village Well #3 pump test. He noted that this well does not seem to be what the original reports and well logs show for completion characteristics and that he and Mark Cunnane will be looking at the video and the well logs. Muscat reported on the Spanish Peaks Sanitary Survey. The issues outlined in the survey have all been addressed and the report was satisfactory.

## **BUSINESS ACTION & PRIORITY ITEMS**

### **DIRECTOR ELECTIONS**

Edwards gave Director's Daniels and Weltner their Oath of Office Certificates which need to be notarized. Edwards also recapped the election results. Reorganizing the Board will be put on the next meeting agenda.

### **OLD BUSINESS**

#### **MEADOW VILLAGE WATER SYSTEM PROJECTS**

Hidden Village/Bough Water System Replacement. Edwards reported that the Bough water main replacement into Hidden Village is done and was put on line at the end of October. The District will retain some money on the Johnston contract for potential work on Andesite road next spring. Director Fast said they (Aspen Groves Owners Association) had a contractor look at it but he does not have the numbers yet.

Silverbow Water System Replacement. Edwards reported that this project was also completed in October. It went much slower than anticipated but overall it went very well. Director Allgood asked about the engineering costs for the project. Edwards reported that the engineering costs were higher due to the number of days that the project took to complete. This was due to the number of unknown utility crossings throughout Silverbow that forced change orders for both the excavation contractor and engineer for the onsite inspection services. The irrigation system repair costs were also over what the District originally anticipated. The District will be back in the spring to check on all of the sod. Even with the extra costs, the project was done for less money than the next lowest bid which was 1.2 million dollars. The board briefly discussed other areas of the water system that might need future replacements. Muscat said that there is a lot of plastic pipe used in the Mountain Village water system around the Hill, Stillwater and Skycrest condos.

Meadow Village Water Wells 4 & 5 Completion Project. Edwards reported that the District is still waiting on DEQ for final approval of the piping portion of the project. The deviation request from full time disinfection is still pending. The District will work on the disinfection requirements separate from the new pipe work. Edwards said that there might be some second round stimulus money that could potentially be used for this project. Director Weltner asked if the District ever received any first round stimulus money. Edwards said no. He also said that the District was omitted from the state mailing list that was used to contact state and local governmental entities regarding first round stimulus funding of projects.

#### **NORTHWESTERN ENERGY SUBSTATION**

Edwards reported on the progress made on the new substation site. The road has been built and some dirt work was done this fall on the site pad. The trail work will be postponed until NWE is done with their work on the site pad. The board discussed how the trails could be connected with the trails across the road from the treatment plant site. The District will work with NWE on a screen of trees on Taylor's land to help block the new substation site from the Spur Road.

### **YELLOWSTONE CLUB SNOWMAKING PILOT PROJECT**

Edwards reviewed the correspondence in the packet on the pilot snowmaking project. He discussed DEQ's response letter to the District's application for a discharge permit for a pilot snowmaking project which would be located near YCs large storage pond above the golf course area. In that letter, DEQ is requiring a complete discharge permit application, and they are linking it to the District's standing discharge permit to the Gallatin River. Edwards recommended that the board consider abandoning the pilot project because the listed deficient items exceed the \$40,000 that has been budgeted for the pilot project. From their letter, DEQ is not willing to work out a permit submittal that fits the scale, scope and cost for a project that is a temporary pilot. At this point it would be very difficult and costly to move forward under the terms of the DEQ letter. Director Weltner suggested that the District go beyond the DEQ to either legislators and/or the Environmental Board to try and push this through in a form that meets the budget. Welter said she will try and find out who in the Governor's office may also be able to help the District. Director Fast also suggested a letter from all the parties involved.

Edwards also noted that the DEQ letter went on to ask the District to respond by January 1, 2010 on it intentions on renewing its surface discharge permit to the Gallatin River. Edwards discussed this with the board and he pointed out his belief that DEQ wants to connect the golf course spray irrigation to the surface discharge permit. Edwards said that spray irrigation systems are not required to have a permit under current Montana regulations. If the discharge permit is dropped then there is no permit to attach the spray irrigation to as a secondary discharge location. For this reason, Edwards recommended that the Board consider not renewing the surface discharge permit. President Cronin suggested that the District should pursue Director Weltner's suggestion before deciding the fate of the discharge permit. Cronin and Fast instructed staff to try to put a broad spectrum of users together to work on a plan to put the pilot project back on track. Cronin suggested that a coalition group go to meet with DEQ.

### **STORAGE POND LINER COVERING PROJECT**

Edward's gave a report on the storage pond liner project. Given the large amount of work done this year, the large pond #1 should be completed in 2010. Director McRae asked about coloring the liner somehow on the west end where it would be very difficult to cover with the rock mattresses baskets. Edwards said that the option is being explored.

### **NEW BUSINESS**

(Director Daniels departed the meeting at 10:00 am.)

### **SEWER & WATER PERMITS**

Edward reported that the District issued one new connection permit in Spanish Peaks Resort.

### CONDOMINIUM IRRIGATION RATES

Edwards discussed his analysis of the condominium and residential irrigation usage which was included in his General Manager's report. According to the irrigation data from the 2009 irrigation season, the costs to condominium owners are below the residential rates on average. After presenting this information, Edwards asked if the Board wants to do anything at this time to change the rates for irrigation meters or any other aspect of the rate structure. Muscat also voiced his opinion to not do anything that encourages more water use for irrigation in our high desert environment. No further action is recommended at this time. The board will continue to monitor the issue.

*Director Fast moved to leave the irrigation rates as they currently exist. Director Allgood seconded the motion. Motion passed, 7 yea votes to 0 no votes with President Cronin voting.*

### GENERAL CORRESPONDENCE

Dave Schwalbe, Stillwater Condo Billing Relief Dave Schwalbe appeared at the meeting to request that the District grant relief on the bill for customer account #29036100 in Stillwater Condos. Dave said that the water was used by the neighbor and not the unit that received the bill. The board responded that the issue is for Dave as the property manager and/or the Stillwater owners to resolve not the District. Dave said the District knew of these issues when they installed the meters. The board noted that there are a few complexes that have shared meters but the District knew of no units where water was shared and was being billed erroneously. No action was taken by the board.

Annual Dinner Edwards will email Board members and staff to come up with a mutually agreeable date for the annual dinner.

### NEXT MEETING

The next Board meeting is tentatively scheduled for Thursday, February 11, 2009, at 8:00 AM.

### ADJOURNMENT

*Director Fast moved to adjourn the meeting at 10:55am. Director Weltner seconded the motion. Motion unanimously passed.*



Dick Fast, Secretary

12-15-09. min (Board Approved 2/11/10)