

**MINUTES OF THE BOARD MEETING  
OF THE BOARD OF DIRECTORS OF THE  
DENVER SOUTHEAST SUBURBAN WATER  
AND SANITATION DISTRICT**

A regular meeting of the Board of Directors of the Denver Southeast Suburban Water and Sanitation District was held on Wednesday, March 14, 2012 at the main office, the time and place of the meeting according to the posted notices. Present were Robert Chapman, David Eyre, Walt Partridge (by phone), Heidi Tackett and Rod Bergholm. Also present were District Manager Charlie Krogh, District General Counsel-Jim Folkestad, District Accountant-Kevin Collins, and District staff-Bill Morgan and Susan Saint Vincent. Resident Bob Greene was also in attendance.

Chairman Robert Chapman called the meeting to order at 6:39PM and established the presence of a quorum. At Chairman Chapman's request Ms. Saint Vincent recorded minutes.

*Minutes for the February 8, 2012 Regular Board Meeting were read and approved with suggested corrections.*

**PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA**

No Comments were provided.

**DIRECTOR'S BUSINESS**

- Director Eyre recently attended a GOP Assembly and confirmed that Douglas County Commissioner Steve Boand will be ending his term following the November election. Director Eyre made a suggestion to arrange for a remembrance gift for Commissioner Boand, similar to the District gift provided to former-Commissioner Worley when she ended her term several years ago with the County. Examples included a framed District picture or map. Manager Krogh stated that suggestions be made and considered as the year progresses, as Commissioner Boand will remain in office through the end of 2012. He further suggested that the appropriate time for presentation (should the Board determine that a gift be appropriate) would be at a reception which would likely be arranged by the County in January 2013.

## **ITEMS FOR BOARD ACTION AND DISCUSSION**

### **PURCHASE OF RESIDENTIAL WATER METERS**

Manager Krogh provided an update on the water meter replacement project and stated that staff is ahead of schedule as depicted on a District map. The Board is now asked to consider the purchase of additional meters, as well as funding for contract and staff labor to complete the installation of all residential meters. Manager Krogh provided a background of seasonal employee Steve Rickert who is has taken on the role as the project leader for the meter replacement project. It was suggested that Mr. Rickert remain on staff, in a temporary status, for the remainder of this project (approximately Fall 2012). If supported by the Directors, Mr. Rickert's current hourly rate will be adjusted appropriately for work being provided. Upon completion of this phase of the project, the effort will shift toward replacement of commercial meters. Director Tackett questioned this requested expenditure as it relates to the budget, of which Mr. Krogh confirmed that funds are available for all requested expenditures as a capital expense. Chairman Chapman examined the efficiencies of moving forward with this project, of which Manager Krogh provided examples where the efficiencies are already being exhibited (e.g., reading *all* of the District meters during the month of March).

*A motion was made to authorize the purchase of 1550 additional Badger water meters with radio transmitters for a total of \$227,075, plus installation labor of \$62,700 and \$9,750 for District staff time which will be charged to this capital project. The total request is not to exceed \$299,525.*

*Motion: Heidi Tackett*

*Second: David Eyre*

*Vote: All Directors present voted in favor, 5-0.*

### **RED OAK CONSULTING DRAFT MEMORANDUM REGARDING WATER BUDGET RATE STRUCTURES**

In following up on a previous customer inquiry and their concerns regarding the current water rate structure that the District utilizes, Red Oak Consulting (ROC) was contracted to review the current tiered structure versus a water budget rate structure.

Upon reviewing the memorandum provided by ROC following their review and analysis, the Directors provided suggested changes for discussion. In general, the Directors agreed that following review of ROC's memorandum, they are comfortable with the District's current tiered rate structure and feel that no change in this format is warranted at this time. Resident Bob Greene asked if the Board has considered compiling data regarding the various subdivisions within the District's covenants for water usage. Mr. Folkestad replied that this was not feasible or advised as there are numerous variances among communities, the District does not have authorization to enforce such covenants, the information is not readily available, and a violation of such covenant has a short statute of limitation by law. Director Partridge and others stated

that they feel the report supports the District continuing with the current rate structure, and suggested that the report be approved with the suggested changes for public distribution as deemed appropriate.

*A motion was made to accept the Red Oak Consulting report, dated February 15, 2012, and titled "Denver Southeast Suburban Water and Sanitation District Water Rates and Water Budget Rate Structures" including noted changes.*

*Motion: Robert Chapman*

*Second: Rod Bergholm*

*Vote: All Directors present voted in favor, 5-0.*

## **APPEAL FROM DISTRICT CUSTOMER ACCOUNT ADJUSTMENT**

Gerald Minor, a District customer residing at 7825 Windfont Row, Parker, CO 80134, has requested that the Board consider a reduced rate for water used, after experiencing a leak in their water service line resulting in a large water bill. Upon Mr. Minor providing documentation that a leak had been repaired, the District Manager authorized a credit for a single billing period, which is within District policy. Mr. Minor has now requested that an additional credit be provided for *two* billing periods in the amount of \$152.19. Manager Krogh stated that since the time that the Board packets were distributed, the Minor's have paid their account balance in full, but that he still needs to respond to the customer request.

Following discussion, the Directors unanimously provided authorization for the District Manager to carry a credit forward on Account #00242 in the amount of \$152.19.

In addition, the Manager was directed to have staff create a new communications process when seeking to notify customers that they have been at their home checking for a potential water leak.

Manager Krogh discussed the capabilities for identifying leaks in the new radio read meters, which will be considered upon completion of all residential meter installations.

## **RESOLUTION 2012-3 AMENDING THE DISTRICT'S RULES AND REGULATIONS TO ADJUST READINESS TO SERVE FEES AND GROUND WATER PROTECTION FEES**

As part of the conversion to a monthly billing cycle, the District is in need of revising some of the rules and regulations that specifically refer to a "bi-monthly" billing cycle. A Resolution was presented to the Board for consideration amending the District's Rules and Regulations to adjust the Readiness to Serve Fee and Groundwater Protection Fees from Bi-monthly to monthly. It was stated that Mr. Folkestad has been tasked with redrafting the entire Rules and Regulations document for the District this year, as the last update in total was dated 1998. Amendments have been approved periodically by the Board since that time.

*Following discussion, a motion was entered to approve Resolution 2012-3, amending the District's Rules and Regulation to adjust Readiness to Serve Fees and Groundwater Protection Fees from Bi-monthly to Monthly as presented.*

*Motion: Robert Chapman*

*Second: Rod Bergholm*

*Vote: All Directors present voted in favor, 5-0.*

### **RESOLUTION 2012-4 AUTHORIZING THE ACQUISITION OF A NON-EXCLUSIVE EASEMENT FOR A WATER LINE; TRINITY LUTHERAN CHURCH**

As part of the Well H and Well A-16 project, the District is in the process of acquiring easements required for pipelines. The Directors were requested to consider a Resolution authorizing the acquisition of a non-exclusive easement for a water line and access, as well as a temporary construction easement for purposes of constructing such a line through a parcel owned by Trinity Lutheran Church. Mr. Folkestad stated that the District is currently in negotiations with Trinity, that this Resolution is essentially a notice of intent. He also finally noted that a notice regarding the process was recently provided to them stressing the "clock". Director Tackett inquired about the "non-exclusive" nature of the easement. Manager Krogh replied that it was necessary for vehicles to drive over the site, as well as other utilities to cross over the District's water line.

*Following discussion, a motion was entered to approve Resolution 2012-4 as indicated authorizing the acquisition of a non-exclusive easement for a water line on property owned by Trinity Lutheran Church.*

*Motion: David Eyre*

*Second: Robert Chapman*

*Vote: All Directors present voted in favor, 5-0.*

### **RESOLUTION 2012-5 AUTHORIZING THE ACQUISITION OF A NON-EXCLUSIVE EASEMENT FOR A WATER LINE; PINERY WEST METROPOLITAN DISTRICT NUMBER 2**

Again, in reference to the Well H and Well A-16 project, Mr. Krogh provided information about recent communications with the Pinery West Metropolitan District regarding the specific site that the District is seeking for a water line easement. He stated that boring under the mouse habitat at this site is under consideration. Discussion ensued regarding the route of the pipeline and access to the easement for the overall project.

*Following discussion, a motion was entered to approve Resolution 2012-5 as indicated, authorizing the acquisition of a non-exclusive easement for a water pipeline and access for purposes of constructing, improving and/or maintaining a water pipeline and access road on property owned by the Pinery West Metropolitan District.*

*Motion: David Eyre*

*Second: Heidi Tackett*

*Vote: All Directors present voted in favor, 5-0.*

## **ATTORNEY'S REPORT**

District Legal Counsel Jim Folkestad provided a memorandum to the Board summarizing a list of matters that his firm is currently working on, on behalf of the District. Mr. Folkestad stated that he had no formal report outside of what was included in the letter.

Manager Krogh distributed two memos drafted by Counsel which were not previously included in Board packet:

1. *Donations or Gifts by District* – In response to a Director's inquiry, a historic position regarding donations made by the District was summarized by Mr. Folkestad, as well as the constitutional language which exists regarding not donating items of value owned by District to private individuals. In summary, local governments are not permitted to make donation to private individuals or entities without receiving value/benefit in return. He added that a "value" needs to be determined by Board, and is subject to interpretation and to a certain extent is what the Board determines it is. As an example, when the District was previously asked for a donation to stock Bingham Lake with fish, it was determined that such a donation was beneficial for the water quality of the lake. Plant tours and educational materials made available to schools are considered acceptable "gifts" to the community. Mr. Folkestad stated that it is ill-advised for the District to make donations that do not fit into the mission of the District.
2. *Acquisition of Property* – In CRS 38-1-121, it is required that property valued more than \$5,000 be subject to a professional appraisal at the request of the land owner. Acquiring properties valued less than \$5000 does not require such an appraisal. Mr. Folkestad recommends negotiating with owners to avoid appraisals if possible, using informal methods to settle on a value. Manager Krogh noted that an appraisal for the easement in discussion with Trinity Lutheran Church was provided; however, the District did not initiate one for small parcel on the opposite side of road; previous valuations will be utilized for nearby properties of similar purpose.

In response to Director Tackett's question regarding the foreclosure report provided by Counsel, Mr. Folkestad stated that it is a "rolling" report, not exclusive to newly identified foreclosures. Some properties can carry over from quarter to quarter because of the lengthy process that it takes to go through the foreclosure process.

## **ACCOUNTANT'S REPORT**

Accountant Kevin Collins of CliftonLarsonAllen, LLP presented the District's Financial Statements as of January 2012. Additionally, Mr. Collins explained the variances with regard to the water, sewer and non-operating expenses, noting that the latter is below the four-year average budgeted amount due to water and sewer tap fees coming in lower than budgeted amounts. Mr. Collins stated that variances to budget are expected this time of year, due to the timing of early year payments, but assured the Board that this is consistent with expectations for the first month of the year.

In reference to the information provided, Director Bergholm inquired as to whether a list could be provided as to when payments for debt service are due. Mr. Collins responded that in the annual audit report, a debt to maturity schedule is provided, as well as the payment schedule. Mr. Collins will provide a listing for reference by Director Bergholm.

In response to a question regarding the variance for the SMWSA Dues/Projects & SPPP Contributions line item, Manager Krogh provided information regarding the annual contribution for South Platte Water Related Activities (SPWRAP) contribution for legal representation. Invoiced amounts are calculated in a formula based on number of taps and average amount of water delivered over the past five years.

Mr. Collins reported that the IRS has recently been active nationally looking at Special Districts regarding the methodology of compensating Director fees, specifically 1099's versus W2 income. The difference in reporting is the omission of FICA and Medicare taxes on the 1099's, which is the District's current method of providing compensation each month. Directors would get paid a net amount, less taxes if we transitioned to W2 form of payment. If audited, the IRS is going back two years to recover such taxes for payments, plus interest. Personal Director tax filing could also be at risk for review. Mr. Collins anticipates that the cost to the District would be estimated at around \$5-6000 following an audit, however, he further stated that if Districts are willing to switch to W2 payments, they will be moved off the IRS audit list.

The Special District Association and several listed firms have researched the issue and have concurred that Districts should change to the W2 form of payment to Directors. As the Accountant for the District, Mr. Collins recommended to the Board that they move from 1099 payments to W2 compensation effective immediately. Discussion ensued regarding Directors being considered "employees". Mr. Folkestad clarified that employees, such as Directors will have taxes withheld from paychecks; however, they are exempt from unemployment and not eligible for benefits as Directors are not full-time employees as defined in the District Employee handbook and under the insurance contracts.

Director Eyre suggested that the Board have Mr. Folkestad work with Mr. Collins and provide a legal opinion regarding the matter. The Board, as a whole, agreed to not act on Mr. Collins' recommendation at this time and continue being compensated in the present manner.

## **TREASURER'S REPORT**

Director Bergholm presented the Treasurer's Report for Board approval for the month of March 2012. A motion was then entered to issue checks as written in the amount of \$342,691.86

and the Interim Report in the amount of \$53,041.76. No questions or discussion items to note per Director Bergholm. He noted that February meeting was early in the month and March is late, i.e., some payments are doubled for certain vendors and consultants.

*Motion: Rod Bergholm*

*Second: David Eyre*

*Vote: All Directors present voted in favor, 4-0.*

## **DISTRICT MANAGER'S REPORT**

Mr. Krogh provided a written summary of updates on various projects that the District is currently working on, and highlighted the following:

- The conversion to monthly billing continues to progress and staff is beginning to understand and adjust to the new routine. Credit card payments are now being accepted on line after a successful testing during the previous week.
- Director Partridge, Kevin Collins and Manager Krogh recently met with a Morgan Stanley Smith Barney representative who would be interested in having the District invest funds. It was determined that there are not short term investment options available that are beneficial to the District; multiple year investments would be necessary to achieve a higher yield but with current interest rates it would not be substantial. The conclusion was that the discussion was interesting, but not worth making changes in the District's present investment strategy as the District is not presently looking for long term investments.
- A one-day conference through Mountain States Employers Council has been identified that Ms. Saint Vincent and Director Tackett will be attending on behalf of the District regarding wellness, healthcare reform, and increasing health insurance premiums.
- Denver Basin Well data was provided last month for Director review. Manager Krogh is willing to discuss the data with individuals at their discretion. Chairman Chapman asked about continuing declines in aquifers, of which Manager Krogh provided graphics and data specific to the District's well production.
- Discussion ensued regarding the status of the WISE project, including Castle Rock and Aurora's schedules for consideration. To date, Parker has not signed the WISE cost sharing agreement. Director Tackett attended a WISE meeting today and found it very informative and educational. Alternative pipeline alignments and associated costs were discussed. Manager Krogh summarized the scheduling of upcoming meetings with Denver/Aurora. Pat Mulhern was appointed as Chairman of the Cost Sharing Board, Harold Smethills is Secretary/Treasurer, other Board members are Assistant Secretary's.
- The District's Substitute Water Supply Plan is working its way through review at the State level. Notice from the SEO/Water Commissioner regarding "deficiencies in accounting" was recently received by the District. District Staff has met with the SEO

and are now tasked with providing a new report implementing what the District's decree requires. Updates are in process.

- Engineering and Architectural representatives from Skyway Towers came on site and provided a photo simulation and plans for the location which were distributed to the Directors. Staff is working on comments regarding the draft lease and first round of drawings.
- Updated District maps were distributed including most of the alluvial wells along Cherry Creek and service area boundaries of various Districts recently updated by Greg Sullivan of Spronk Water Engineers. Manager Krogh discussed requirements of various Districts that own water rights along Cherry Creek.
- A replacement truck has been purchased for the Water staff following a vehicle accident earlier in the year.
- Snowpack is down for the year. Denver is not overly concerned as reservoirs are currently full. Aurora has a reservoir out of service this year for maintenance.
- Director Chapman requested updates on Propositions 3 & 45, which would impact the current seniority based water rights system (potential ballot issues for November election). These are not currently placed on ballot as they are still collecting signatures.

There being no further business to come before the Board, Chairman Robert Chapman closed the meeting on Wednesday, March 15, 2012 at 8:45PM.



ROBERT W. CHAPMAN, CHAIRMAN OF THE  
BOARD OF DIRECTORS, DENVER SOUTHEAST  
SUBURBAN WATER & SANITATION DISTRICT

ATTEST:



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WALTER PARTRIDGE, SECRETARY