

FOUR CORNERS WATER AND SEWER DISTRICT MINUTES
February 6, 2008

1. Call to Order

There being a quorum present, President Mike Pearson called the meeting to order at 6:41 p.m. in the music room of the Monforton Elementary School, 6001 Monforton School Road, Bozeman, Montana.

Present: Richard Smith, Ben Zavora, Edward Schmidt, and Mike Pearson

Also present: Wendy Heibert - bookkeeper for District, Susan Swimley - Attorney for District

Public: Barbara Campbell, Charlie Page, Ryan Rittal, and Ron Edwards

2. Approval of Minutes for January 9, 2008 meeting.

MOTION: Treasurer Smith moved, Vice President Zavora seconded, to approve the minutes of January 9, 2008 as presented. The motion carried 4-0.

3. Consideration of Financial Reports

a. Update on financial policies.

Ms. Heibert directed the Board's attention to the financial reports.

b. Update on Audit for the District.

Treasurer Smith asked for an update to the audit being performed on the District. Ms. Heibert responded that it was in the works and the auditors had all the information they required from the District.

c. Approval of Financial Reports

Ms. Swimley stated Zoot had protested their taxes and she had asked the County to lift the tax restriction on the escrow account. She asked for a Board member to volunteer to sign the necessary documentation formally requesting the restriction be lifted. President Pearson volunteered to sign the formal request for lifting the tax restriction against Zoot.

MOTION: Treasurer Smith moved, Vice President Zavora seconded, to approve the financial reports as presented. The motion carried 4-0.

4. Old Business

a. Litigation Update

Ms. Swimley noted Faust was still waiting for a decision from the Supreme Court.

She stated she had filed a motion to intervene on behalf of the District in River Action et al v. Utility Solutions over the final order granting beneficial water user permit and change of location for Black Bull Run and Middle Creek Parklands. She added that she had been told the intervention would be rejected as untimely or the intervention would be opposed as the District was not a part of the original hearing with the DNRC. She stated there was a hearing for the petitioner's request to stay the permit and the Board might know more next week.

She noted her answer would be filed tomorrow for the Zoot case; adding the statutes would be argued.

- b. Update to petitions for Annexation:
 - i. Land Equity Partners (Gallatin Heights)
 - ii. APK (Buckland Siding)

Ms. Swimley noted that Gallatin Heights and Buckland Siding had petitions in for annexation for roughly a year. She asked the Board to determine whether or not annexation would benefit the District. She added that if they decided it would be beneficial, they should move forward with the annexation process. Vice President Zavora asked if annexation could move forward without County approval. Ms. Swimley stated the process could begin after the water permit had been approved and the election could be held off.

MOTION: Vice President Zavora moved, Treasurer Smith seconded, to move forward with the annexation of Gallatin Heights and Buckland Siding. The motion carried 4-0.

- iii. Kolnik

Ms. Swimley directed the Board's attention to e-mails sent from Mr. Kolnik. Item 4biii was continued to the next District meeting.

- c. Update on mail ballot election on January 2008 and mailed notice of election to annex Black Bull and Middle Creek Parklands

Ms. Swimley stated there had been a valid number of votes and more than a simple minority had voted in favor of the annexations.

- d. Consideration and possible passage of Policy for Meters on Lots in the District as approved.
 - 1. Approval of revised Ordinance for Metering of Condominium Lots within the District

President Pearson stated four units or less would each have a meter and he thought all units should be metered separately. The Board concurred that the ordinance should

specify all units. Ms. Campbell asked if commercial development would be treated the same as residential. Vice President Zavora responded the Board had discussed the issue and decided commercial development would be treated the same as residential development. Treasurer Smith added that an exemption from the ordinance could be requested. Mr. Edwards suggested specific language be included to provide for exemption or variance requests. Ms. Swimley concurred and stated she would rework the proposed ordinance to include that language.

e. Presentation of draft privacy policy for District consumers

Treasurer Smith explained the need for a privacy policy for those Board members that may have been absent at the initial discussion. Ms. Swimley added that District consumer's individual water usage was not anyone's business. Item 4e was continued to the next District meeting.

f. Amendment to Rules and Regulations (rates and charges), Utility Solution contract for various service areas, report of ad hoc financial committee

1. Contract negotiations for modification of US Contract for additional service areas and proposed annexation of property

Ms. Campbell noted she had not presented a draft contract yet because she wanted to include Service Area 4 in the agreement for additional service areas and annexations. She stated there would be a significant decrease in taxes if other areas were added. She stated Service Area 3 was a mess as some lots had been originally approved for one commercial use and were being individually altered for condominium use through DEQ. She noted Utility Solutions used volume for billing purposes and the District used square footage. Ms. Heibert responded that Ms. Campbell was lumping two different types of charges together. Treasurer Smith explained the charges were based on actual use. Mr. Edwards suggested the condominium owners could be given additional charges to compensate. Treasurer Smith responded that had been the original method. Ms. Campbell noted some properties had paid the capital side with their taxes and would end up paying twice. Ms. Heibert asked how the Utility Solutions' costs to provide service compared to the District's costs. Ms. Campbell responded the District had to charge based on equitable use. Treasurer Smith suggested doing less with the taxes and more with the individual usage. Ms. Campbell responded that some costs could be fixed rate through taxes. Vice President Zavora suggested predetermined allowable usage with a penalty beyond that usage amount. Ms. Campbell responded a formula should be determined to provide for consistency in charges. Treasurer Smith asked the number of users. Ms. Campbell responded there would be ~1,900. Mr. Ryan Rittal of Engineering, Inc. Stated Horaces charges would be unfair due to his large portion of undeveloped land; adding that some of the land was undevelopable. He presented the Board with a site plan of Horace's property. Ms. Heibert asked if it would be better for the District if Horace amended the plat. Ms. Swimley responded it would be better for the District, but was unrealistic. The Board concurred and agreed to wait to decide on the method of billing. Mr. Rittal stated the old railroad right-of-way had been included on the District map of developable land, but was really an easement which could not be developed. Treasurer

Smith responded that a calculation would need to be determined that would fairly and accurately bill all lots within the District. Ms. Campbell noted the contract was a work in progress.

- g. Short-term service contract for sewer service only for Monforton School, Taco Time, and Garden Center for approval / consideration of draft policy

Ms. Swimley stated that she and Ms. Campbell had been working on the short term service contract. Ms. Campbell added that Garden Center was interested in sewer only service, but not annexing into the District; adding that she had discouraged sewer service only without annexation into the District. Ms. Swimley stated the short term service contract would be for a duration of a year or less. Ms. Campbell added that Taco Time was located within the Garden Center Subdivision and would be taken care of with it's agreement. Ms. Swimley asked the Board to consider a short term service contract for Monforton School only. Treasurer Smith suggested she proceed with drafts of all the contracts. The Board concurred.

- h. Review and Consideration of policy change to allow water only or sewer only service of existing structures within the District.

Ms. Campbell suggested water or sewer only service could be requested through the variance process. Ms. Swimley noted there would need to be a District policy for hardship connecting to services (cost, terrain, etc.) and an official variance request. Vice President Zavora suggested a hardship could also be the distance from available services. Treasurer Smith stated it would need to be properly articulated in the language of the District's policy. Ms. Campbell added she would like to see Monforton School with a short term contract as they were currently using service. Item 4h was continued to the next District meeting.

- i. Approval of Amendment to Rules and Regulations or policy change with regard to separation of landscape irrigation meter wells and curb stops in Service Area 2

Ms. Swimley stated Marty would be sending her the necessary language for the amendment. Item 4i was continued to the next District meeting.

- j. Update on proposal for annexation of northeast corner of the intersection of Jackrabbit Lane and Huffine Lane (Korner Klub) and service to that quadrant.

No updates were forthcoming. The Board concurred that the item should be removed from the next agenda.

- k. Consideration and possible adoption of Resolution Clarifying Boundaries

Mr. Edwards stated that he and Utility Solutions had looked back at the original

documentation in the formation of the District to help clarify the boundaries. He explained recent updates to the parcel list. He added that the Smith/Brailsford and McHenry properties would stay within the boundaries. Ms. Campbell asked Mr. Edwards to confirm the amended plat of the Hot Springs area. Treasurer Smith noted some lots that were in the District that had not been listed.

5. New Business

- a. Introduction of new board member / swearing of oath

New Board member Mr. Edward Schmidt introduced himself to the Board and signed his Oath of Office. The Board welcomed him.

- b. Other matters to be placed on Future agendas

Ms. Swimley stated Mr. Kolnik's e-mail would be responded to.

6. Public Participation on Non-Agenda Items: The opportunity for members of the public to comment on District matters which are not on the agenda. Time limits may be imposed at the discretion of the President.

There was no public comment forthcoming at this time.

7. Board Member Issues

There were no Board Member Issues at this time.

8. Adjourn Meeting

There being no further business before the Board, the Four Corners Water/Sewer District meeting of October 3, 2007 was adjourned at 8:02 p.m.

Respectfully Submitted



Tara L. Hastie

Recording Secretary