

MINUTES OF A REGULAR MEETING  
OF THE BOARD OF DIRECTORS OF THE  
MOUNT WERNER WATER & SANITATION DISTRICT  
HELD AT THE OFFICE OF THE DISTRICT  
8:00AM Thursday, December 16, 2010

DIRECTORS PRESENT: Kathy Connell, Nancy Mayer, Jon Halverson, Jim Randall, Steve Frasier  
DIRECTORS ABSENT: none  
STAFF PRESENT: Jay Gallagher - General Manager, Tom Sharp - Counsel  
OTHERS PRESENT: Chris Wilson (Director, Parks, Open Space, and Recreation, City of Steamboat Springs), Craig Robinson (Supervisor, Parks, Open Space, and Recreation, City of Steamboat Springs), Scott Myller (Steamboat Springs City Council), Birgitta Lindgren (Owner, Steamboat Touring Center), Karen Vail (Yampatika), Jack Trautman (Mountain View Estates HOA) Trail users: Karen Van Skoyk, Susanne Haden, Deane Weiss, Ed Vanderwall, John Cunningham, Lynn Wunder, Cindy Ptach, Evelyn Berge, Willy Markowicz, Bill Strycharz, Melanie Strycharz, Carol Gordon, Patti Retz

The meeting was convened in the open area outside the conference room to accommodate members of the public in attendance.

I. ESTABLISHMENT OF QUORUM AND CALL TO ORDER:

Ms. Connell stated that a quorum was present and called the meeting to order at 8:04A.M.

II. APPROVAL OF AGENDA FOR MEETING:

Ms. Connell asked if there were any changes in the proposed agenda. There were none.

MOTION: To approve the agenda; APPROVED: Vote 5-0.

III. APPROVAL OF SUBMITTED MINUTES OF PREVIOUS MEETINGS:

Ms. Connell asked for any editions or changes in the draft minutes of the October 28, 2010 regular board meeting. There were none.

MOTION: To approve the minutes of the October 28, 2010 regular board meeting; APPROVED:Vote 5-0

IV. NEW BUSINESS:

A. Skyline Trail Proposal - Parks, Open Space, and Recreation, City of Steamboat Springs

Mr. Wilson, Director of City Parks, Open Space, and Recreation expressed his appreciation for the opportunity to present to the Board and the public in attendance. He said that the City had been working on this project for the past two years and had appreciated the cooperation of District staff during that time.

He said that the project consisted of two parts: the bridge over Fish Creek and the improvements to the existing trail to accommodate the trail groomer.

A new bridge had been designed to meet the requirements of federal agencies and the design work had been funded through donations and in-kind services. He acknowledged that the District had allowed the original bridge steel to remain on District property since the removal of the bridge in 2006 pending resolution of the project. The City was applying for a GOCO grant to complete the bridge portion of the project.

The second part of the project – the trail improvements – was to accommodate cross-country skiing. Trail improvements would consist of widening the trail to 20 feet over a 500 foot section of the trail to the north of the filtration plant which climbs up to the tank access road east of the Heavenly View cul-de-sac. There would be areas of cut and fill and rockwork to retain cuts in this section; other sections of the trail would require tree and brush-cutting to accommodate the 18 ft-wide trail groomer. At this time, there was no timeline or funding source identified for this part of the project. There would be no operating or maintenance cost to the District.

Mr. Wilson briefly related a history of trail development and use in what is today the Sanctuary development. Early access and trail use was informal and without easements; the Sanctuary development allowed the City to secure formal trail easements for the purpose of re-connecting the earlier informal trail system which led from the Clubhouse up to the Riverside parking, crossed Fish Creek onto District property, continued east along the creek, looped around the east end of the Filtration Plant and climbed up to the ridge where it headed west along the ridge through what is now Sanctuary Filing 5 (Phase IV). In 2000, the City secured a trail easement from the District for the portion of the trail through District property.

Mr. Wilson stated that, in 2000, the City secured a trail easement from the District for the portion of the trail though District property. [Note: The District has called into question the validity of this easement document and has so notified the City.]

Mr. Wilson said that the Skyline Trail was part of a City Trails Master Plan to improve connectivity of trails throughout the community. Under the Master Plan the Skyline Trail would continue to be multi-use and there would be no charge for winter users on District property. The trail would be groomed periodically to back-country standards, not to the degree of grooming as is conducted on the core touring center trails.

Mr. Wilson acknowledged the Board's concerns about the 2000 easement and stated that the City and the District could address issues in a new easement document.

V. PUBLIC COMMENT:

Ms. Connell opened the floor for public comment.

Lynn Wunder asked how the trail could possibly accommodate the two-way traffic of skiers and hikers with dogs. Why should the City put money into expanding a trail that would be a dead-end for most users?

Karen Van Skoyk stated that the trail had been used by locals for many years; that, as the community developed, and the network of informal trails became inaccessible, this trail remained untouched and intimate; that widening would result in irreversible scarring; that the improvements and the proposed use were for the benefit of a specific user group. The effect would be to lose yet another local trail. She further stated that the community had identified Emerald Mountain for the development of a cross-country skiing complex and that the money for this project would be better spent there.

Deane Weiss stated that, each winter she feels excluded from the public Sanctuary trails by the winter concessionaire. Therefore, she goes to the Skyline Trail to walk. She would not want to be excluded from the Skyline Trail.

Ed Vanderwall stated that the Skyline Trail is used by a lot of people including himself; that, if the project went ahead, these trail users would lose access to the Skyline Trail along with the Sanctuary trails in winter. Could there be some compromise in the management and access to the trails in the Sanctuary?

Evelyn Berge stated that she hikes and skis with her dog and is a big supporter of trails in the community. The Skyline Trail is one of the best – being wild and natural. With a winter closure of the Skyline Trail, she would feel a great sense of loss.

Birgitta Lindgren, Owner of the Touring Center, responded that the Touring Center could not allow dogs on the trail because the Center's liability insurer would not cover the operation with dogs on the trail.

Jack Trautman, President of the nearby Mountain View Estates HOA, stated that he had six letters from homeowners: one for the proposal, five against the proposal. He questioned the financial sense of such a proposal for a commercial operation: what would be the return on the \$150,000 investment in trail improvements? He surmised that the Touring Center might bring in \$5,000 in ticket revenues each winter against \$2,000 in maintenance costs, netting possibly \$3,000 each winter. That would be more than a 50-year payback period for the investment in trail improvements.

Carol Gordon stated that she hikes on the Skyline Trail for its safety. She does not like walking on the City streets because of a lack of sidewalks.

Karen Vail, representing Yampatika, stated that the Skyline Trail is one of the very few wild and natural trails remaining and should remain so winter and summer.

Willy Markowicz stated that he likes the natural state of the Skyline Trail; it is where he can walk with his dogs.

Patti Retz stated that she walks the Skyline Trail almost every day; that she really enjoys seeing the wildlife including elk and moose; that further development and activity would affect this aspect of the trail experience.

Scott Myller stated that Steamboat is known as Ski Town USA; that cross-country tourists overlook Steamboat because it does not have enough to offer in cross-country trails; that the more trails we have, the more such tourists we can draw here.

There being no more speakers, Ms. Connell closed the floor for public comment and asked Directors if they had any further questions.

Mr. Halverson asked how trail users gain access to the trail. Mr. Wilson responded that trail users typically park in the City's Riverside Parking Lot or the new parking lot on District property near the trailhead. Mr. Halverson then asked about the interaction of dogs and wildlife. Several of the public responded that trail users regularly communicate with each other about the location of wildlife to avoid confrontations. Mr. Halverson asked Mr. Wilson if the City had taken a decision on the trail improvements. Mr. Wilson replied that the City had not taken a decision. Mr. Halverson expressed his concern about trail safety with two-way traffic on the trail on District property.

Mr. Frasier asked Mr. Wilson to confirm that the District portion of the trail would be open year-round for multiple-use at no charge. Mr. Wilson so confirmed.

Ms. Connell expressed her concern about the liabilities of multiple-use on private property whether District or Sanctuary property.

Mr. Halverson stated that the District was not in the business of recreation, but that the land is first and foremost for the benefit and express purposes of the District; it is for these reasons that he was concerned about a perpetual easement for recreation on District property.

Mr. Randall expressed concern about the presence and effect of dog feces on the trail and surrounding land. Mr. Robinson stated that there was a bag dispenser at the trailhead. Mr. Gallagher commented that with the erection of the security fence, the relocation of the trailhead downstream, and the bag dispenser at the trailhead, the situation had improved.

There being no more questions or comments from the Directors or the presenter, Ms. Connell closed this agenda item. With the departure of the presenters and the public, Ms. Connell moved the meeting into the adjacent conference room.

VI. EXECUTIVE SESSION:

Ms. Connell recommended that the Board go into executive session to consult with District Counsel regarding the legal implications of the Skyline Trail Proposal.

MOTION: To adjourn the Regular Meeting and go into executive session pursuant to CRS Section 24-6-402(4)(e) at approximately 8:56 A.M. to discuss with District Counsel the legal implications of the Skyline Trail Proposal. APPROVED: Vote 5-0.

MOTION: To come out of executive session and reconvene the Regular Meeting at approximately 9:21 A.M. with no action having been taken. APPROVED: Vote 5-0.

Counsel Sharp stated that, in his opinion, all of the discussion during the executive session regarding the Skyline Trail Proposal would constitute a privileged attorney-client communication. Therefore, no record was kept of the executive session.

Ms. Connell noted for the record that, if any person who participated in the executive session believes that any substantial discussion of matters not included in the motion to go into the executive session occurred during the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, such person should state his/her concerns for the record.

No concerns were indicated.

Now back in regular session, the Board agreed that the District property was for the sole benefit of the District for the purposes of the District; that the bridgehead and trail improvements proposals represented a significant encumbrance on District property that would restrict the District's use of the property. The Board directed Mr. Sharp to examine the validity of the Skyline Trail Easement dated June 8, 2000.

VII. REPORT OF GENERAL COUNSEL:

Mr. Sharp stated that he continued to follow the City's change case for their 0.5cfs in the Hoyle & Knight Ditch; that the State of Colorado had taken a strong position on historical use which would negate the utility of this water right for wellfield augmentation.

Mr. Sharp also stated that he had met with Ms. Connell and Mr. Gallagher to review the outstanding or potential legal issues. With an eye to reducing the District's legal costs and in recognition of the next step in his retirement, he would restrict his involvement to those issues pertaining to District water rights and to District relations with the City; that everyday legal matters would be referred to his partner Melinda Sherman. He would also limit his attendance time at board meetings.

VIII. TREASURER'S REPORT:

A. December 8<sup>th</sup> YTD Actual vs YTD Budget Statement

Ms. Connell asked if there were any comments or questions on the December 8<sup>th</sup> YTD Actual vs YTD Budget statement. There were none. The Board accepted the YTD Budget Statement

B. Resolution authorizing bank signatures

Mr. Gallagher stated that the District must update bank signatories for its working account at Vectra Bank. He offered the following resolution for consideration:

**WHEREAS, the MOUNT WERNER WATER AND SANITATION DISTRICT, Routt County, Colorado (the "District"), adopted Accounting Policies and Procedures in July, 2007; and**

**WHEREAS, pursuant to section CSH 105.2.0, the addition or deletion of check signers for the District bank account requires the authorization of the Treasurer and the General Manager and a resolution by the Board of Directors of the District; and**

**WHEREAS, on May 20<sup>th</sup>, 2010, the Board of Directors elected new officers following the biennial District election; and**

**WHEREAS, the Treasurer, the General Manager, and the Board of Directors now desire to add, delete, and maintain certain check signers on the District bank account.**

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE BOARD OF DIRECTORS OF THE MOUNT WERNER WATER AND SANITATION DISTRICT that the authorized check signer list be amended as follows:**

- A. **DELETE:**  
**Stephen H. Gale**  
**Nancy A. Mayer**  
**Janice Illian**

- B. **ADD:**  
**Kathy I. Connell, President**  
**James C. Randall, Treasurer**  
**Nancy Wilson, Office Manager**
- C. **MAINTAIN:**  
**Jon N. Halverson, Vice-President**  
**James R.L. Gallagher, General Manager**  
**Jeffrey S. Peterson, Operations Manager**

**APPROVED AND ADOPTED this 16th day of December, 2010.**

Ms. Connell asked for a motion to approve the above resolution.

MOTION: To approve the resolution above. APPROVED: Vote 5-0

Ms. Connell signed the resolution as Board President; Mr. Gallagher attested.

Mr. Gallagher confirmed to the Board that the Accounting Policies and Procedures Manual prescribes signature authorization levels for District staff.

IX. DIRECTOR AND COMMITTEE REPORTS:  
Budget & Audit Committee/ Investment Committee Reports

A. Investment portfolio

Ms. Connell asked if there were any questions regarding the investment portfolio. There were none. The Board accepted the investment report.

B. 2011 Budget: Consideration for approval

Mr. Gallagher said that, since the October 28<sup>th</sup> board meeting, there had been a few revisions in some line items in the proposed 2011 Budget including one capital item, a PRV, which had to be moved forward to 2011 because it was not functioning. These minor changes had been included in a revised 2011 Budget distributed the previous week in the meeting packet. He then distributed a second revision which included minor corrections to employee benefits which reduced the projected operating margin from \$38,000 to \$31,000. Ms. Connell asked if there were any questions with regard to the proposed 2011 Budget. There were none. Ms. Connell asked for a motion.

MOTION: To appropriate the funds for the line items proposed in the 2011 Budget; APPROVED: Vote 5-0.

X. REPORT OF THE GENERAL MANAGER:

A. Fish Creek Reservoir Level

Mr. Gallagher distributed a graph for the reservoir noting that the reservoir level was at 66%. Significant precipitation in November had caused the water elevation to level off.

B. South District Water Supply Improvements

Columbine Drive Water Main Extension

This project was completed at the end of September.

Pump Station at Alpenglow Way and Val D'Isere Circle

The pump station was started up on December 6<sup>th</sup>. An improved bolt pattern is being designed to stabilize the skid-mounted assembly.

C. Completion of Fire-Flow Report Recommendations

Mr. Gallagher stated that completion of this summer's projects meant that the District had addressed the principal fire-flow issues outlined in the 2005 Fire-Flow Availability Report. He offered the following resolution for consideration by the Board:

**WHEREAS, the MOUNT WERNER WATER AND SANITATION DISTRICT, Routt County, Colorado (the "District"), approved the Fire Flow Availability Report and recommendations on September 29, 2005; and**

**WHEREAS, the District has completed the following improvements since 2005:**

- **43 New Fire Hydrants throughout the District**
- **Timothy Drive - Whistler Road Water Main Loop**
- **North Ski Trail Lane - Longthong Drive - Apres Ski Way Water Main Loop**
- **Burgess Creek Storage Tank**
- **Burgess Creek Pump Station and PRV**
- **Ridge Road PRV activating the Ridge Road Water Main Loop**
- **Alpenglow Pump Station and PRV**
- **Alpenglow to Lower Val D'Isere Water Main Loop**
- **Alpenglow to Upper Val D'Isere Water Main Upsizing**
- **Columbine Backbone Water Main - Walton Creek to Apres Ski Way**
- **Anthony Circle Water Main Upsizing**

**NOW, THEREFORE, BE IT RESOLVED AND RECOGNIZED BY THE BOARD OF DIRECTORS OF THE MOUNT WERNER WATER AND SANITATION DISTRICT that the District has substantially addressed the fire flow availability issues in the areas of the District identified in the 2005 Fire Flow Availability Report and that the District continues to follow a policy to identify and to construct or replace water distribution infrastructure throughout the District to improve fire flow availability and the reliability of water service to its customers.**

**APPROVED AND ADOPTED this 16<sup>th</sup> day of December, 2010.**

Ms. Connell asked for a motion to approve the resolution.

MOTION: To approve the resolution above. APPROVED: Vote 5-0

Ms. Connell signed the resolution as Board President; Mr. Gallagher attested.

**D. Water Conservation Plan**

Mr. Gallagher stated that the City and the District are completing the final version of the plan to be submitted to the CWCB on December 22<sup>nd</sup>. This would start a 60-day comment period. The plan would be presented to the City Council and the District Board in the third week of January. If the plan is accepted by the CWCB, a resolution for adoption would be submitted to each governing body in the third week of March.

**E. Sustainability Council Insert**

Mr. Gallagher stated that the Yampa Valley Sustainability Council had requested that the District include an insert with a water conservation message in its quarterly billing to customers. The Board agreed to the request.

**F. Service Awards**

Mr. Gallagher said that, at the annual Christmas party, he would like to recognize the service of two long-time employees: Jeff Peterson, Operations Manager, with 30 years; and Janice Illian, retiring Office Manager, with 39 years. He proposed a service award of \$3,000 for Mr. Peterson and \$5,000 for the retiring Ms. Illian with the District covering all FICA taxes. Mr. Frasier asked if these expenditures would be adequately covered within the current District budget. Mr. Gallagher confirmed that they would be covered. The Board agreed to these service awards.

**XI. UNFINISHED BUSINESS:**

There was no unfinished business to discuss.

**XII. ADJOURN:**

There being no further business, the meeting was adjourned at 9:52 AM.

Respectfully submitted,

James R.L. Gallagher, Secretary/General Manager

**STATEMENT FROM ATTORNEY REGARDING ATTORNEY-CLIENT PRIVILEGE**

The undersigned Thomas R. Sharp hereby attests, pursuant to CRS Section 24-6-402(2)(d.5)(II)(B), that the portion of the executive session that was not recorded and which related to the Skyline Trail Proposal constituted a privileged attorney-client communication in the opinion of the undersigned attorney.

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Thomas R. Sharp, Counsel

Date:

**STATEMENT FROM CHAIR OF EXECUTIVE SESSION REGARDING ATTORNEY-CLIENT PRIVILEGE**

The undersigned chairperson hereby attests, pursuant to CRS Section 24-6-402(2)(d.5)(II)(B), that all of the executive session was not recorded and was confined to the topics authorized for discussion in an executive session pursuant to subsection (4) of CRS Section 24-6-402.

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Kathy Connell, Chair

Date: