



COUNTY WATER DISTRICT OF BILLINGS HEIGHTS

Board of Directors Meeting Minutes

January 17th, 2024 at 6:00 PM

County Water District of Billings Heights 1540 Popelka Dr., Board room

The meeting is open to any interested member of the public. Agendas are prepared for the meetings; agendas may be requested from the General Manager and are available at <https://heightswaterdistrict.com/agendas-and-minutes>. Agenda packets, due to their size, will not be printed off for the meetings or at the public's request. The public can access and view the agenda packet on line and can download them or print them at their own expense.

CALL MEETING TO ORDER: President Doug Kary called the meeting to order at 6:00 PM

WELCOME AND INTRODUCTIONS

Board Members present: Doug Kary, Frank Ewalt, Tom Zurbuchen, Ming Caberera, Jeff Essmann & Laura Drager (On Zoom)

Jenn Burnside (Board Secretary)

Staff Members present: Josh Simpson

Also present: Butch and Judy Bailey, Mike Macki, Pam Ellis, and Evelyn Pyburn (YCN)

PRESIDENT'S REMARKS: Read by Doug Kary

During the course of the meeting, the Public may be heard before a vote is cast by the Board. The President will acknowledge the Public once the motion has been made and discussed by the Board for their input. The President will recognize speakers who raise their hands. Once recognized, the speaker should move to the side of the board table so comments can be heard, identify themselves by name, and limit their comments to two minutes. Each speaker will have one opportunity to speak on any agenda item. Once the public comment period is over the public may not provide further comment or ask additional questions during the remainder of the agenda item discussion, unless specifically requested by the chair or presiding officer of the meeting.

PUBLIC COMMENT on Non-Public Hearing Agenda Items: Read by Doug Kary

- A. Any member of the public may be heard on any subject that is not on the agenda;
- B. The board will not take action on these items at this time but may choose to add the item to the agenda for the next scheduled board meeting.

January 17th, 2024 6:01 PM

Laura was delayed on Zoom

PUBLIC COMMENT:

Pam comments that the minutes should reflect when Laura joined the meeting.

MINUTES:

Motion and Vote:

Frank moves to approve the minutes from the December meeting. Tom seconds. All approved
No discussion was had on this topic.

CONSENT AGENDA:

Tom makes a motion to approve the consent agenda. Ming seconds.

Laura Joined the Meeting at 6:06 pm

Tom asks what are the December payables.

Josh says there is a typo on the agenda and that the December payables were the items that were sent.

Public Comment:

Pam said she thought that both Susan Swimley and the Interstate Engineering bills were supposed to be in the packet.

Motion and Vote:

Tom makes a motion to approve the consent agenda. Ming seconds. All approved

Bills payable:

Motion and Vote:

Tom moves to pay the Susan Swimley bill for \$75. Laura seconds. All approved

No discussion was had on this topic.

MANAGERS REPORT: presented by Josh (Acting General Manager)

Email Ming and Jeff are not up and running yet.

Jeff said he would move it to the top of his list.

Interstate PER update. Josh and Clay went to their office, and Josh sent out the update for that to the Board members.

Frank asks what PER stands for.

Professional Engineering Report

Josh said it is a requirement with the EPA to be able to get grants approved.

We have two PER one for Task order 29 and the other for Task Order 28.

Jeff asks that the report include the anticipated date of delivery.

Tom agrees with Jeff, Task Order 28 should have been done last November and Task Order 29 should be done in May.

Josh recommends that the Board schedule a work session with Interstate Engineering.

Jeff agrees with Josh that they should sit down with Interstate.

Ming asks when the last time Lowell was here. He recommends having them at a Board meeting so that the public could ask questions as well.

Josh moves on: We got the right of entry back from the Dover Ranch. He asks the board what direction they want to move with that. Josh also explains that this is the reason the Task Order 28 is taking so long.

Ming would like to go ahead and sign that and go ahead with the project.

Josh said they met with the City and they discussed an Attorney General's opinion regarding the district having to pay for the street opening permits. The City did let the District know that they have had another billing issue. They estimate about 23 million gallons short which equals \$68, 310. We haven't heard back from them regarding the bill.

Tom asks about the billing error.

Doug says it was a meter error, not a billing error.

Laura asks to add this topic to the next work session.

Josh talked with Steve at Stifel about adding additional signers to the account. They do have a third-party form with will allow for Doug and/or Laura to call and ask questions and do anything with the account except take action. Steve said this would allow for checks and balances.

Laura asks if the authorization is different than what she had before.

Josh said yes this is correct.

She has concerns about taking action in a timely manner. She thinks there should be someone from the Board who can take action.

Frank says that the manager and one person on the Board should be the signers.

Ming says he thinks one member of the Board should be a signer.

More discussion was had regarding Stifel.

Josh explains the quote for the tank ladder rebuild for \$9,750. He would like this to come from the ARPA grant. This has to be done one way or the other because it is a safety issue. The latch on the ladder that blocks people from climbing up has broken some of the aluminum welds.

Frank asks if it's covered under warranty.

Josh said no we are out of that.

Josh would like to remind the Board to get with Raftelis about the City's incoming rate increase. This was talked about last year, having Raftelis review the new rates from the City.

Lastly, Josh explains the double Board payment in December. It is so that the taxes can be finished for the year. Funds are paid in the year services are rendered.

Some discussion was had to clarify this and an offer to pay the Friday after each month's meeting was mentioned.

Doug said we could go ahead and pay the Friday after each month's meeting.

Jeff asked Josh if there was feedback negative or positive on the new rates.

Josh said there were a few calls but no big outcry.

TREASURES REPORT:

Laura explained Gross Income account is \$1. Service charge \$706.93. Sweep account \$625,189.48. Payroll account. \$218,728.36 First Interstate Savings account \$257,009.91. Earned \$560.32 Yellowstone Bank Savings account \$219,584.53. Stifel investments \$6,549,694.57. Total cash position \$7,870,207.85. Change to cash position \$-121,475.98 Change in cash position for the year of \$615,737.22.

Jeff thanks Laura for all the time and energy she puts into her report.

COMMITTEE REPORTS:

Laura talks about the meeting with the city. During their discussion with the City, they have worked toward an agreement on how we can work together. There has been some discussion on the City's point of view and what they would like to see. One thing they would like to see is annexation into the city another is to renegotiate our contract so there is an end date to the contract. They would also like to limit the amount of water we

can purchase. One of the things we asked for is a defined boundary that would be respected. They said there are no boundary lines, it's whoever gets there first. They are not currently recognizing the District territory which has been in place for at least 40 years. If we did annex into the City boundaries the residents wouldn't be able to protest.

Tom talks about the opinion of the Attorney General regarding the permit fees. He asks what we do, is the District now required to file for these permits?

Josh said there was no answer to that when they asked that question. He's not sure if they are planning on back-billing for the digs we did or not.

Ming said it would be about \$2000 that they could back bill on that.

Doug said in the Attorney General's opinion Municipalities retain the right to require permits from the water district which contracts with the City for water, or excavation of city water lines, in City streets, and right of ways. The letter has many errors so it is unclear.

Tom said that according to the City Administrator that the City will be providing water to the Dover Ranch area.

Josh said he made it clear that Dover Ranch was in our service area boundary. The City said they didn't know of the boundary line until the District and the City started having the meeting.

OLD BUSINESS:

Item #1 (Review of Task Order 28)

Jeff reads the resolution for the suspension of the Northwest Transmission Main.

Jeff makes a motion to approve resolution 1-24 Suspending the Northwest Transmission Main. Frank seconds.

Josh explains that part of the Task Order for this project is investigating alternative methods of serving the Lake Hills area. So, by stopping the engineer on Task Order 28 you are also stopping the investigation into those alternative means. When we met with Interstate, they were aware that the goal of the District is to look into those other methods. They have reached out to the City and are trying to set up a meeting to go over what an additional tie-in would look like what their hydraulic model says they can push and what ours says we can push. It's all stuff that is being done; we are just in the beginning stages.

Frank says we aren't stopping Task Order 28 this is says stopping work on the Northwest Transmission Line until some of these other alternatives can be researched which are also part of Task Order 28.

Josh said right now there isn't a whole lot we can do on the Northwest Transmission Main anyway, because of this they have shifted focus on the addition methods until the weather clears.

Frank said with it being \$2000 per customer when amortized over 20 years it will cost \$11.09 added to everyone's bill and if you spread it out to 30 years it ups everyone's bill by \$8.33.

Laura says she appreciates that Frank has done some work and that Jeff has figured it will be about \$2000 per customer. However, she believes that if the Transmission line were to proceed the district would gain a significant number of customers. The area of Dover Ranch that will be provided utilities is a very small portion of the overall acreage in the subdivision area. For us to stop moving forward with this is premature and second engineering seems to move fairly slowly we just got the right of access so she thinks that it is premature to stop it. It also sends a message to the City that we are willing to give up and it sends a message to the Dove Ranch people that were not interested and it sends a very clear message to our engineering firm that we really don't care what they think.

Ming agrees with Laura and reiterates that the City doesn't care about the boundaries and it comes down to whoever gets there first.

Doug amends the resolution to say all work to design and construct. Jeff seconds.

Frank said that the report from Interstate Engineering was not received in a timely manner to respond.

Josh suggests tabling this conversation until they have the work session with Interstate Engineering.

Laura said the letter wasn't addressed to the District or to the Board. It was addressed to the Yellowstone County Planning Board.

There was further discussion regarding this letter.

Public Comment:

Mike agrees with both sides, but he thinks the board needs to have a meeting with the engineers or they won't get anywhere.

Pam has concerns about Interstate, the district has spent \$434,404. It would be far cheaper to hire an engineer. She believes that we should stop with the excessive spending.

Motion and Vote:

Doug amends the resolution to say "all work to design and construct." Jeff seconds. Frank, Tom, Doug, and Jeff; For. Ming and Laura; Against. Motion Passed

Jeff makes a motion to approve amended resolution 1-24 Suspending the Northwest Transmission Main. Frank seconds. Frank, Doug, Jeff; For. Tom, Ming, and Laura Against. Motion Failed on a Tye

Doug moves to strike Item #2 (progress of the Board member email project). Laura seconds. All Approved

Item #3 (Bill printing format)

Laura talks about the bid we received for processing full-page paper bills for our customers. These bills will have more lines for what our customers are being billed for, It has an important message section, and it would be a bill format that is easier for our customers to read.

Frank speaks about the cost of the equipment for the in-house option. The city uses presort first class which is cheaper to mail.

Josh says in piggybacking off that, added to the packet was a quote from Peterson for the folder. This is a new printer/copier machine that he recommends approving the purchase of because our current machine is out of date. This will also include a new printer for Jenn's office because it is also on its last leg.

Doug asks how old the machine is.

Josh said 10 years or so.

Further discussion was had regarding the full-page paper bills.

Laura moves to table the bill process and mailing. No Second.

Laura makes a motion to purchase the Printer equipment that Josh and Jenn got bids on. Ming seconds.

Frank asks about the warranty for the equipment.

Laura asked if we got any other bids for this equipment.

Jenn said she tried but Western didn't have anything comparable.

Motion and Vote:

Laura moves to table the bill process and mailing. No Second. All Approved

Laura makes a motion to purchase the Printer equipment that Josh and Jenn got bids on. Ming seconds. All Approved.

Item #4 Update on hiring legal representation.

Laura recommends that we find a law firm and pay a retainer. Tom seconds.

Tom asks what all we are asking for of an attorney.

Laura said to provide legal advice.

Jeff thinks it's important to have legal counsel.

Ming says that's what we had before but then there was a lot of question every time we had a bill from an attorney. We need to have clarification if or when we need approval to speak with the attorney.

Motion and Vote:

Laura recommends that we find a law firm and pay a retainer. Tom seconds. All Approved

NEW BUSINESS:

Tom moves to strike Item #1 signatures on the Stifel account. No opposition.

Item #2 Signatures on the Randall & Hurley account

Motion and Vote:

Laura makes a motion that we update the Randall & Hurley with the chair's signature and the Secretary of the Board. Tom seconds. All Approved

Item #3 Request for Proposals for Manager Position

Ming makes a motion to start a search for a District manager both locally and nationwide. Tom seconds

Tom makes a substitute motion to advertise through the Yellowstone County News, American Water Works Association, Montana Rural Water, Indeed, Zip Recruiter, LinkedIn, and Job Services of Montana and that we hold the position open until filed and that we have a cut-off date of March 5th. Laura seconds.

Discussion was had regarding the cut-off date and the job description details.

Jeff amends the motion to remove the salary range from the description. No second.

Public Comment:

Pam said it's cheaper to advertise in AAWA if you are a member. Montana Rural Water Association will post for free. Indeed, and Zip Recruiter was not very good. State law says you only have to have one person with an operator's license we have plenty.

Laura said the most quality applications that came in were from LinkedIn.

Motion and Vote:

Tom makes a substitute motion to advertise through the Yellowstone County News, American Water Works Association, Montana Rural Water, Indeed, Zip Recruiter, LinkedIn, and Job Services of Montana and that we hold the position open until filled and that we have a cut-off date of March 5th. Laura seconds. All Approved

Jeff amends the motion to remove the salary range from the description. No second. All Approved

Item #4 Consolidation with the City of Billings.

Frank makes a motion to approve resolution 2-24 which is to initiate the exploration of the possibility of consolidating with the City and its impacts. Jeff seconds.

Tom said he would not support the motion because it makes the District do all of the work.

Frank asked Tom what changed from months ago when he was for it.

Ming and Laura both agree with Tom

Jeff said we have a chicken and the egg problem. We need to ask the voters first but we have no information for them when they ask the questions.

Public Comment:

Pam said that we need to move forward and the law says the District has to initiate.

Mike the Board needs to study this further because this will be a class action suit. He feels that the people have the right to vote. The City hasn't done a thing for us up here.

Jenn comments about hiring a General Manager while also trying to consolidate with the City of Billings and this said GM may or may not have a job when or if the consolidation happens. She says maybe we should get our ducks in a row before we work on consolidating.

Frank compares prices between the District and the City of Billings.

Ming says we don't know what the City is going to charge when they take us over. The people here at the Heights Water District make the place work. They work and know their customers. Compared to other places where he has property Heights water is cheap.

Josh says while you are talking about consolidating, what about going independent. When half the rate is going to the City, if we were able to be independent from the City, we could keep all of that revenue in-house. Wouldn't it make more sense to look at both sides of that coin?

Doug said the District should have always been working to grow its customer base. I don't see the District out there trying to encourage development. We haven't gone out and offered to extend our line to customers.

Josh asks in the hopes that development will happen?

Doug says the customer is going to be paying for it. The customer may want it, you don't know what the customer wants unless you talk to them.

Josh says he knows that Antelope Hills subdivision wants the water but they are out of our service area.

Frank says that what this is saying is just to investigate other options.

Frank withdraws his motion. Jeff withdraws his second.

Next Board meeting Wednesday, February 21st @ 6:00 PM

Meeting adjourned @ 8:38 pm

Board Secretary, Jennifer Burnside

Board President, Doug Kary