



## COUNTY WATER DISTRICT OF BILLINGS HEIGHTS

### Board of Directors Meeting Minutes

Amended April 17, 2023 at 6:00 PM

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

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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 Peyton Brookshire, [peyton@heightswaterdistrict.com](mailto:peyton@heightswaterdistrict.com) and are available at <https://heightswaterdistrict.com/agendas-and-minutes/>. Supplemental documents are linked in the Agenda Packet.

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**CALL MEETING TO ORDER:** President Ming Cabrera called the meeting to order at 6:01 p.m.

#### WELCOME AND INTRODUCTIONS

Board Members present: Ming Cabrera, David Graves, Laura Drager, Brandon Hurst, and Tom Zurbuchen.

Staff Members present: Josh Simpson and Suzie McKethen

Also present: Mike Macki, Butch Bailey, Pam Ellis, Doug Kary, Frank Ewalt, Mark Redding, Wesley

Dunn, Evelyn Plyburn (YCN), and Dana Pulis (Kinetic)

**PRESIDENT'S REMARKS:** Read by Ming Cabrera

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 hand. 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.

**PUBLIC COMMENT on Non-Public Hearing Agenda Items:** Read by Ming Cabrera

- 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.

Laura Drager took a poll of the current board members who live, or own property within the City limits. All board members live and/or own property within the City limits.

Public comments: Butch Bailey (former owner of a masonry business and was a contractor) addressed an item from a previous meeting regarding the rates for both the City of Billings and County Water District. He owns three properties with 1" lines: one on Highway 312, his home, and one on the west end. \$22.30 is the base rate (3,300 gal) for Heights Water. The base rate for the City during winter months is \$26.98. During the summer, the west end property sewer bill goes up to \$73.09. Ming Cabrera made a motion to allow Butch to continue an additional minute. Dave Graves seconded.

Frank Ewalt explained the City uses winter water usages to calculate the sewer bills, so summer water usage isn't factored into the sewer bill. He explained the tiers, and stated the District rates are 8.5% higher than the west end.

Doug Kary used a City water bill that used 9,000 gallons. The water was \$44.67 which included \$3.80 fee for the west end water plant. The same usage bill for the District was \$47.58. Damn near equal.

Mike Macki said he had a partner who lives on the west end and his water bill was \$19.86 for one month. One bathroom, kitchen, waters grass with well water. Sewer bill was \$47.00 for the disposal of that water. The City billed him for the disposal of the water that he pumped out of the ground. The City is extremely higher.

Wesley Dunn (former employee of the City of Billings) also explained how the City uses the water usage from

the District customers to calculate the sewer bill.

Pam Ellis stated there was a hand delivered letter suggesting support for Brandon Hurst and Dave Graves. The letter was not signed, doesn't say who paid for the letter, and is an election violation.

## **CONSENT AGENDA**

Dave Graves made a motion to accept Items one through seven of the consent agenda. Laura Drager seconded.

Tom Zurbuchen questioned payment of the Kinetic bill for \$3,500 that was paid March 14, which was prior to the March 15 meeting where there was discussion, and approval by the board to pay \$ 1,500. Why was the payment for \$2,000 more? Tom made a motion to amend the motion to exclude approval of the \$3,500 Kinetic bill because it was paid before there could be discussion. Dave Graves seconded the amended motion. No vote was taken at this time. (Discussion on recording started at approximately at the 15 minute mark.)

Tom also questioned why there were refunds to customers. Suzie McKethen explained that they were customers who had overpayments, and closed their accounts. Balances needed to be refunded back to the customers. No further discussion by the board.

Public Comment: Pam Ellis commented that they had all figured Kinetic had been paid \$3,500 for work that wasn't approved by the board. Every single month on the agenda there are monthly payables, with no monthly payables for approval. Everything included in the packet have already been paid. Management does things not authorized by the board, and the board never holds the management accountable. You need to take monthly payables off, or stop paying bills before the board approves.

Frank Ewalt stated we need to find out why there is a \$2,000 discrepancy on the bill/payment than what the board approved, and why was it paid before the board meeting. We need to get an itemized account of what the \$3,500 was spent for.

Doug Kary commented that there was a bill for Quickbooks (QB) for \$549 and Black Mountain Software (BMS) for \$21,858. He said both software's do the same thing. Okay, they don't do the same thing. You can take QB and put it into BMS, but you can't put BMS and put it into QB.

Brandon Hurst explained the reason we have BMS is because of what it does outside of QB.

Ming Cabrera explained that BMS was approved several years ago to include accounting, payroll, and budgeting features.

The motion of the amended motion to approve the Consent Agenda items one through seven with the removal of the \$3,500 Kinetic bill. All in favor: Ming, Doug, Brandon, and Laura. Nay: Tom. Motion carried.

## **NEW BUSINESS**

Dana Pulis from Kinetic Marketing and Creative: Dana is the owner of the business and employees 32 people. Dana addressed the invoice from March was for the initial meeting, discovery, and a discussion/plan of where we need to go to move forward. It was to identify the scope of work needed.

Please reference the handout included in the April board document pages 39-69 for the marketing plan with a detailed description for each category, and fee breakdown.

What is purposed for the remaining fiscal year (ending June 30, 2023) were four major actions. 1) Social media management; 2) Public communications assistance (as a "situational" item that might be used); 3) Invoice redesign; 4) Monthly education included with the monthly bills. The only proposal Kinetic has given the District, is for the end of the fiscal year 2023.

Tom Zurbuchen commented that this was a big ask for a small district; and who makes the decisions, as the board only meets once a month. This would directly affect the rates we charge the customer each bill of \$1.80 per month. Dana explained there could be a press release (proactive approach) rather than being reactive. She would later address the value of that \$1.80 per customer.

Dana deals with many clients who ask why can't we just do a press release? Why do we use an agency to professionally help us to tell our story? The staff has their hands full, and it isn't their primary function. You need to be able to tell a different story than the reactive one and/or the misinformation. For the next fiscal year, the board would give Kinetic a budget and they would scale what was capable of being done within that budget. They are recommending IF we want to change the invoice format, they could assist in doing that.

Laura requested a scope of work, length of time to continue through 2024. If the District is working towards a community supported plan, the District would want to maintain some level of support. Some other options would be to keep doing what we're doing; hire a part time firm; or hire an independent contractor for social media only, who would charge approximately \$30/hour and could be good, or a fiasco.

Laura made a motion to table this item until the May meeting. The bid is good for 45 days, but Dana stated we have her word she would honor the prices discussed. Laura said she would like to table this item but Ming would like to push through since we have an election in May.

Public comments: Frank Ewalt stated the image wasn't the customers problem. The problem stated when the City of Billings erred on the bill for three years, and the District refused to pay.

Pam Ellis commented that the prices are too high. Pam is able to use social media at minimal cost, receives Google alerts, has a subscription to Yellowstone County News for \$44/year.

Wesley Dunn commented the problem is an internal problem. The West end of Billings doesn't care. It is the public's job to hold the board accountable.

Ming asked if they were in favor with tabling this until the May meeting. Called for the vote. All board members were in favor. Motion carried. Laura thanked Dana for her proposal and information.

Quarterly Budget statement: Tom made a motion to accept the quarterly budget report as presented. Brandon seconded. Ming called for discussion.

Public comments: Pam Ellis commented that the budget format and budget numbers changed. Legally the board has the authority to allocate expenditures. The District manager does not have the authority to overspend on line items. Manager needs to get approval from the board if the expenditure is over budget.

Tom Zurbuchen thanked Pam because she demanded we get a budget. State law does not require a budget. There isn't a single rule/guideline in the By-laws to follow a budget.

Ming stated this was the first budget done. Ming called for a vote to accept the budget report. All board members voted aye. Motion carried.

City of Billings Rate Study: Ming gave an overview of City's Rate Study. The District hired Raftelis to review/arbitrate on the District's behalf.

Tom made a motion that we do not accept the City's rate increases per this plan. We hold off on notifying the City of our decision until we have met with Raftelis and Interstate Engineering so that we can provide a detailed understanding of the pieces we don't accept.

Ming asked if we could state the pieces we do not accept pending consultant review. Tom stated he did want to notify the City of our decision until after we have met with Raftelis. Ming said we only have 45 days. Tom said that was right, so we needed to meet with Raftelis this month. Brandon asked why we couldn't just notify. Tom

said that because our contract clearly says we have 30 days to negotiate. He doesn't want to start that 30 days until we have talked with Raftelis, and have point by point the problems identified. Once the 30 days is up, we go to binding arbitration. Tom pointed out several discrepancies in the City's report that need addressed. Ming would like to send a letter to the City stating at this time we are not ready to negotiate.

Josh Simpson stated that we hired Raftelis to dig deeper, and go over it with a fine-toothed comb.

A lot of discussion on when the 30 days starts.

Laura seconded the motion. Laura stated the report has not even been approved by the City Council. Doesn't understand why we would need to take action on it until the City has taken action on it. Would be in our best interest to take no action?

Public comment: Pam Ellis stated that for fiscal year 2024, there would be zero percent (0%) increase. Fiscal year 2025, the increase would be 48.8% is not a solid number. Pam has been in contact with Jennifer Duray regarding the numbers. The west end treatment plant and reservoir is being designed as they go. They do not have final prices, so yes. The rate study is a "best guess". Costs for the plant will be available in May, reservoir in July. Pam stated the 45 days is the point where the City approves it. They don't have an official approval for the water rates and fees. The 48.8% is not a real increase. It is just a best guess which will be adopted in May of 2024.

Ming asked for other comments. We are looking to vote no until we see what Raftelis has to say and then notify the City. Tom stated that it was said that the 45 days starts when the City approves. Tom read from the contract: "Once the City's expert has completed their written report, the City shall promptly provide a copy of that report to the District, and the District shall respond to that report with 45 days after receiving that report, submitting a written response to the Director of Public Works." Tom is concerned we would be breaking our contract. There was yet more discussion of when the 45 days starts. Dave said we have 27 days to go, and we can wait until our next meeting. Josh mentioned that Andrew from Raftelis will be here for the May meeting. May 17<sup>th</sup> is the deadline for response. Josh asked if Tom was suggesting to delay a response, and then have Peyton draft a letter but not send it until the first week in May. Tom said he'd like to have it before the first of May. Dave is on the negotiating team. We have an election in May. Dave's term would end at the end of May if not elected. Tom wants the negotiations to be done before then because Laura and Dave are on the negotiating team. Josh asked if Tom had a date in mind. Ming asked that when Dave and Laura meet with the City, if an extension could be done? More discussion amongst board members. The motion was that we do not send a letter out to the City until the board have met with Raftelis. Tom wanted it to be an executive session. Ming called for vote. Aye: Brandon, Laura, Tom, Dave. Nay: Ming.

Stifel Investment changes: Laura stated that Tom had questioned investment changes. Laura had a handout that she had received that morning which was why it wasn't a part of the board packet (see attached). Currently we have \$435,000 in the cash account at .4% interest. We have another \$502,944.03 Stifel Smart Rate that is essentially a "sweep" account. As a board, we decided that money can only go into that account at the request of the board, rather than a sweep type of account. Currently we have \$937,000 and change, that the District would be better served to invest in CD's. Laura had a proposal from Stifel for the CD's. We will also have \$250,000 CD that will mature on May 11. Laura made a motion to invest in the 4's CD's and would fill a gap in maturity rates in our current holdings. Also, to include rolling the \$250,000 that will be available on May 11 into the Smart Rate account. We have a total of \$1.63 million that will be maturing in 2023 with rate of return 3.1% to 3.3%.

Laura made a motion to invest in the four (4) CD's and the \$250,000 CD which matures on May 11 into the Stifel Smart Rate account. Tom seconded. Ming asked for discussion.

Public Comment: Pam Ellis had a concern that moving money into three (3) year CD's is that the Capital Improvement Plan (CIP) needs to be taken into consideration for cash flow purposes.

Ming called for a vote. All in favor. Motion carried.

Manager's Report: (Given by Assistant Manager Josh Simpson). Low-income housing assistance program will be defunded in September 2023. City storm drain project on Wicks and Bitterroot will now in two phases: Phase I – Wicks portion will be in 2023, making intersection improvements on Wicks and Bitterroot; Phase 2 – potentially the end of 2023 or spring 2024. The rate study was received April 3. The District did not receive the DNRC Rural Resource Planning Grant. Our application will remain active until June 15, 2023 in case more money becomes available. Only 7 out of 49 applications were chosen. Ours was #30. We received a notice from Cincinnati Insurance that they will not offer renewal of Director and Officer liability insurance due to claims activity. The agent believes this stems from excessive communications from the past board members in trying to get coverage triggered. Peyton would look for other options. Ming made a motion to accept the monthly managers report. Tom Seconded. No discussion by board.

Public Comment: Pam Ellis stated initially Cincinnati Insurance turned us down to cover the expenses for the lawsuit filed by Brandon and Tom (Dennis Cook and Jeff Engel), which was later covered by Cincinnati Insurance. Pam was not covered. Bill Mercer had their Insurance Specialist evaluate. No individual board member has coverage under the Cincinnati Insurance policy. If you think you need individual coverage, you need to get that in the policy.

Ming called for the vote to accept the manager's report say aye. All in favor. Motion carried.

Treasurer's Report: First Interstate Bank - March: Gross Income balance is \$1.00 (sweep), \$570.76 fees; Payroll balance \$85, 822.27; Sweep account had \$558,716.88 for a total of \$644, 540.15 in checking. Money Market CD is \$251,919.52. Stifel – March: \$435, 048; fixed income CD's were \$5, 896,384. Total Stifel investments \$6, 331, 432. Yellowstone Bank Reserve CD is \$219,584.53. Total cash position is \$7,447,476.20.

Dave made a motion to accept the Treasurer's Report. Tom seconded. It has been moved and seconded. Any discussion? Public comment? Ming called for a vote. All voted aye. Motion carried.

Next board meeting is May 17, 2023.

Motion to adjourn. Dave seconded. Meeting adjourned 7:45 p.m.

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**Suzie McKethen, Interim Board Secretary**

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**Ming Cabrera, President**