

FOUR CORNERS COUNTY WATER AND SEWER DISTRICT MINUTES
Board Meeting November 1, 2006

1. Call to Order: A quorum being present, the meeting was called to order at 6:31 p.m. in the library of the Monforton Elementary School, 6001 Monforton School Road, Bozeman, Montana

Present: John Hulme, Richard Smith, Ben Zavora, Don McHenry and Mike Pearson

Also present: Susan Swimley, attorney for the District, members of the public as reflected on the sign in sheet

2. Approval of Minutes: Richard Smith moved approval of minutes from the October 4, 2006 meetings with correction that member of the public Jimmy Lohmeier gave the name of "Caprara" in the public comment. Ben Zavora seconded the motion. Motion passed unanimously.

3. Old Business:

- a. Amendments to Rules and Regulations (rates and charges) Utility Solutions Contract for various service areas and report of ad hoc finance committee. –

Richard Smith informed the Board the committee needs to set a meeting time to look at service area #3 (south of Norris Road). Both Richard and Susan have talked to Utility Solutions, who is drafting the initial version of a contract to begin discussions.

- b. Annual Report – Susan reported that Ron Edwards was going to mail these requests for proposal out. Ron had not yet done so. Susan will follow up on this.

- c. Petitions for Annexation:

- a. Gallatin Heights
- b. APK (Buckland Siding)
- c. Black Bull Run
- d. Middle Creek Parklands (Flikkema)

Susan reported that no specific progress has been made. There is still a need for an engineering study and the contracts in order for the District to be ensured that it will have capacity before annexing. The process of investigation and contract negotiation can occur simultaneously.

- d. Litigation Update: provided by Susan Swimley

In Faust and McManus v. Four Corners County Water and Sewer District and Utility Solutions, the Court granted the Rule 12(b)(6) motions to dismiss. The ruling is a determination that Faust and McManus had not basis for a claim.

In Lohmeier v. Four Corners County Water and Sewer District, the Court allowed Utility Solutions (US) to intervene. US has filed an Answer and Counterclaims. The District needs to call a special meeting, which will be closed to discuss litigation strategy, to discuss the District's strategies in Lohmeier. The Board set that meeting for Monday, November 6, 2006 at 11:00 a.m. at Susan's office. Susan will cause the publishing of the Notice.

- e. Second Reading of the Ordinance Amendment the District's Rules and Regulations to allow 35 gpm (exempt) temporary wells.

Susan introduced this item by reminding the Board that the 1st reading was last month and this amendment to Section 2-7 allows owners of any house, building or other property used for human occupancy, employment or recreation in the District to request a 35 gpm (exempt well) that will be required to be abandoned at a later date when the water permits are issued by DNRC.

Richard moved to accept the 2nd reading and enact this Amendment to the Ordinance Section 2-7. Don seconded the motion. The Board discussed the Motion. John expressed that it might not be necessary to enact this amendment but it is a good back up. Ben raised the issue of allowing irrigation wells in this District. Richard informed the Board that irrigation wells are being contemplated for the new service areas. Don and Mike expressed their desire to finish this process and have the backup in place. Ben inquired about how a person approaches the District. John informed the Board he has drafted an application. The Board approved the Motion unanimously.

4. New Business

- a. Engineering Review of US in light of annexation requests. Susan reported that she spoke with Craig T. Caprara of HDR Engineering, Inc. Mr. Caprara was the professional engineer who reviewed US capacity prior to the District entering into the first contract. Mr. Caprara is willing to provide similar consulting services. Susan did not define a scope of work, the timing of the work or the costs. Susan asked the Board to refer the specifics to Ron Edwards, as that is in his expertise. The Board concurred with Susan's request. John Close of US informed the Board that US has just completed its 20-year plan.

b. Report of Ad hoc Committee- finance

- a. Contract negotiations for modification of US contract for additional service areas and proposed annexation property. No report as the item was covered by the Board discussion/report for agenda item 3a.

c. Other matters to be placed on future agendas. None

5. Public Participation: None

6. Board Issues: John Hulme informed the Board that there is an agenda item on the County Commission agenda for 11/8/06 at 1:30p.m. to establish a fund for the Four Corners County Water and Sewer District. Susan explained that this is a County administrative act to create an "account" to receive the tax dollars collected within the District.

7. Adjourn Meeting Meeting adjourned at 7:00 p.m.

Respectfully Submitted



Susan B. Swimley
acting secretary and legal counsel