

FOUR CORNERS WATER AND SEWER DISTRICT MINUTES
March 5, 2008

1. Call to Order

There being a quorum present, President Pro Tem Zavora called the meeting to order at 6:37 p.m. in the library of the Monforton Elementary School, 6001 Monforton School Road, Bozeman, Montana.

Present: Richard Smith, Ben Zavora, and Edward Schmidt

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

Public: Barbara Campbell, Bryan Angole, Roger M. Houis, and Ron Edwards

2. Approval of Minutes for January 23, 2008 meeting.

MOTION: President Pro Tem Zavora moved, Mr. Schmidt seconded, to approve the minutes of January 23, 2008 as presented. The motion carried 3-0.

3. Approval of Minutes for February 6, 2008 meeting.

MOTION: President Pro Tem Zavora moved, Mr. Schmidt seconded, to approve the minutes of February 6, 2008 as presented. The motion carried 3-0.

4. Consideration of Financial Reports

a. Update on financial policies.

Item 4a was continued to the next District meeting.

b. Update on Audit for the District.

Ms. Swimley stated the Utility Solutions portion of the financial reports was odd due to the payment being outstanding as it was currently being held by Gallatin County. She stated she could send a letter requesting the release of those funds to pay Utility Solutions the past due amount. The Board concurred that Ms. Swimley should expedite that process. Treasurer Smith asked the consequences of not being able to pay Utility Solutions even after the money had been returned from the County. Ms. Swimley responded the contract between the District and Utility Solutions would need to be renegotiated at that time.

c. Approval of Financial Reports

MOTION: Treasurer Smith moved, Mr. Schmidt seconded, to approve the financial reports as presented. The motion carried 3-0.

5. Old Business
 - a. Litigation Update

Ms. Swimley stated Mr. Lohmeier was awaiting a District Court decision and the bond from the District was still being held.

Ms. Swimley stated that in the Black Bull/Middle Creek case the District did not have bonding capacity for those areas due to current litigations. Treasurer Smith asked for clarification regarding why the District could not achieve bonding capacity. Ms. Swimley responded it would not be impossible, but would be more difficult and more expensive due to the nature of the current litigations.

- b. Update to petitions for Annexation:
 - i. Kolnik
 1. Responses to e-mail inquiries

Ms. Swimley explained the e-mails submitted by Mr. Kolnik as part of the information the Board received for the meetings agenda. Treasurer Smith suggested Mr. Kolnik should begin the official annexation process before the District answered specific questions regarding his property to facilitate an informed decision. Ms. Swimley noted that Mr. Kolnik was concerned that once he had petitioned for annexation to the District he would be unable to withdraw his petition. The Board concurred that Mr. Kolnik could allowably withdraw his petition. Ms. Swimley responded she would inform Mr. Kolnik of the Board's decision.

- c. Approval of Annexations
 1. Annexation of Buckland Siding

Ms. Campbell stated she would check on the status of Buckland Siding and let the District know. Item 5c1 was continued to the next District meeting.

2. Annexation of Gallatin Heights

President Pro Tem Zavora initiated the first reading of Four Corners County Water and Sewer District Ordinance #2008-01 for the annexation of Gallatin Heights.

Treasurer Smith noted he had met with residents of Gallatin Heights and they were in no particular hurry for the annexation process to be completed.

MOTION: Treasurer Smith moved, President Pro Tem Zavora seconded, to approve the first reading of Four Corners County Water and Sewer District Ordinance #2008-01. The motion carried 3-0.

3. Annexation of Black Bull Run and

Ms. Swimley noted the Clerk and Recorder's office would file the election materials with the County Assessor's office and the District would have the certificates for their records. Item 5c3 was continued to the next District meeting.

4. Annexation of Middle Creek Parklands

Ms. Swimley noted the Clerk and Recorder's office would file the election materials with the County Assessor's office and the District would have the certificates for their records. Item 5c4 was continued to the next District meeting.

5. Annexation of Town Pump Property

Ms. Swimley stated Town Pump was part of the Tier One Property in Service Area 2 and contained wells; adding there was no language in place for the District to provide for the use of wells. Ms. Campbell noted that the wells could fall under a grandfather clause and suggested that would be the best method. President Pro tem Zavora clarified that the District had not encouraged wells because of their agreement with Utility Solutions. Ms. Campbell responded the wells were fine with her. President Pro Tem Zavora noted the wells would also be fine with him. Treasurer Smith noted the wells might set a precedent. President Pro Tem Zavora responded they were existing wells and would be grandfathered in. Ms. Campbell suggested the District provide a method by which people could apply for a variance for a well. Mr. Houis noted only small domestic wells were currently being approved in the County unless there were pre-existing water rights. Treasurer Smith responded that smaller wells could still be drilled. He suggested Ms. Swimley draft a policy addressing the use of wells within the District. Ms. Swimley recommended an addendum to the contract be drafted as well.

MOTION: Treasurer Smith moved, President Pro Tem Zavora seconded, to approve the petition for annexation of the Town Pump property into the District. The motion carried 3-0.

- 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

Item 5d was continued to the next District meeting.

- e. Presentation of draft privacy policy for District consumers

Item 5e 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 stated she and her partner had decided the original contract would be restated rather than completely redone. She explained what modifications had been made to the existing contract including; modifications to service area boundaries (language items k,l,m), base rate changes (\$ accumulated by taxes) and allocation of those funds, on page 15 the inclusion of language that "each lot must purchase a meter" and "sewer only users would be billed" to provide for sewer only requests for service, and on page 17 paragraph 5 would be deleted and a last sentence for paragraph 6 would be instituted with regard to the use of floor drains. Mr. Edwards suggested the language be specific to allow floor drain systems that were not connected to the system. Ms. Campbell stated #9 on page 18 would include service to properties adjacent but outside the District and might provide motivation for annexation into the District. She noted the options in the contract would remain the same and on page 45 language had been included regarding the District's lease of the Utility Solutions facility.

Ms. Campbell stated the rates would need work as she was unsure what the District and Utility Solutions would jointly do regarding commercial condominiums. Ms. Swimley responded the District had decided to require a separate meter for each condo unit. Ms. Campbell suggested the District institute a minimum base rate. President Pro Tem Zavora suggested they base the rate on usage. Mr. Schmidt suggested a base rate plus usage. Mr. Edwards explained the existing rates for commercial condominiums in other areas. Ms. Campbell noted that Service Area 3 had initiated a new category in the contract to provide for mixed-use development. Treasurer Smith suggested Mr. Edward's information would help the District include the necessary language in the contract. Ms. Campbell reiterated that a rate structure would need to be set and tested; adding it could be modified at a later date if proven to be ineffective. Ms. Heibert asked if Ms. Campbell had information regarding the cost per gallon spent by Utility Solutions to provide service; adding she thought rates and taxes were being combined and should be separate. She suggested the separation of Utility Solutions' costs and charges and the District's costs and charges. Ms. Campbell responded there were two ways the District was being paid and suggested the amount charged would need to be justifiable; adding that some of the rates were projections due to the amount of undeveloped land. Mr. Edwards suggested fixed costs would need to be recovered using base rate charges. Ms. Heibert stated the contract would need clear separation. Treasurer Smith suggested the item would need to be studied and analyzed to provide the best rate for both Utility Solutions and the District. Ms. Campbell explained the flat rate plus usage for water and the base rate for sewer in Elk Grove Subdivision. She suggested the District review the Operating Rules and Regulations with regard to the section addressing rates.

Ms. Heibert asked if the District would be credited for the piping that developers pay to have installed. Ms. Campbell responded that when Utility Solutions was paid by a developer for pipes and installation the piping would become an asset for Utility Solutions. Treasurer Smith asked if the District would be made to pay twice for those installations. Ms. Campbell responded the District would only pay the portion of

installation the Utility Solutions had paid. Treasurer Smith responded the Board would need to review the material more thoroughly. Ms. Swimley responded the contract would need to be read three times at public meetings and submitted to the County before the July tax season. Treasurer Smith suggested Ms. Swimley create a schedule to provide for three public readings of the proposed contract. Ms. Swimley agreed.

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

Item 5g was continued to the next District meeting.

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

Item 5h 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

Item 5i was continued to the next District meeting.

- j. Consideration and possible adoption of Resolution Clarifying Boundaries

Ms. Swimley requested Mr. Edwards and Ms. Campbell join the Board to provide clarification of the District's boundaries. Ms. Campbell presented the Board with a signed copy of the original resolution solidifying District Boundaries. Ms. Swimley identified which issues for the Smith/Brailsford property that would need to be addressed. Mr. Edwards suggested annexing the property and creating an ordinance later to provide clarification. Treasurer Smith noted the setback requirements would need to be observed and the proposed building envelopes would need to be enlarged. Mr. Edwards agreed to make that correction. Ms. Swimley noted there would only need to be one reading of the resolution; adding the District could request the County not add in open space when calculating the taxes. Ms. Swimley suggested the Board approve the resolution clarifying boundaries at the next District meeting. The Board concurred.

6. New Business

- a. Other matters to be placed on Future agendas

Mr. Edwards explained Garden Center Subdivision had requested sewer only service from Utility Solutions and he had been in discussions with Marty Gagnon of Morrison-Maierle, Inc. Regarding cost estimates for tying into the system. Ms. Swimley suggested the Board think carefully regarding sewer service only requests. Ms. Campbell noted that although the site was upstream from the facility, she would prefer they tied in to the system due to environmental concerns.

7. 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.

8. Board Member Issues

There were no Board Member Issues at this time.

9. Adjourn Meeting

There being no further business before the Board, the Four Corners Water/Sewer District meeting of March 5, 2008 was adjourned at 8:31 p.m.

Respectfully Submitted



Tara L. Hastie

Recording Secretary