

FOUR CORNERS WATER AND SEWER DISTRICT MINUTES
Wednesday, September 3, 2008

1. Call to Order

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

Present: President Mike Pearson, Vice President Ben Zavora, and Edward Schmidt

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

Public: Jared Rasmussen, Trevor Campbell, John Close, Heidi LeDain and Ron Edwards

2. Approval of Minutes for August 5 and August 11, 2008 meetings.

MOTION: Mr. Schmidt moved, Vice President Zavora seconded, to approve the minutes of August 5 and August 11, 2008 as presented. The motion carried 3-0.

3. Consideration of Financial Reports
a. Approval of Financial Reports

Ms. Heibert presented the financial reports.

MOTION: Vice President Zavora moved, Mr. Schmidt seconded, to approve the Financial Reports as presented. The motion carried 3-0.

6. Pubic Participation Item moved up to accommodate Mr. Rasmussen

Mr. Rasmussen presented the board with a 'will serve' letter he received from Utility Solutions. Ms. Swimley will look into the issue with the property being contiguous to the district. She noted that previously private parties have paid \$2100 to cover the costs of elections. The board accepted the petition from Mr. Rasmussen as of the date of the meeting.

MOTION: Mr. Schmidt moved, Mr. Zavora seconded to have Ms. Swimley research what Mr. Rasmussen will need to do, whether his property is contiguous; and develop an out-of-service of the district 6-month contract based on similar type properties to send to Mr. Rasmussen. The motion carried 3-0.

3. Consideration of Financial Reports (continued...)

b. Discuss the policies for paying utility Solutions contract

Ms. Swimley noted that the district received a second letter from Utility Solutions outlining how the district was in breach of the contract agreement as of July 2, 2008.

2. Supreme court decision on DNRC/Utility Solution case

Decision covered verbage about municipalities, defining that the character of water use must be considered versus applicants needing water use. This decision takes some issues out of the larger existing lawsuits. Appeals may now move forward. Ms. Swimley stated on additional lawsute was filed against Gallatin Heights regarding their augumentation plan. A letter was sent to the board requesting having the district move to intervene. The board determined that at this time that was not of interest to the district and a request for Ms. Swimley to send out this letter was made.

- b. Approval of Annexations
 - 1. Annexation of Gallatin Heights – update on election

Ms. Swimley reported 47% of eligible voters participated with 60% in favor and 40% opposed. Final acceptance is needed of the board.

MOTION: Mr. Schmidt moved and President Pearson seconded that, with the third reading, the petition was completed and approved for the annexation Gallatin Heights subdivision. The motion carried 3-0.

- c. Amended and restated Water and Wastewater Service for the Four Corners County Water and Sewer District for the Contract with Utility Solutions, LLC.

Discussion of the agreement brought out clarifications still needed, including documentation that Utility Solutions needed to send to the district that would itemize the cost disparites between areas of the district. A motion was made to approve the agreement with the assumption that the several changes would be made. Ms. Swimley would send a current copy of the draft with the change requests to Utility Solutions and work towards finalization.

MOTION: Mr. Schmidt motioned and Mr. Zavora seconded approval of the agreement upon enactment of the following amendments:

- References beyond the year date of the contract would be modified
- The effective date of the contract be moved to August 25, 2008
- A line will be added clarifying the difference in valuation of Utility Solution with consideration to deduct developer paid capital costs
- Exhibit E will be added with relation to costs outlined on page 20, Sect 19B
- Exhibit D will be replaced
- Exhibit 4A will be added when information is received from Utility Solutions

The motion carried 3-0.

- d. Consideration of Resolution requesting tax be levied for 2008-2009

Questions regarding cost structure still outstanding. Ms. Swimley will send a letter to Utility Solutions requesting that they come to the next meeting to help break out how charges are measured.

e. ADDRESSED AT BEGINNING OF MEETING – SEE ABOVE.

5. New Business

a. Receipt of Petition for Exclusion of Land from District – Smith/Brailsford

The board determined that the \$100 fee had not been received and would need to be in order for this consideration. The request for exclusion wouldn't be considered until that was paid. Ms. Swimley will send the parties a letter. Once the payment is received a hearing can be scheduled to consider exclusions.

b. Discussion of District option in light of Zoot's 2008-2009 tax protest

Ms. Swimley explained that the protest would likely continue for the new year but would need to be resolved prior to a bond sale. Depending on the litigation outcome and costs, the board could be dissolved down the line allowing the district to pay outstanding bond costs were they not all to be sold.

c. Discussion of possible bond election to purchase Utility Solution interests

Mr. Zavora has spoken with Mr. Joby Sabol regarding setting up a purchase and sale agreement. Ms. Swimley as district legal counsel, has been discussing with Ms. Mae Nan Ellingson the bond agreement.

MOTION: Mr Smith moved and Mr. McHenry seconded to approve the adoption the Resolution to exercise the option to purchase the Four Corners Wastwater Treatment Service. The motion carried 3-0.

6. 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.

Moved to beginning of agenda.

7. Board Member Issues

Item for next meeting – Monthly charges on properties in service area 2.

8. Adjourn Meeting

There being no further business before the Board, the Four Corners Water/Sewer District meeting of September 3, 2008 was adjourned at 8:12 p.m.

Respectfully Submitted,


Heidi L. Le Dain, Recording Secretary

