

**MINUTES OF THE REGULAR MEETING OF THE  
KINGSBURY GENERAL IMPROVEMENT DISTRICT BOARD OF TRUSTEES  
TUESDAY, JANUARY 18, 2011**

**CALL TO ORDER** – The meeting was called to order at the Kingsbury General Improvement District office located at 160 Pineridge Dr., Stateline, Nevada at 6:00p.m. by Vice Chairperson Treanor.

**PLEDGE OF ALLEGIANCE** – Treanor led the pledge to the flag.

**ROLL CALL** – Present were Trustees Yanish, Treanor, Vogt, and Norman. Also present was Legal Counsel Scott Brooke, General Manager Cameron McKay, Business & Contracts Manager Michelle Runtzel and Operations Supervisor Eric Johnson. Present for a portion of the meeting were Brent Farr and David Pulley of Farr West Engineering, Jack Post, Robert McDowell, Jodie Nelson, Jason Hudak, Michael Garden, Chris Stetler, Kara Griffin of Grant Thornton, David Lewis, Bill Cole, several residents in favor of McDowell for Trustee.

**PUBLIC COMMENT** – There was no public comment.

**APPROVAL OF AGENDA**

**M-1/18/11-1** – Motion by Yanish, seconded Vogt, and unanimously passed to approve moving Agenda Item 9 to the next item.

**APPOINTMENT OF TRUSTEE TO FILL VACANCY CREATED AT THE LAST ELECTION, INCLUDING A BRIEF BREAK AFTER SELECTION TO SWEAR IN THE NEW TRUSTEE** - Prior the last election, Dan Norman was appointed to the seat vacated by Brett Barrett. Dan was already on the ballot when the August appointment was made and because the seat was vacated after the ballots closed, he was to finish out the term associated with this seat, 2 more years.

In the last election, three seats were up for election. Two of these were for four years, and one was for two years. Statute dictates that the lowest vote getter will serve the two year term.

Therefore because Dan was second in the vote tally, he will serve a four year term along with Darya. Natalie will serve a two year term.

The seat that was vacated by Dan will now have to be filled and the person assuming this Trustee position will finish out the remainder of Brett Barrett's term to the election in 2012.

Two residents have sent letters of interest for this seat, Bob McDowell, and Jodie Nelson. Both ran in the last election.

This selection must be made at this meeting. Failure to decide will mean Douglas County will choose a Trustee for KGID.

Their letters of interest are included.

Treanor noted that Nelson and McDowell presented interest in the position. Treanor noted that the election results showed McDowell was tied with Yanish for the third seat and he lost at the card cutting session at the county. He has been on the board for the last 9-10 months. Nelson is a CPA, for the past 16 years, the KGID Board always had a CPA. McDowell is qualified to run and serve on the board and so is Nelson, always helpful to have CPA to view from a different perspective.

Everything the board will be considering impacts rates and the future of the district. Treanor wants to nominate Jodie Nelson to fill the position on the board due to her background. We are facing a lot of upcoming challenges in the coming year.

Norman has anguished over this decision for the last month. Norman's primary interest is for the people of the district, watched other board members knowledge of financial interest and believes there is a gap with Hayes not on the board. In that regard, and for the best interest of community, Norman is in favor of Nelson.

Vogt notes it's been difficult and she has thought about this in great detail, McDowell was appointed and has knowledge of the board, Nelson has financial background. She is a little nervous for there not to be a strong financial person on the board but she has faith in Cam and Michelle in their background. Schussel didn't feel it was necessary to have a CPA on the board. Vogt would have to be more responsible and get more up to speed on the financial aspects. Jodie is a friend of Vogt's. Vogt believes the vote from the people should be strongly considered, Vogt feels people have spoken and McDowell should be next trustee.

Yanish comments its tough for her; she agrees it's hard to go against what the votes are. Yanish is torn, from financial perspective she is not a CPA, Nelson had a lot of good input in the past. Both candidates spent time in the election. Yanish reiterates it's hard to go against the voters.

Vogt wonders if necessary to have CPA. Brooke comments the only statutory requirements are that they are a resident and are electorate. Norman comments oversight of the district is board's responsibility. Believes there are qualifications that should be considered even if not required. Norman believes best for district for Nelson. Treanor is looking at responsibility of trustees and doing what is best for the district as a whole. Popularity contest isn't necessarily the best for the district. Long term impacts on the board for upcoming decisions on budgets, labor negotiations, etc.

Open for public comment.

A resident believes McDowell tied for third place and believes board should go with people. He noted Norman is sitting on the board because he was elected by popular vote. Had the district advertised for a CPA, things might be different? He states that the reputation of the board is at stake if the board chooses to go against what the people voted for. Several residents echoed Posts comments. A resident noted we have access to CPA's involved in our audits and should not be required to sit on board.

McDowell noted he was appointed in March, at the election he tied with Natalie, next highest vote getter was Jodie. Spoke with Schussel, his opinion, before Hayes, that there was no CPA on board. He cares about the community and people. He's been involved in the fire safe chapter, raised over 450K and he knows a lot of people. He is not CPA, but his training in biology and forestry is an asset to the board. He doesn't make decisions for the short term only, need to look at long term effects. He developed, planned and executed multimillion dollar budgets/projects. He knows he can do the job and asks for support of the board. Annual audit hasn't found problems or issues because of the experience of the staff.

Nelson would love to be able to fill the position, has experience on other boards as well as being a CPA. She believes her skills would be an asset to KGID. She has audited other GID's. She is respectful of Bob, but feels she could be a good servant to the public for this position.

Yanish asked if there are any conflicts with the proposed meeting schedule. McDowell goes to Hawaii every April, and will not be available. This is the budget month where we have two meetings. McDowell asked if he could be present via conference call. Norman wants to look into the possibility of getting skype for future meetings.

A resident noted that because of Bob McDowell's dedication and enthusiasm, she has been on the Fire Safe Council's board for six years and she comments KGID would be lucky to have him.

Public comment was closed.

Brooke comments, if the board can't come to a three person majority, then the matter will be deferred to the county commission for selection, unless we had a special meeting in the interim. We have 30 days from the vacancy to fill the position. Vogt doesn't see how deferring this will make the situation any better.

Yanish states she understands Treanor is taking a tough unpopular position, she has been on the board the longest. Treanor would not have made the recommendation had she not believed it was in the best interest of the district. Yanish notes the toughest meetings were the budget meetings and Hayes was bringing up a lot of points when everyone else was saying it looks great. Hayes was the one saying we had to raise rates at the budget meeting.

**M-1/18/11-2** – Motion by Treanor, seconded Norman, and unanimously passed to appoint Jodie Nelson to fill the vacant Trustee position, Vogt voted nay.

A brief break was taken so Runtzel could swear in Nelson.

**ELECTION OF OFFICERS** – Treanor noted that we usually nominate trustees for each of the positions. This item was continued until Item 9 was completed.

**M-1/18/11-3** – Motion by Norman, seconded Treanor, and unanimously passed to appoint Trustee Jodie Nelson as Secretary/Treasurer.

**M-1/18/11-4** – Motion Yanish, seconded Vogt, and unanimously passed to appoint Trustee Carolyn Treanor as Chair

**M-1/18/11-5** – Motion Nelson, seconded Yanish, and unanimously passed to appoint Trustee Daniel Norman as Vice Chairman.

**APPROVAL OF CONSENT CALENDAR** – The GM notes if there are any changes to the Consent Calendar Item B – Minutes of the closed session meetings, it will require a closed session.

**M-1/18/11-6** – Motion by Norman, seconded Yanish, and unanimously passed to approve Consent Calendar Items as follows:

- A. Minutes of the Regular Meetings of December 14, 2010
- B. Claims in the amount of \$798,552.89 as represented on the List of Claims by check numbers 45361 through 45516
- C. Purchase of equipment to upgrade SCADA (Supervisory Control And Data Acquisition) system at water pump stations #1, 2, 5 and 6
- D. Authorize the Business & Contracts Manager to approve an increase of Task Order #3 with Farr West Engineering in the amount of \$10,000 for additional engineering services and inspection costs associated with the 2010 Waterline Replacement Projects bringing the total Task Order for the projects to \$131,700.
- E. Approval of repairs per shop estimate, not to exceed \$6,212.72

**CONSENT CALENDAR ITEMS PULLED FOR DISCUSSION** – Nothing was pulled forward.

**UNFINISHED BUSINESS** – There was no unfinished business.

**NEW BUSINESS**

**PRESENTATION OF AUDITED FINANCIAL STATEMENTS AND AUDITORS REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2010; POSSIBLE ACTION TO ACCEPT THE FINANCIAL STATEMENTS AND AUDITOR’S REPORT** – This item was continued from the December 2010 board meeting. Attached for the Board’s review and comment are the financial statements for the year ended June 30, 2010 as prepared by Grant Thornton LLP. At the end of November, we provided the board with the audited financials as well as the internal financial statements for the period ending 6/30/2010 for review. Kara Griffin of Grant Thornton will make the annual financial presentation to the board at this meeting.

The Management Discussion and Analysis section of the District’s financial statements is set forth on pages 5 through 11 prepared by the BCM and provides, among other things, financial highlights, overview of the financial statements, financial analysis, and information on capital asset and debt administration. Bookkeeper Kim Garon and I worked with the auditors to ensure that the financial statement information was accurate.

The District received more than \$500,000 in federal funds for the fiscal year and therefore a Single Audit Act audit was required.

Page 36 discusses the OPEB Gasb 45 requirements and liability. This is new this year and requires the district to disclose and report future post employment benefits, in our case, medical insurance premium subsidies for retired employees.

On page 53 the auditors report that there were no outstanding Prior Year Recommendations and no Current Year Recommendations.

It is recommended that the board accept the report via motion.

Kara Griffin handed out a presentation for the board to follow along. She gave a brief presentation on the financial statements. She explained single act audit, opeb etc. Kim and Michelle were able to save the district a lot of money by using the online version for calculating the opeb liability as opposed to hiring an actuary. Kara points out the board should look at page 12 of the financial statements at the net assets which is key for planning and budgeting for the future. Kara commends everyone at the district is doing a great job as evidenced by the few journal entries, staff is very receptive to taking over worksheets, etc, everyone has been great to work with.

M-1/18/11-7 – Motion by Norman, seconded Nelson, and unanimously passed to accept as presented the financial statements and auditors’ report for the fiscal year ended June 30, 2010.

**OUT-OF-TAHOE BASIN WATER ALLOCATION – WILLIAM COLE – REQUEST FOR TOLLING OF TIME** – This item was continued from the December 14, 2010 board meeting to allow Mr. Cole time to obtain and present a letter from Douglas County that they will not issue a building permit for his property. The KGID Policy and Procedures Regarding the Out-of-Tahoe Basin Water Allocations, amended April 18, 2006 and March 23, 2010, is included for Board reference.

The William Cole project was issued one (1) allocation for APN 1319-19-802-006 with a validity date of February 4, 2011 and one (1) allocation with a validity date of March 19, 2011 to obtain a Douglas County Building Permit.

Paiute is planning to construct approximately 1000 linear feet of 12” gas line from S. Benjamin Drive, Jack Drive and down Gasline Road next year which will impact Mr. Cole’s ability to build on his property. Attached are two emails, one from Douglas County and one to Douglas County from Southwest Gas regarding the delay of the Paiute Project to next summer? Mr. Cole has not applied for a building permit because of the project and his inability to build as Paiute will need Mr. Coles parcel to use as a staging area for their project.

Mr. Cole noted in his October progress report, attached, that he is seeking a tolling of time for both allocations beginning February 4, 2011. He suggests the board review the tolling period every three or six months and end it when he has access to the property.

Section 10 of the Policy and Procedures Regarding the Out-of-Tahoe Basin Water Allocations reads as follows:

10. Tolling of Time. The time periods provided for herein, shall be tolled during the period which Douglas County is restrained, enjoined or otherwise prohibited by court order, moratorium, ordinance or referendum from issuing building permits or application approvals as required in Paragraph 7 (a) above. **The reservation period may also be tolled by KGID based upon its determination and finding that the applicant was proceeding in good faith but that building permits were not available from Douglas County.**

Staff and legal counsel believe Mr. Cole’s request does not meet the specific criteria of section 10 of the policy, because this isn’t a building permit issue, and therefore recommend denial of this request.

By court order, KGID tolled time for Rancho Pacific, Inc. and subsequently allowed Mr. Purvance the same tolling because the access road that Mr. Purvance planned to build from was the same that Rancho Pacific was required to improve per their settlement agreement with Douglas County. Heavenly Valley intervened in the lawsuit and it has been determined that there is no county right-of-way for the road the county said Rancho Pacific was required to improve. The road runs through Heavenly property. This matter has been discussed briefly with the board over the last several months after court hearings and to my knowledge to date there has been no action by the court to either enforce or dismiss the settlement agreement.

Mr. Cole can request a one-year extension for each of the allocations in accordance with 7e of the policy, which will require Extension Request Fee and Extension Fees of \$1000 if approved, or he can surrender the allocations and have them re-issued for \$750 if they are on the same application and are approved.

At the time of this writing, Mr. Cole indicated that Dave Lundergreen of Douglas County was going to provide the letter, although, I have not received it. If Mr. Cole provides a letter from Douglas County stating that building permits cannot be issued, then I recommend we toll the time in accordance with the policy.

Runtzel noted that Mr. Lundergreen provided an email that stated, "We have agreed to reinstate the permit as soon as the pipeline is finished". Runtzel contacted Mr. Lundergreen and explained that Mr. Cole needed a letter that stated that Douglas County could not or would not issue a building permit. Mr. Lundergreen was unprepared to make that statement in writing as of last week but assured that he would look at the Paiute plans first thing this morning to determine whether he could make that statement or not. The BCM heard nothing from him today, she's not sure if he got tied up with other priorities.

Mr. Cole's understanding from Mr. Lundergreen was that they would not issue a permit; Mr. Cole asked if this item could be continued for one more month.

Runtzel noted that one allocation's validity date is due to expire on February 4, 2011. If the board wants to direct the BCM not to take any action on the allocation, she suggested that is added to the motion.

**M-1/18/11-7** – Motion by Norman, seconded Yanish, and continue this item to next board meeting to hear final word from Mr. Lundergreen and to direct staff not to take any action on Mr. Cole's water allocation until we hear back.

Norman feels a letter to the county manager would be appropriate. Norman feels it is inexcusable that Mr. Lundergreen did not follow-up when he stated he would.

**RETENTION OF CHARLES COCKERILL, ESQ. AS AN INDEPENDENT CONSULTANT TO ASSIST IN LABOR NEGOTIATIONS** -

The last union agreement took seven months to complete, with the Trustees settling on a one year contract due to a number of circumstances. During the closed sessions, concern was voiced about having a very short agreement (1 year) and the next agreement having to be negotiated by a new, inexperienced board. Scott Brooke then suggested that the Board of Trustees examine the possibility of retaining a labor attorney to assist in the negotiations. Union negotiations are difficult to say the least. As Trustees and management, we deal with many things of which wage negotiations are not a part. We have very little skill in the dialog process, while the unions are professionals in this arena.

As seen by his resume, Mr. Cockerill has represented many governmental entities, and is currently working with Incline Village GID on their union agreement. I talked to IVGID and found they are currently in mediation with their union and they anticipate going to arbitration. HR highly recommended Mr. Cockerill.

The GM talked to people from Churchill County, Yerington, Douglas County, and Lyon County. All highly recommend him.

We will probably get some push back from the union by retaining Mr. Cockerill. They may site the amount of money being spent on his services as better spent on the employees.

Please note BDR S.B. 78 which is attempting to make union negotiations public.

The GM notes during the last closed session, there was concern of the new board and the length negotiations took. It was suggested to hire an independent consultant to assist KGID with the next labor negotiations. Brooke recommended we hire Mr. Cockerill. Cockerill has done quite a bit of work around Nevada, IVGID and other districts in area. Norman asked if he would be able to get negotiations done by June. Treanor recommends this to have someone take a fresh new look at it. The current contract expires June 30, 2011 and we are getting ready to approve a budget in a couple months. Mr. Cockerill is dealing with a couple of contracts with Mr. Fredericks. The GM checked a few references.

**M-1/18/11-8** – Motion by Vogt, seconded Yanish, and unanimously passed to retain Charles Cockerill as a private consultant to assist the KGID Trustees in the 2011 labor negotiations.

Staff member Michael Garden introduced himself and noted he has been here two years and prior to that he was with Town of Minden for 5.5 years. Last year negotiations took seven months, largely due to starting late and staff had no direct contact with the board. The process involved the union employees talking to the union representative, the union representative to the GM, the GM to the Board, Board back to the GM, GM to the union and union back to employees, this takes a lot of time. The negotiations take a lot of time, in part due to absences of the board. Garden would rather see money spent for this consultant used in the district to replace outdated equipment as opposed to employees. Employees wanted multi year contract, 2% cost of living, some members got more. Previous contracts were signed for 5 years, staff doesn't ask for moon, they work here because of a great benefit package employees love the district and are here to serve the district. We currently have nine hourly employees, we aren't large, don't have numerous departments. The employees want the district to stay solvent, but moral is down, the employees took it personal. They believe this is what will happen again this year with Mr. Cockerill's involvement.

Norman comments he wants to get this agreement done by June. Treanor thinks by using Mr. Cockerill to help the district we should be able to get the contract approved quicker. Garden noted that IVGID is still in negotiations using Mr. Cockerill on a contract that expired last June. Their contract negotiations haven't been very timely. All the costs involved are split equally between the District and Union. Garden is asking that staff, union, Board and GM get together to see if negotiations can be handled without outside help. Treanor states the purpose is not to stall or go to arbitration, but to move faster than before. Jason Hudak noted that the GM was to work with the union; however, at the third meeting he advised he did not have the power to negotiate. Hudak thinks there was a lack of communication. Treanor states we are having a professional look at this to try to move it along quicker, there is nothing to be afraid of and she thinks staff should look at this as a positive move. Garden noted that employee's concerns stem from Mr. Cockerill's reputation, which isn't very good from what staff has heard. The information he received is Mr. Cockerill is very anti-union and doesn't think the union should have a part in this state. Negotiations started with happy employees and when all was said and done 10 of 40 employees left the entity.

Runtzel commented just to be clear, this person is hired and will work for the KGID Board to assist on KGID's side of the negotiations, and he is not here for the benefit of the employees. Per Brooke, Mr. Cockerill will bring the knowledge and expertise that was not available during the last negotiations and was evident. He can help the board in their thought process and deliberations.

Brooke noted that there is an inherent tension when negotiating contracts and there are monetary important issues that are important on both sides and each side has different goals, this is why you have to have negotiations.

**APPROVAL OF TASK ORDER #7 FROM FARR WEST ENGINEERING FOR PLANNING, COORDINATION, AND DESIGN OF WATER LINE REPLACEMENT FOR BONNIE COURT, BONNIE DRIVE AND JACK CIRCLE** - This task order is for the replacement of water lines on Bonnie Court, Bonnie Drive, and Jack Circle.

This project is partially funded by the Fire Protection Partnership grant that pays for upsizing water lines in the Tahoe Basin to increase fire protection with the remaining portion funded from the existing State Revolving Fund that we have been using for previous water line replacements.

The FPP grant has a remaining balance of \$322,733 and the SRF loan has a balance of \$1,091,211. Grants from the Fire Protection Partnership will only cover 50% of the total cost up to the maximum amount of funds remaining.

As you can see, the total cost is more than \$645,466. This means that unless another FPP grant is secured, we will have to pull from the SRF for an extra \$60,534.

In order to finish a complete project instead of stopping a couple of hundred feet away from final completion, the extra funds must be used.

The GM included a copy of the Farr West task order.

**M-1/18/11-9** – Motion by Norman, seconded Nelson, and unanimously passed to approve Task Order #7 from Farr West Engineering for a cost of \$100,000 and a 15% contingency.

**BOARD REPORTS** – There were no board reports.

**STAFF REPORTS** – Written staff reports were provided by the General Manager, Business & Contracts Manager and Operation Supervisor. The Bookkeeper provided a Cash Position Statement as of January 31, 2011.

Vogt can't attend the April 19 meeting; GM will poll board for available dates. We will provide sandwiches for the board or platter for Feb 15 meeting.

**General Manager Report** – The GM noted that Andrew Strain stated he would be getting together with him soon to start negotiating the snow making contract.

Board training will be on the agenda next month and will start between 4:30-5:00. Vogt thanked the GM for the board binders that were distributed. Norman requested that the board packets are covered in plastic.

**Business & Contracts Manager** – Norman asked about any comments regarding snow removal efforts for the last month. He asked about the possibility of adding gates to the equipment. Runtzel explained we negotiated with the contractor to eliminate the graders. Runtzel explained that we ask the contractors to turn their blades when they can; it's a hard thing to control. If the board were to direct staff to not leave burms, there is a significant cost impact of doing so.

Norman asked if someone is stuck in their home, will KGID come out and help. Runtzel explained for the elderly or sick, we can remove burms but we do advise them that they should hire someone to take care of their driveway or burm if they are unable to do so.

Treanor thought that the snow contractor did a great job for the amount of snow we received and how it came in.

Runtzel advised that she requested copies of timecards for the 2010 Waterline Projects; she received them but is unsatisfied and will be working on an investigation later this week.

Metering – The database is fully up to date but some agreements are still trickling in. She needs to send letters out to let residents know if they have to do any plumbing or whether they will get individual or master meters.

Nelson asked about the liquidated damages for Spiess. Spiess was awarded three different contracts for the waterline replacements. The timeline was 35-42 days for each of the projects. The actual completion was approximately 25 days past the allotted timeline, of which we had inspector's onsite for about 7 days on each of the projects. We are assessing 22,500 in liquidated damages and Runtzel explained specific scenarios on how these projects were delayed and the lack of urgency on the part of the contractor.

**Operations Supervisor** – Eric offered to take the new board members for a tour of the facilities.

**ATTORNEY'S REPORT** – Legal Counsel had nothing to report this month, but reminds he is available to answer any questions.

**ENGINEER'S REPORT** – A written report was provided to the board. Pulley noted that O'Brien threatened to get a lawyer and we have significant evidence of lack of performance. The GM and Michelle have done a great job trying to protect the district. Brooke notes it sounds to him if there is a dispute it would be between the Contractor and Sub-contract and likely the district would be left out of it.

**CORRESPONDENCE** – The following correspondence was received during the month: 1) Kohn & Colodny Engagement Letter, 2) TRPA Notice of Availability, Comment and Public Hearings for the Draft EA for the Nevada Stateline-to-Stateline Bikeway, 3) State of Nevada SRF Priority List, 4) AWWA Public Affairs Advisory on Community water fluoridation recommendations, 5) Tahoe Transportation District – The Road Ahead for Lake Tahoe, 6) Letter to Kingsbury Group Tender of Claim, 7) Email from James Baker re: FY11 Congressional Funding, 8) RGJ Warning threatens water supply, 9) Nevada Dept. of Taxation citing no violations of stature and/or regulations for KGID’s annual audit, and 10) ASC Pool Loss Run

**ADJOURNMENT**

**M-1/18/11-10** – Motion by Nelson, seconded by Norman and unanimous approval the meeting was adjourned at 8:15p.m.

Respectfully submitted,

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Carolyn Treanor –Chairman

Attest:

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Jodie Nelson, Secretary