

**MINUTES OF THE REGULAR MEETING OF THE
KINGSBURY GENERAL IMPROVEMENT DISTRICT BOARD OF TRUSTEES
TUESDAY, JULY 21, 2009**

CALL TO ORDER – The meeting was called to order at the Kingsbury General Improvement District office located at 160 Pine Ridge Drive, Stateline, Nevada at 6:00p.m. by Chairperson Schussel who led the pledge to the flag.

ROLL CALL – Present were Trustees Hayes, Peck, Treanor and Schussel. Trustee Barratt was unable to attend the meeting. Also present was General Counsel Scott Brooke, General Manager Cameron McKay, Business & Contracts Manager Michelle Runtzel and Operations Supervisor Eric Johnson. Present and for a portion of the meeting was Jennifer Roman of JWA Consulting Engineers, Carl Rushmeyer of Douglas County, Jim Beattie, Clint Purvance, Bill Cole, and homeowners Mr. & Mrs. Petts.

PUBLIC COMMENT – There was no public comment.

APPROVAL OF AGENDA

M-7/21/09-1 – Motion by Peck, seconded Hayes, and unanimously passed to approve the agenda as presented.

APPROVAL OF CONSENT CALENDAR –

M-7/21/09-2 - Motion by Treanor, seconded Peck, and unanimously passed to approve Consent Calendar Item as follows:

A. Minutes of the regular meeting of June 23, 2009 as presented

CONSENT CALENDAR ITEMS BROUGHT FORWARD FOR DISCUSSION - Schussel requests to pull the List of Claims and asks about check number 43182 and wonders if we are concerned about future graffiti. We hope we got after it quickly and hopefully will discourage future graffiti. Schussel thinks we should consider fencing the Lake Pump Station in the future. Treanor reports occasionally they have the issue on trash containers and when the police come, they can identify whether this is from a gang related or not. We filed a police report upon discovery.

M-7/21/09-3 – Motion by Peck, seconded by Hayes and unanimously passed to approved Consent Calendar Item B, claims in the amount of \$697,682.12 as represented on the List of Claims by check numbers 43167 through 43314

UNFINISHED BUSINESS

RENEWAL OF GENERAL MANAGERS CONTRACT – At the June 23, 2009 regular board meeting, it was requested that this item come back before the board with a redline version of the final contract. The GM reported in a staff report that the following changes were included in the redline version:

- He extended the contract to two years instead of one year.
 - A. The reason for this is to dismiss any conflict of negotiating the GM contract at the same time the union contract is being negotiated.
- Compensation: A. The GM increased salary by 3% to \$9,613 per month for the first year and for another 3% for the second year.
 - A. With the projected inflation the GM feels that 3% per year is justified.
- Compensation: C. The GM added dependants to this paragraph.
 - A. According to the KGID personnel policy, all KGID employees and their dependants will have full medical benefits paid by employer.
- Employee Benefits: A. The GM removed the last part of “A” and added a new “B” to come equal to the other existing salaried employees.
- E. Again, other salaried employees are not required to use their vacation time within the year it was accrued.
- The only other item refers back to the PTO or Personal Time Off. The GM asked for 12 sick leave days in lieu of Personal Time Off (PTO) days.

The GM reported the board asked for a redline version which he provided this month. Nothing has KGID Board meeting minutes 7/21/09

changed. Schussel asks about item E under Employee Benefits and asks how it works. GM reports he cannot accrue more than 8 weeks of vacation, an accrual above the 8 weeks must be paid out. Beattie reports this is good business sense. Hayes asks if he would be paid at the current rate of pay when paid out, yes. Treanor asks if it is paid out at the end of the year? GM reports anything over 8 weeks would be paid at the time it went over. Beattie reports it could go into the third year before being paid. The contract is not specific about when it would be paid out. The GM reads it as being paid out as it is accrued. Schussel asks about the sick leave, can't accrue more than 480 hours. Sick leave maximum accrual would be paid out at 50%. Contract is not specific when it would be paid out. Per Peck, this would be paid out on each pay period or each month. Runtzel reports these issues won't impact this contract since the GM can't accrue more than 8 weeks in two years and can't accrue more than 480 hours sick leave during this contract period.

Hayes summarizes that there is a 3% pay increase for each year over the next two years. Negotiated sick leave, accrue vacation, added dependents to health insurance. Trade off, clear up administrative leave, make sure that if benefits are added to staff it goes through trustees. This contract for the GM stands alone from any other agreements, no precedent from manager or union negotiations. Hayes hoped we could've negotiated better, but believes they negotiated in good faith. Beattie suggested if you take employee benefits B and E and clarify that each would be paid out at the end of the fiscal year.

M-7/21/09-4 – Motion by Peck, second Treanor and unanimously passed to approve the contract as presented, retroactive to July 1, 2009 with any excess accrual paid out at end of every fiscal year for sick and vacation.

Beattie thanks the GM for working with him and Cook, although there were some contentious items, it all worked out well. Schussel wants to thank Cook and Beattie for their help and want to consider a gift certificate or some form of appreciation. The GM will work with the chairperson on this item.

DISCUSSION AND POSSIBLE ACTION ON OUT-OF-BASIN WATER ALLOCATIONS, AND THOSE HELD BY RANCHO PACIFIC, INC. REGARDING THE DISTRICT'S POSITION IN THE MATTER OF RANCHO PACIFIC V. DOUGLAS COUNTY, NJD CASE NO 08-CV-0166 TO BE DISCUSSED AT THE AUGUST 10, 2009 HEARING WITH JUDGE GAMBLE – Runtzel provided a written staff report on this item as follows:

On May 24, 2007, Mr. Jack Sievers was issued 52 out-of-basin water allocations for two parcels he owned known as Douglas County APN's 1319-19-802-001 and 002 in accordance with the terms of the KGID Policy and Procedures Regarding the Out-of-Tahoe Basin Water Allocations. The original application submitted to KGID for the waiting list was for a total of 68 units, 14 of which were for density or affordable housing units, leaving 54 units as market rate units. The waiting list application requirements include that "a certification by Douglas County that the proposed project is an allowable use under the existing master plan and the zoning on the parcel(s) designated in the request and that the proposed project is buildable on the parcel(s)." The district received a "Zoning/Master Plan Confirmation Letter" from the Douglas County confirming that 54-unit planned development could be built on the two parcels, subject to County approvals and if County and State requirements are met. 55 water allocations became available due to Heavenly's failure to obtain a building permit for its Stagecoach Project and 3 of those allocations were issued to people ahead of Mr. Sievers on the waiting list. This left 52 allocations to offer Mr. Sievers for his 68-unit request.

On December 11, 2007, the Douglas County Planning Commission recommended approval of PD 07-001 Planned Development Overlay for this 40-unit multi-family residential project. In December 2007, Rancho Pacific, Inc. purchased the project from Sievers/Rowles. The sale included the 52 out-of-basin water allocations that remain with the property. At a January 17, 2008 hearing, the project was denied by the Douglas County Board of Commissioners largely due to two factors: 1) inadequate fire access/fire safety and 2) the need for more specificity regarding the proposed phase two and the building envelope that was reserved for it. Rancho Pacific, Inc. redesigned the project to meet the Board's concerns and re-submitted the project on February 12, 2008. On April 8, 2008, the Douglas County Planning Commission again recommended approval of the revised Planned Development Overlay. On April 11, 2008, I received an email from Brandy Fox of Douglas County explaining that the actual density allowed on the two parcels was changed from 54 to 40 units due to an error in density calculations that included land that is part of Tramway Drive. The 40 units allowed are based on current zoning and does not include the potential 25% density bonus units for affordable housing.

On May 1, 2008, Rancho Pacific, Inc. attended another Commissioners meeting where again they were denied despite addressing and re-designing for the concerns brought up at the January hearing. It should be noted that despite the Commissioners denial of the Planned Development, Rancho Pacific retained rights to build 39 units on the smaller parcel adjacent to Tramway Drive and 1 unit on the larger FR-19 parcel. Again, these calculations did not include any bonus density for affordable housing which allows a 25% density increase on the MFR parcel.

On May 14, 2008, KGID received correspondence from Stephen Mollath of Prezant & Mollath, indicating that he had been retained by Rancho Pacific, Inc. to file a Petition for Review (NRS 278.0233) with the Ninth Judicial District Court regarding the May 1, 2008 denial of its Development Application (PD08-001) by the Douglas County Commission.

On May 15, 2008, the KGID Board approved a one-year extension of time, to May 24, 2009, to obtain a building permit, in accordance with KGID policy, for 40 water allocations and also approved an extension to October 1, 2008 for the additional 12 allocations currently held by Rancho Pacific. The water allocations were due to expire on May 24, 2008 if a building permit was not obtained by that date. The purpose of the shorter extension for the 12 allocations was because Rancho Pacific, Inc. and KGID had been informed by Douglas County in writing that the Update to the 2006 Master Plan increased the density for MFR to 25 dwelling units/acre. Current County Code allowed 12 dwelling units/acre. In order for County Code conform to the Master Plan, Douglas County staff was preparing a code amendment to increase from 12 to 25 dwelling units/acre in MFR. This was to be taken to the Commissioners in July 2008. The extension to October 1, 2008 was thought to be enough time for Douglas County to correct its County Code to conform to the Master Plan and when approved would ultimately allow Rancho Pacific, Inc. the ability to build up to a total of 82 dwelling units between the two parcels. Rancho Pacific, Inc. paid a \$13,000 extension fee to KGID (\$250 x 52 units) on May 30, 2008.

During the period of May 2008 through January 2009, after the County Board of Commissioners denied their project for a second time, Rancho Pacific designed a project under the allowable zoning and uses specifically in order to try to obtain a building permit and to protect their interests in the project. Roy Salameh reports they spent close to \$500,000 towards this effort in an attempt to save the KGID water allocations. Rancho Pacific moved forward with their lawsuit with Douglas County during this timeframe as well. Rancho Pacific had design approval from Douglas County staff for the new project, which allowed 39 units on the parcel adjacent to Tramway Drive and 2 units on the FR-19 parcel. This was not their preferred project, but rather it was designed specifically to obtain a building permit before the time expired in May of 2009 for the water allocations.

At the October 21, 2008 KGID Board meeting, Rancho Pacific, Inc. returned two water allocations back to the KGID pool and the KGID Board approved an extension to May 24, 2009 for Rancho to obtain a Douglas County Building permit on the remaining 50 total water allocations. At this time, Douglas County staff had not taken the code amendment to the Commissioners, however, due to the bonus density for affordable housing and a letter received from Douglas County confirming that Rancho could build 50 dwelling units between the two parcels, the KGID Board approved the request.

Between October 2008 and January 2009, according to Mr. Salameh and not yet confirmed by the county, Douglas County adopted the code amendment to the Multi-Family Residential zoning that allows 25 dwelling units per acre vs. the previous code which was 12 dwelling units per acre. The change in code provided conformance with the 2006 Master Plan. This change allows Rancho Pacific to build up to 82 dwelling units between the two parcels, 81 on the MFR and 1 on the FR-19.

On January 20, 2009, the Ninth Judicial Court held a hearing and tentatively approved a Settlement Agreement between Rancho Pacific and the County. At that hearing, it also ordered the joinder of the District as a part, in order to effectuate a provision of the settlement agreement that provided for a tolling of the time periods pertaining to the use of the water allocations by Rancho Pacific during the pendency of the litigation. Settlement Agreement item 5 reads as follows:

“Rancho Pacific reserve the right to request of the Ninth Judicial District Court an order tolling the May 24, 2009 expiration of the commitment from the Kingsbury General Improvement District (KGID) to allocate water service units to Rancho Pacific’s project for the time period from May 22, 2008 to the date of the approval of this agreement by the Ninth Judicial District Court. The approval of the extension of commitment by either KGID or a court is an express condition precedent to the effectiveness of this Agreement.”

Settlement Agreement item 8 reads as follows:

“County acknowledges and agrees that Rancho Pacific has used its best efforts to reasonably pursue and seek the approval of its application since the time it filed PD 08-001 with County. County also acknowledges and agrees that it would not issue building permits for the project identified in PD 08-001 for the time period beginning May 22, 2008 and extending until the Ninth Judicial District Court approves this Agreement. This is not, however an acknowledgement that upon the approval of this Agreement by the Ninth Judicial District Court that Rancho Pacific is thereby entitled to building permits from County for its project. Rather Rancho Pacific must go through the customary process imposed by County upon all developers whom have had their development applications approved.”

The court also provided an opportunity for Heavenly Resort to intervene in the case, which it did. Rancho Pacific objected and that matter was submitted to the court for decision. The court had not issued a written ruling on either the January 20, 2009 hearing or the subsequent proceedings before it as of the May 2009 regular board meeting. The court did issue an order on June 22, 2009 ordering KGID be joined as an indispensable party and issued an order dated June 19, 2009 allowing Heavenly to intervene as a party.

Heavenly has consistently argued that Rancho Pacific has failed to meet the KGID Policy and Procedures Regarding Out-of-Tahoe Basin Water Allocations and that it had the ability to proceed and obtain a building permit for 40 units and failed to do so under the policy, and instead chose to pursue and litigate over a different project planned for more units.

At the May 21, 2009 regular board meeting the board adopted the following motion:

M-5/21/09-11 – Motion by Hayes, seconded Barratt, and unanimously passed to direct the Business and Contracts Manager to delay, until further notice, any action as provided by the KGID Policy and Procedures regarding the Out-of-Tahoe Basin Water Allocations, against Rancho Pacific for their 50 allocations currently held, and Clint Purvance for his 2 allocations currently held, pending further instruction from the judge in the Rancho Pacific v. Douglas County Case No 08-CV-0166, and further board direction and bring back to board at the next regular meeting.

On May 28, 2009, Scott Brooke prepared and filed a “Request for Issuance of Order; affidavit of T. Scott Brooke” on the Rancho Pacific v Douglas County matter.

On June 22, 2009, legal counsel Scott Brooke received an Order Joining Indispensable Party, requiring “KGID be jointed as an indispensable party need for just adjudication of the Settlement Agreement and the contingency contained therein relative to the allocated water service units. It is further ordered that KGID shall have thirty (30) days from the date of this Order to advise the Court whether it desires to have a hearing on the tolling of the allocated water service units to Rancho Pacific, Inc. a California corporation, and whether this Court needs to adjudicate the definition of what constitutes a “Building Permit” for purposes of perfecting the allocated water service units. If no hearing is requested, the Court will adjudicate said contingency set forth in the Settlement Agreement relative to the tolling of the allocated water service units. Adjudication of the “Building Permit” issue is not a contingency as to the effectiveness of the Settlement Agreement between Respondent and Petitioners.”

At the June 23, 2009 regular board meeting, the board adopted the following motion:

M-6/23/09-5 – Motion by Hayes, seconded Barratt and unanimously passed as follows:

- A. Acknowledge and adhere to the courts written decision of June 22 2009, which provided an intention to toll this matter for the period of litigation between Rancho Pacific and Douglas County and direct counsel to request hearing from judge to explain the position of KGID regarding tolling of time
- B. Direct the Business and Contracts Manager to delay, until further notice, any action as provided by the KGID Policy and Procedures regarding the Out-of-Tahoe Basin Water Allocations against Rancho Pacific for their 50 allocations currently held, pending further instruction from the judge in the Rancho Pacific v. Douglas County Case No 08-CV-0166 and further board direction.

On July 7, 2009, Judge Gamble approved an Order Setting Hearing and scheduled said hearing for August 10, 2009 at 9:00 a.m. with time allowed at 2 hours.

The historical information provided above is meant to provide the board with an understanding of where Rancho Pacific is and how it got there. This is not a complete history, as Heavenly Resort has disputed Rancho Pacific's extension request and has questioned Rancho Pacific's progress and KGID's actions on many levels. Past Heavenly arguments were not viewed as pertinent for purposes of this Settlement Agreement that we are currently faced with.

Discussion items for the board at this meeting and direction from the board on communications at the hearing should include:

- Ernie Jones report and limitation on water availability for out-of-Tahoe Basin properties within KGID's service area – not enough water rights to serve all per State Engineer's Office and TROA
- District's inability to obtain additional water to serve its entire service area despite several attempts
- Competing interests for water rights outside the basin
- KGID's Policy and Procedures Regarding the Out-of-Tahoe Basin Water Allocations (Second Amendment April 18, 2006)
- Rancho Pacific history on holding water allocations and associated impacts to not only Rancho Pacific but those on the waiting list resulting from inability to obtain a building permit
- Settlement Agreement will likely take time to sort out with Heavenly's intervention. Does the KGID Board wish to limit the time that might be tolled (ie: one year maximum from the time the agreement is signed) as opposed to language in the Settlement Agreement that states "from May 22, 2008 through the date of agreement by the Ninth Judicial Court."
- Item 5 of the Agreement states in part "The approval of the extension of commitment by either KGID or a court is an express condition precedent to the effectiveness of this Agreement." What would be the effect if the tolling condition were not met?

Included for board reference are the following documents:

- 1) Memorandum to Board from Scott Brooke dated June 23, 2009
- 2) Order Joining Indispensable Party dated June 22, 2009
- 3) Settlement Agreement – Rancho Pacific v. Douglas County
- 4) Order Setting Hearing dated July 7, 2009
- 5) KGID Policy and Procedure Regarding the Out-of-Tahoe Basin Water Allocations

Brooke added he spoke with Runtzel to keep information factual, he wants to present it to the court. The other parties can present their position to the court. He wants to take a neutral stance with the court and allow the judge to rule on the matter. Treanor asks when the judge rules, will this set a precedent on tolling of time. No, this is specific in this case. May give us information if we want to revisit the policy. The difficulty in litigation is its lengthy and can affect other parties. Do we want to push for a drop-dead date or be specific on the tolling? Brooke has not indicated anything to the court, the board indicated it wanted a finite date; this is for the board to determine tonight. Treanor asks if we stay neutral by doing so. If tolled, how do we manage that? Hayes is concerned about setting precedent allowing anyone to file a lawsuit to buy additional time. Brooke reports we are looking for a determination on the rights. Schussel thanks Runtzel for a good report, well thought out and presented.

M-7/21/09-5 – Motion by Peck, seconded Hayes and unanimously passed to authorize staff and legal counsel to present KGID's position to Judge Gamble on August 10, 2009 at the hearing requested by KGID in matters relating to the Settlement Agreement in the case of Rancho Pacific v. Douglas County, NJD Case No. 08-CV-0166 as it pertains to tolling of time on 50 water allocations to obtain a building permit.

The Board is leaving it up to staff on discussion items.

DISCUSSION AND POSSIBLE ACTION ON OUT-OF-BASIN WATER ALLOCATIONS,

AND THOSE HELD BY CLINT PURVANCE REGARDING THE ASSOCIATED IMPACTS TO MR. PURVANCE ON THE PREFERRED DEVELOPMENT OF APN 1319-19-802-007 DUE TO THE RANCHO PACIFIC V. DOUGLAS COUNTY, NJD CASE NO 08-CV-0166 – Runtzel provided a written report including the following:

Mr. Purvance holds two (2) water allocations for APN 1319-19-802-007 that were due to expire on May 25, 2009 after the board approved a one-year extension subsequent to the initial one year period in which to obtain a building permit. At the May 21, 2009 board meeting the board adopted the following motion:

M-5/21/09-11 – Motion by Hayes, seconded Barratt, and unanimously passed to direct the Business and Contracts Manager to delay, until further notice, any action as provided by the KGID Policy and Procedures regarding the Out-of-Tahoe Basin Water Allocations, against Rancho Pacific for their 50 allocations currently held, and Clint Purvance for his 2 allocations currently held, pending further instruction from the judge in the Rancho Pacific v. Douglas County Case No 08-CV-0166, and further board direction and bring back to board at the next regular meeting.

At the June 23, 2009 meeting, Purvance was unable to attend and the board approved the following motion:

M-6/23/09-6 - Motion by Hayes, seconded Peck and unanimously passed to continue the Clint Purvance Out-of-Tahoe Basin water allocation issues to the next meeting and notify Mr. Purvance to attend the meeting to present his case to the Board.

Scott Brooke provided the attached memorandum regarding Rancho Pacific and Clint Purvance at the June 23, 2009 meeting. Also included in the meeting backup is the letter from Mr. Purvance explaining the circumstances of his lack of performance on the building permit requirement and a map depicting his parcel and the two potential roads that can serve access for him.

There was some discussion, as reflected in the meeting minutes from last month, on whether Purvance should request to join in the Settlement Agreement. Mr. Purvance has again indicated that he has no interest in engaging in the suit, primarily, for monetary reasons. In the event that he is not provided an easement from Heavenly, nor allowed to use the public right-of-way through Heavenly's property per Douglas County, his project may not be financially feasible. The costs associated with accessing his property from Gasline Road, involve a significantly longer driveway access over one large slope with two switchbacks of approximately 450lf in length.

Mr. Purvance is expected to attend this meeting and provide topography of his parcel to allow the board a better insight as to his challenges. He estimates the costs for access from Gasline Road at approximately \$250,000. Based on the proposed Settlement Agreement and information he received from Douglas County, Mr. Purvance believed in February 2009 that he would have the ability to use the Douglas County public right-of-way through Heavenly's property. While he was preparing to submit, Mr. Purvance was told he could not submit a building permit utilizing access from the public right-of-way until the Rancho Pacific matter was settled.

Clint thanked the board for their time and reports he was out of town last month and was unable to attend the last meeting. Purvance wants to update the board on the development of his parcel and how the Rancho Pacific v. Douglas County litigation affects him and hopes the board will have the information to make a reasonable decision in the matter. Purvance provided handouts to the board for review. The map shows the access road for the "Future Kingsbury Right of way". Purvance explained the access issues to the board. As he was developing his land, he has a legal easement to use Gasline road, his parcel is split between the Future Kingsbury R/w and Gasline Road. During the process of design with many engineers, all said if he could pull access from Future Kingsbury he would save several hundreds of thousands of dollars. There is very steep topography from Gasline Road. From the Upper road access to his parcel where he doesn't have easement, in February 2009, the County informed Purvance that they believe he has the right to pull a driveway off that roadway. They referred him to the DA on the lawsuit and he has requested that she reiterate their claim to the road in writing to him. He informed her that the easement legal description they have in the Rancho Pacific settlement, is for Gasline Road and not the Future Kingsbury R/W, which was in error. Purvance specifically asked whether he could submit building plans from the upper Future Kingsbury R/W. Her response was "its difficult to answer...see email" By the time he submits plans for the lower road, he's out \$50-60 k just to submit. He would only be doing this to hold the water and then throwing those costs out in possibly a few months.

Purvance clarifies he is not party to the settlement. KGID is listed because it is our water. He needs to know outcome so he can build his property. If he can't use the upper road, he has to ask himself if he wants to spend another 250k to build from the Gasline Road access. He is requesting a reasonable determination from the board and asks that if Rancho Pacific gets the tolling, can he have it to? He has a direct financial impact pending access available.

Schussel asks if the placement of his home will differ from the two accesses? Yes. Road access changes design and access improvements. Douglas County believes that the Future R/W extends onto the Purvance parcel. Treanor asks if there is any guarantee that he could use the r/w and would he still need Heavenly's approval. He would not need Heavenly approval if it is in fact a road r/w, then Purvance has the right to use it.

Hayes asks if the legal issues were cleared up, would the road still have to be improved? Yes. If all the legal stuff is cleared up, Purvance can build the road as a driveway. Rancho Pacific has to develop the road under the settlement. Brooke reports Purvance would have the option to improve the r/w to access his parcel if Douglas County in fact owns the r/w. It would not be dependent on whether Rancho Pacific develops or not.

Brooke reports the hearing we requested has two specific purposes and the road improvements are not our issue.

Purvance reports there are two pieces that affect him, tolling of time and building/improving the roadway. If the r/w doesn't exist, then he knows what he is dealing with from the other road access. After he bought the parcel, he sent letter to Strain of Heavenly requesting an easement in Oct 2007. Purvance had whole upper road surveyed, had a piece engineered and had preliminary architectural designs and plans prepared to submit to the county. He kept pushing for easement from Heavenly and in May this year, he received an email stating Heavenly can't work with him. At this point he can't reasonably pursue the project until the Rancho Pacific v. Douglas County case is settled. He has tried diligently to pursue his project. Douglas County suggested that Purvance wait and submit plans when the Rancho Pacific case is settled so he could submit plans using the Future Kingsbury R/W to access his property.

Gasline Road was his legal option and easement to access the property when he bought the parcel. After survey, he began in 2007 requesting an access easement from Heavenly recognizing that the upper road would give him much more flexibility in designing his home.

Schussel believes we need to give Purvance every possible opportunity to build, he's put a lot of money into the project. The tolling of time is only fair for Purvance. Brooke asks if Heavenly has ever objected to the Purvance project and Runtzel replied she specifically recalled in the past Heavenly stating that they want to afford the little guys the opportunity to build. She did not recall any previous objection to the Purvance project. Treanor shares the same opinion as Schussel. Peck agrees if this is not precedent setting he also does not have any issues with tolling.

Greg Ott from Alling & Jillson is attending to take notes, not here to object to Purvance. Spoke at length on Rancho, no objection to Purvance.

Runtzel points out that her recommended action is to do nothing. In May, the board made a motion to take no action pending further instruction from the judge in the Rancho Pacific v. Douglas County case and further board direction.

M-7/21/09-6 – Motion by Hayes, seconded Peck, follow board motion from May 21, 2009 and revisit the issue after the courts decision on Rancho Pacific or as we get more information from counsel.

NEW BUSINESS

REQUEST FOR WAIVER OF WATER FEES BY PROPERTY OWNERS OF 17 MANZANITA CT, APN 1318-23-310-046; 18 BURKE CREEK CIRCLE, APN 1318-23-310-046; 19 BURKE CREEK CIRCLE, APN 1318-23-310-048; AND 20 MANZANITA CT, APN 1318-23-310-047 WHO LOST THEIR 4-PLEX CONDOMINIUMS IN OCTOBER OF 2007 DUE TO FIRE AND HAVE NOT BEEN RE-BUILT – Runtzel provided the following information in a written staff report to the board:

Attached is an email from Theresa Petts, co-owner of 17 Manzanita Ct, requesting further suspension of water charges. Mrs. Petts claims that the insurance company has not been acting in good faith and they don't expect completion of construction until the spring of 2010. Also, attached for board reference are the following documents:

1. KGID Resolution 92-4 "A Resolution Establishing Policy Governing the Validity of Utility Connection Permits"
2. Letters dated 11/29/07 provided to each of the homeowners advising them of the board direction taken at the November 27, 2007 board meeting and clearly stating the terms of the suspended and discounted water rates
3. A letter to Mr. & Mrs. Petts dated July 1, 2009 in response to a note received in the office on their June billing statement.
4. Copies of Connection Permit terms for each of the four properties issued on May 5, 2009, indicating on Term #1 – "Water fees will begin effective June 1, 2009" and Term #10 – "A temporary construction meter is required for construction water used at the site. Preferably, you can install meter sets and water meters first and then utilize such meter for construction water use, where KGID will bill according to usage."

Resolution 92-4 provides for the suspension of water services and therefore, it was recommended and approved that the board authorized staff to suspend the monthly water bill effective December 1, 2007 per Resolution 92-4, Paragraph 6 for a period of six (6) months to May 31, 2008 and effective June 1, 2008 charge 10% of the then current water rate per Resolution 92-4, Paragraph 8, as a capital improvement/standby charge for an additional period not to exceed twelve (12) months or until a new certificate of occupancy is issued, whichever comes first.

All four property owners received a suspension of water billings for six months and then were charged \$6.30/month for a standby or capital improvement charge for the next 12 months, which ended on May 31, 2009. They all began receiving the \$63.00/mo. regular flat water rate on June 1, 2009.

The last paragraph in Item 6 of the policy states, "Absent a compelling basis therefore, no such suspension shall exceed eighteen (18) months from the date of District's action suspending the charges."

It is anticipated that Mr. & Mrs. Petts will attend the meeting to voice their situation directly to the board. It is recommended that the board determine whether there is a "compelling basis" in accordance with policy, to substantiate the request for further suspension, and if so, for how long.

Schussel clarifies that there are 4 owners of the building and they are fighting with insurance. Other issue is trying to get everything through TRPA and Douglas County. Per Mr. Petts report, there were a lot of hoops to jump through but they started construction in May. The timing was bad. They won't have a place to live in until maybe February 2010.

Runtzel reported this came before the board in 2007 and the board approved waiving the water charges for the first six months. Then we provided a standby charge of 10% of the water fees for the next 12 months. The owners received 18 months of discounted or no water fees. Runtzel added that the actual motion made by the board was provided in each letter to the homeowners, so that it was clear that the board would provide no more than 18 months as indicated in the motion.

There are two full time residents and the other two are not always occupied. Frustrated with permitting agencies but construction is now underway. Mr. Petts tried hard to accommodate getting permits. They couldn't start until May 1. They requested the waiver to start early from TRPA but were unsuccessful.

Brooke comments that the 18-month extension comes from the ordinance. He speculates that whatever costs accumulated could be included in an insurance claim. Mr. & Mrs. Petts state that the insurance company wouldn't entertain that.

M-7/21/09-7 – Motion by Hayes, seconded Treanor and unanimously passed to deny a request by property owners of 17 Manzanita Ct, APN 1318-23-310-046; 18 Burke Creek Circle, APN 1318-23-310-045; 19 Burke Creek Circle, APN 1318-23-310-048; and 20 Manzanita Ct, APN 1318-23-310-047 to suspend or reduce their monthly water bills in accordance with KGID Resolution 92-4 A Resolution Establishing Policy Governing the Validity of Utility Connection Permits.

PURCHASE OF A NEW STANDBY ELECTRIC GENERATORS FOR PUMP STATIONS #2, #3, #4 AND #7 AND REPLACEMENT STANDBY ELECTRIC GENERATOR FOR THE MAIN SEWER LIFT STATION – The GM provided the following written report for the board:

As you will recall from previous meetings, there has been some Federal grant funding to cover costs of upgrading the fire fighting capabilities of the water districts around Lake Tahoe. This grant is a 50% reimbursable match, meaning that the Federal Government will pay for 50% of the cost and KGID will pick up the other 50%. KGID will pay for the total cost of any part of this agreement and will be reimbursed at a 50% rate.

Having these generators at each pump station will allow us to be fully self-contained if during a catastrophic event, electrical service is cut to any area of the District.

It will also allow KGID to come into compliance with backflow prevention by allowing us to remove the old standby gas engines that were cooled by a single-pass heat exchanger. In place of these old engines, a new electric motor will be installed in place of these engines.

The generators will be installed at stations #2, #3, #4, and #7. Station #5 already has an old generator in place. This will not be changed out.

The generator at the sewer lift station is about 30 years old but only has around 550 hours. The reason for replacing this one is that it is getting very difficult to locate any spare parts when needed. This is KGID's most critical station that needs a reliable back up power system.

The GM included the quotes from the various suppliers and a spreadsheet for comparison of the generators. You will notice that the 200KW trailer mounted unit from Nevada Generator Systems is \$917 more than a comparable model from Smith Generators. The reason I went with Nevada Generators is because service expenses and spare parts can be spread out over all of the generators if one company instead of two separate companies services them.

The GM reports the first 4 generators are part of the grant funding from feds, 50% match, including installation. Because they are new generators, they are eligible. The sewer generator and water generators have been budgeted. He's included a spreadsheet showing the costs of the generators. Schussel confirms the GM is completely happy with the chosen generators. Costs of installation are not included.

M-7/21/09-8 - Motion by Peck, seconded Treanor and unanimously approved as follows:

- A. Purchase three (3) 250 KW trailer mounted generators and one (1) 200 KW trailer mounted generator from Nevada Generator Systems to be installed at various pump stations for the total price of \$219,794.00, and
- B. Purchase on (1) 200 KW skid mounted generator to be installed at the Market Street Sewer Pump Station for the price of \$30,129.00

APPROVAL OF STUDY ON FILTRATION/FILTRATION AVOIDANCE AND POSSIBLE COST SHARING OF STUDY WITH DOUGLAS COUNTY – The GM provided a written report for the board as follows:

Over the last two years, a lot of noise has been made of the invasive species that is affecting the quality of water in Lake Tahoe. I have been studying this matter with much interest due to the fact that KGID currently has filtration avoidance.

Recreational use has also increased. Edgewood is planning a major hotel on the beach of the golf course and there may be more development in the future around the KGID intake with the construction of the Beach Club.

The Long Term 2 Enhanced Surface Water Treatment Rule, (LT2), is coming into effect in 2014 at which time a secondary treatment barrier must be installed in the treatment system of all water systems that currently have filtration avoidance.

When Greg Reed was employed with KGID, he had HDR conduct a \$40,000 study on what was needed by KGID to come into compliance with the LT2 regulations. The estimated cost of coming into compliance was between \$2 and \$4 million.

From a management point of view, I feel that before KGID can commit to going in the direction of building a secondary treatment barrier, we should look into the possibility of installing a treatment system. The following are a few of the questions that I keep going back to on the LT2 issue:

- i. Is there anything else that we will need to do after we meet LT2 requirements? LT3? In other words, will the EPA stop there or will they require something else?
- ii. Will the water quality of Lake Tahoe stay the same or will we have to go to filtration anyway because of outside influences such as recreational use?
- iii. What if we spend \$2-\$4 million now and then in another 5 to 10 years have to spend more money again on our treatment system?

I have raised some of these questions with other water utilities and they are also a bit leery of the costs of continuing with filtration avoidance, and although IVGID is proceeding with design of an Ultra Violet secondary treatment system, the engineers are wondering if they have taken the right track.

Douglas county has shown an active interest in sharing the cost of such a study with KGID at Lake Tahoe, to the point of asking if KGID would be interested in building a regional plant that would be able to supply all of the water needed by the county as well as possibly Edgewood. They cannot completely commit until this matter has been brought in front of the Douglas County Commissioners so I am asking that I be allowed to work with Douglas County and come to an agreement that benefit both water agencies.

The GM feels that KGID would be terribly amiss in its direction if we did not really look into other possibilities before spending out resident's money in a way that they will get the best return on their investment.

The GM introduced Carl Rushmeyer, Public Works Director for Douglas County. He and Carl have had discussions and are worried about filtration avoidance in the future. The UV system will cost \$2-4M to keep filtration avoidance, and from a management perspective, the GM wants to be sure he's doing the right thing. Is filtration avoidance really where we should be going or should we filter the water? He began discussions with Carl including where to build. We should also look at being a regional plant serving more than KGID. The GM believes with Douglas County's clout, we would have a better chance at negotiating with 4H, Beach Club or Edgewood. We would propose to take care of the Zephyr Cove water users.

Carl supports GM's concerns in his report. Douglas County is immediately interested because they have an ozone plant. They are in process of doing a study with HDR to review their alternatives. The customer base doesn't support filtration. But looking long term, it may not be the right answer for them. Need to look 10-20 years from now. A lot of talk about consolidation in past, we can also move in that direction. Today everyone regrets going off doing their own plants now. Now there is an opportunity today to take another look at it. Clearly working together, economy of scale will likely be more cost effective than individual plants.

Treanor asks if any other areas would be looked at for the filtration plant location? Will the plant look at serving the whole Nevada side? A filtration plant would be sized for a 6-8mgd service. The GM is concerned about losing filtration avoidance. A contract would be brought back to KGID Board for approval; KGID portion of the study would not be more than \$40K.

The GM may approach Edgewood also if Douglas County comes on board with the concept. There is a current study underway now with JWA to look at a fire protection Intertie. Hayes is concerned with the anticipated costs just to Intertie to Douglas County at Zephyr Cove and feels its likely not feasible. Will the study look at Roundhill also, since they are closer to the county? This would be a feasibility study to look at various costs and options. We need to look at whether a potential plant could be expanded to include the other entities.

Douglas County has completed its study to upgrade their systems to comply with LT2 and looked at 4 options. Micro filtration was not cost feasible for them because of the small customer base.

M-7/21/09-9– Motion by Peck, seconded Treanor, and unanimously passed to approve the General Manager to negotiate an agreement with Douglas County and possibly Edgewood Water Company to pursue a study of the cost, space and potential Intertie expense, to build a single 6 MGD to 8MGD filter plant in lieu of proceeding with Ultra Violet for secondary treatment, at a cost not to exceed \$40,000 to KGID.

APPROVAL TO RETAIN CYPRESS LTD FOR DRAFTING OF RENEWABLE ENERGY PLAN AS SPECIFIED IN SENATE BILL 358, SECTION 19.4 –

In this year’s legislature, an amendment to NRS338 was made under Senate Bill 358, section 19.4. This amendment requires that all government agencies must, within 60 days of the bill passing, develop a plan to complete an energy audit all of the structures they own and develop another plan to install and use renewable energy in each of these structures.

The bill passed on May 28th, so this gives us until July 28th to deal with this. It is very short notice and I have asked around to other entities for assistance, only to find they know nothing on the subject.

The GM contacted **Cyprus Ltd**, who has done these types of audits before and who will be able to take us through this. They were the only retrofit coordinators listed in Nevada, and because I was the first person to contact them, they will complete our work first before going to any of the other entities scrambling to complete this plan.

One of the biggest problems the GM has with this bill is that it seems very open-ended. Although the plan must be completed by July 28th, there is no place in the bill that states what will happen if no plan is turned in.

The GM also gets the feeling that if we do submit the plan that there will be grant funding to install some type of renewable energy on the pump stations.

The GM’s overall feeling: Even though this seems to be an extremely vague bill that was thrown into the legislature at the last minute in an attempt to satisfy the renewable energy people, KGID will need to meet the demands of the bill because of future consequences that may happen if we ignore it.

It will cost KGID money, which most regulations do, but failure to comply, although not stated, may harm us in the future. At least this way KGID can say we voluntarily investigated “green” energy instead of being forced into using it.

The Senate Bill changes were included as backup information in this item. Also included is another plan submitted by Carson City as well as some correspondence floating around from different entities showing the confusion this has started.

The cost of this was not specifically budgeted for in this fiscal year, but will be included as part of the maintenance costs for the water fund.

All 318 districts are required to put together a plan to conserve energy by July 28th. Hayes comments if we are the first in, there will be a lot of delinquent districts. Is there some way to head down the road and also get the work done from the vendor at the same time? We will likely be stuck with solar panels per the GM. He hasn’t talked to the vendors because they aren’t qualified per the listing to do the audit. There’s more to it than the GM could put together. The GM believes there is a good chance we can get a grant to help pay for energy improvements. The cost of the plan should be reimbursed in a future grant

M-7/21/09-10 – Motion by Peck, seconded by Treanor and passed to approve the General Manager to enter into agreement with Cypress LTD for an amount of “not to exceed” \$28,490.00 in a lump sum with 75% payable at the deliverable of the plan on July 27 and the balance to be paid upon acceptance by the state, any provision by state should be included in \$28,490, to perform an energy audit and develop a plan for renewable energy at KGID facilities and assist in the submittal of said plan to the Nevada Energy Commission. Any revisions by the state will be included in the above costs. Hayes votes nay.

Hayes explains he voted against this because he doesn't see it being delivered by the 27th and even if so, what kind of work do they do to complete it so quickly

BOARD REPORTS – Peck reports that the GM evaluation went well, and asks if the evaluation should be distributed to each board member. Comments and goals were presented. The evaluation should be included in personnel file. Hayes suggests that after summer, may bring goals to board to try to obtain agreement on goal priority. GM will provide a copy of evaluation to each board member.

STAFF REPORTS – Written staff reports from the General Manager, Business and Contracts Manager and Operations Supervisor were included in the meeting backup provided to the board. Bookkeeper, Kim Garon, provided a cash position statement as of June 30, 2009.

General Manager Report – The GM reports www.kgid.org is up and running. Schussel tried to get on and got a bunch of junk. We have a hiring request out and the application form is on the website.

Tank 10 – the contractor was finishing up leveling and getting ready to dig footings. The contractor is on schedule and still plans to complete the project this fall. Runtzel requested Treanor provide copies of any agreements between Aspen or Natgun and TVHOA.

Business & Contracts Manager Report – Schussel asked about Douglas County GIS to change Sunflower Circle to Snowflower Circle. We were requested to change the sign and have ordered replacements. Treanor commented that the residents are not in favor of the change which is different than Chad from Douglas County indicated to Runtzel. Treanor will be provided with the GIS contact information. KGID can support whatever the residents want.

Operations Supervisor Report – Eric had nothing to add to his written report.

ATTORNEY'S REPORT – Litigation on the tank site is proceeding, the other issue is Rancho Pacific hearing coming up. Nothing new to report from Beach Club.

CORRESPONDENCE - The following correspondence was received during the month, 1) Letter from the Nevada Legislature thanking KGID for allowing utilization of the LGIP funds as a source of credit to the state, 2) Letter from Nevada Department of Taxation reporting that they have reviewed our audit report and report no violations of statute or regulations, 3) Note from Barbara Harvey against water meters. Cam added correspondence.

ADJOURNMENT

M-7/21/09-7 – Motion by Peck, seconded by Hayes and unanimous approval the meeting was adjourned at 8:40p.m.

Respectfully submitted,

Larry Schussel - Chairman

Attest:

Carolyn Treanor, Secretary