

**MINUTES OF THE REGULAR MEETING OF THE
KINGSBURY GENERAL IMPROVEMENT DISTRICT BOARD OF TRUSTEES
TUESDAY, OCTOBER 21, 2008**

CALL TO ORDER – The meeting was called to order at the KGID office, 160 Pineridge Drive, Stateline, Nevada at 6:00 p.m. by Chairman Cook who led the pledge to the flag.

ROLL CALL – Present were Trustees Cook, Hayes, Beattie and Schussel. Treanor was absent. Also present was Legal Counsel Scott Brooke who arrived at approximately 6:15, General Manager Cameron McKay, Business & Contracts Manager Michelle Runtzel and Operations Supervisor Eric Johnson. Present and for a portion of the meeting was Brent Farr of Farr West Engineering, Ron Alling, CR Russell, Roy Salameh and Hank Benoit, Ann Grant of the Fire Safe Council and Guy LeFever of Tahoe Douglas Fire. Homeowners present included Brett Barratt, Brent Knittle, Yvonne and Gary Zaskoda, Helen Walker, George Ponzio, Ralph and Margaret James, Bill Cole, George Echan, Herb McCandless and Robert McDowell. Sara Thompson of Tahoe Daily Tribune was also present for a portion of the meeting.

PUBLIC COMMENT – Cook noted that we would have presentation from the Citizens for a Fire Safe Community trying to create community awareness regarding the .05 cents of assessed value. Ann Grant gave a brief presentation. The Community Wild Fire Protection Plan called for an assessment for the risk of wild fire in 2002. All areas within TDFPD are rated at either extreme or high. Fire department is currently completing 15 projects. Tahoe Douglas Fire Protection District helps with planning and grant applications. They are not treating properties for free. Fire safe chapters do not have enough money to manage the large parcels of land. 3 projects have been completed in Glenbrook, north of the senior center. TDF is working with State Lands and Forest Service on these projects. Funds only go for fuel reduction work. TDFPD is funded through 2009 with SNPLMA grant funds of 47%. Blue Ribbon Commission is recommending that all fire districts in the basin have consistent revenue stream to manage fuel reduction. The proposed tax will benefit Tahoe Township and no other part of Douglas County. The tax if voter approved will give the fire district an opportunity to apply for grants that they otherwise may not be approved for due to matching fund requirements.

Bob McDowell is chapter chairman for the Chimney Rock Chapter of the Fire Safe Council and reports the KGID community is rated as extreme. He also reports their chapter has been as active as they can be for the last several years. The fire district is asking for community help, which they rarely do. McDowell is asking for a yes vote on the ballot question.

Ann Grant fielded a few questions from the board and attendees.

Cook acknowledged that most people were attending this meeting regarding water meters and rates, and he would like to schedule a special meeting within a month or so. He accepted public comment since this item was not on the agenda.

George Echan comments he is proud of us for the roadwork and snow removal that we have completed and he understands water meters are inevitable, but is concerned with the equity based on 161 meters. His water bill went from \$63 to \$114 estimated. The 165 people with meters will be subsidizing the rest of the district until the rest are metered. We need to make an adjustment to the rates to make them more equitable. He also states that there may be a legal issue with this.

Larry Goodman questions equity in funding the rest of the district when the rest of the customers won't be metered for years. His bill will be approx \$300/month in the summer. He comments he wants to find a way to use spring water for irrigation and is concerned with fairness of situation.

Ralph James – echoes comments of the first two speakers. Mr. James came to the public hearing when this was first discussed. His bill is estimated at \$176/mo and when everyone is watering we will have a serious problem. Mr. James feels the rates are not equitable and that the newly metered customers are getting gouged.

Gary Zaskoda also echo's previous comments and has some questions. Why are customers being charged now when for years we heard no one would be charged until all accounts are metered? He wants an address of NDEP so customers can write to them on this issue. He would like to see another meeting or workshop. KGID needs to check the average water usages that were proposed that rates were based on. Also should consider raising the flat rate and include some usage for that fee. Hayes comments the board has depended on staff and engineers to provide information on average usages and rates, and the board will have questions for them later tonight. Clearly the assumptions that were used were not accurate and we will have to work through this process. Hayes is happy to see so many customers here tonight and states all need to be involved. We were thrown a curve ball with metering the district, and cannot obtain additional grant funds until we meter.

Bob McDowell reports the warning letter they received was \$366.16. He used 73,000 gallons and reports that on red flag days he runs 2 rain birds irrigations for numerous hours per day. He also echoes what everyone has said so far. He applauds the Chairman to suggest workshops or special meetings. 161 people are getting a little bit screwed he believes. Understands meters are the future, but there must be a different way to do it.

George Ponzo asks why Roundhill GID and Zephyr Cove don't have meters. McKay explained that RHGID is fully metered, and says the Bureau of Safe Drinking Water estimates that a family of 4 uses 500 gallons per day, and understands that we have to complete more study. Mr. Ponzo has been retired for 22 years and will be running out of money with these rates.

Brett Barratt comments; he appreciates the pain of the neighbors but also explains that usages in the Tramway area where there is little landscaping, and are no where near as high as lower Kingsbury, and he feels his area should not supplement the people using most of the water, and that there should be equity in the rates for the district.

Beattie explains we are negotiating with NDEP to obtain grant funds for the rest of the district and hopes to obtain a 57.1% grant to complete metering. Beattie wants the customers to be assured that we are doing everything that we can to obtain funding for the inevitable project.

Gary Zaskoda asks if customers have to go the State level to oppose this? Cook comments that it is not a bad idea but he would prefer KGID works with them first. We are in direct communications with the State. McKay explained that the NDEP last board-meeting minutes, they wonder why KGID rates are not as high as Cave Rock who pays \$180 per month, and they have little sympathy for KGID residents. Hayes reiterates that NDEP doesn't understand why we are asking for additional grant funds when other entities in the area pay a lot more in water rates than our customers do. Scott Brooke recommended that this discussion should be continued to another date since it is not an agenda item at this meeting, and that deliberation should be reserved for the workshop.

Cook reports KGID will try to let everyone know when we will schedule a special meeting, hopefully within the next month. The meeting will be advertised in the paper.

Robert McDowell asks when we expect to be a fully water metered system. Cook explains we can't answer that definitively at this time. Due to grant constraints and requirements, this is an unknown at this time pending any funding we may obtain.

Schussel asks to move to Agenda Item 14 regarding the appointment of a new Trustee.

APPROVAL OF AGENDA AND CONSENT CALENDAR –

M-10/21/08-1 – Motion by Beattie, seconded by Hayes and passed to approve the Agenda and Consent Calendar items as follows:

- A. Approve the Regular Meeting Minutes of September 16, 2008 and Special Meeting of September 22, 2008 as written.
- B. Claims in the amount of \$1,283,821.11 as represented on the List of Claims by check numbers 42035 through 42178

CONSENT CALENDAR ITEMS BROUGHT FORWARD FOR DISCUSSION - There were no items brought forward for discussion.

UNFINISHED BUSINESS –There was no unfinished business.

NEW BUSINESS –There was no new business.

APPROVAL OF REVISED LETTER OF INTENT TO THE BOARD FOR FINANCING WATER PROJECTS FOR THE WATER METER INSTALLATION PROJECT – The letter of intent has changed mainly in the amount of the final estimate for the project. A number of items have been removed and/or changed after listening to concerns of the Board for Financing Water Projects.

Their one main concern was the amount that KGID wanted for a loan. In the original LOI, we had stated that we were hoping for a grant of 75%. This amount is out of the question as the most that KGID could qualify for is a 57.1% grant. This changed the numbers drastically and KGID had to come up with a lot more money. Now we are looking at having the contract go out for only the installation of the meter sets and, having KGID purchase and install the meters themselves. We are saying that we can purchase and install these meters over a three-year period to not strain our financial situation.

Another question was on the engineering costs. The original engineering costs included a line item for project management and inspection. These were removed from the engineer's responsibility and put over to KGID.

Over all, we have trimmed the total cost down from \$4,163,990 to \$3,443,248. Brent Farr attended the meeting to answer any questions. We are proposing now, if we can get a 57.1% grant, KGID uses other funds, we would go out to bid on the meter sets only. We would then purchase and install meters ourselves.

Hayes asks if we have to submit our rates with this letter of intent, which McKay no. They may come back and ask that we increase our rates. Brent explained that we clearly have flexibility on rate structure provided it promotes water conservation and meeting 2% of MHI. The State of Nevada has not mandated meters.

Runtzel questioned whether the trimmed down estimated cost of approximately \$3.4 million, does that include the cost of the meters? McKay explains that the estimate does include the cost of the meters themselves. Hayes asks about in-kind services, and McKay explains that the purchase and installation of the meters would be considered in-kind services. McKay explained that we could spread the costs out over 3 years instead of hitting our reserves all at once. The next NDEP meeting is in Las Vegas on December 11. Brent Farr explained that the District can have some flexibility on setting rates provided we meet the 2% MHI, and that we create a tiered rate structure for metered customers. Runtzel explained that the rate required to meet the existing grant requirements is approximately \$67.00. Runtzel also clarified that KGID does not have to do anything with water rates prior to the December 11th NDEP meeting.

Beattie is hoping there is some way to convince them that we installed meters and we dummy billed the customers, and that we want to review consumption for one year to provide us time to evaluate usage, and prepare rates that are equitable to the customers. McKay explains we can change the rate structure any time. Runtzel asks the board to keep in mind that we are approaching the winter season and we will not see the same high water usages as for the month of September. Consumption will drop dramatically for the next 6-7 months.

Hayes asks Eric Johnson whether there were quite a few leaks, and he confirmed that there were several leaks identified, and that we are doing our best to help customers locate leaks with this new system. Runtzel explained that there were approximately 35 of 167 customers who indicated leaks. Eric and the water crew have been very helpful to customers to help identify where leaks are with the customers.

Brent Farr discussed previous meter installations with other entities and the challenges associated with rate setting with the board and confirmed that KGID is not in this to make extra money; we want to maintain existing revenues and meet grant requirements. Runtzel clarified that the current approved rates for 15,000 gallons equals \$84.50 per month and the MHI based on the existing grant conditions equated to rates of approximately \$67.00 per month. We are approximately 30% higher in rates than required per State regulations.

Hayes asked why we are so different than Roundhill and North shore. Brent Farr added that the averages that were used were based on a metered system; usages may have been different before properties were metered. McKay adds entities exist that can help customers evaluate how they use water. Johnson explained to the board that the average irrigation runs we've seen are using approximately 1,500 gallons per day or 45,000 gallons per month.

M-10/21/08-2 - Motion by Beattie, seconded Schussel and unanimously passed to approve the revised letter of intent for the water meter installation project and to allow staff to make final revisions if requested by the Board for Financing Water Projects.

Hayes comments we got off track because we have to evaluate how we are moving forward.

OUT-OF-TAHOE BASIN WATER ALLOCATION STATUS UPDATE - PURVANCE -

Runtzel reported the KGID Policy and Procedures Regarding the Out-of-Tahoe Basin Water Allocations, revised April 18, 2006, and is included for Board reference and Section 7.c. provides that allocation holders are required to provide KGID with reports detailing activity and progress towards completion of Douglas County requirements. These reports are due to the district March 1 and October 1 each year and can be used by the KGID Board in considering the need to grant any requested extension.

The Clint Purvance project was issued two (2) allocations for APN 1319-19-802-007 with a validity date of May 25, 2007, was granted a one-year extension on May 15, 2008, and has one year from that date or May 25, 2009 to obtain a Douglas County Building Permit. Mr. Purvance provided the report timely for the boards review and discussion.

There was no discussion on this item.

OUT-OF-TAHOE BASIN WATER ALLOCATION STATUS UPDATE - COLE – The KGID Policy and Procedures Regarding the Out-of-Tahoe Basin Water Allocations, revised April 18, 2006, was included under Agenda Item 8 for Board reference and Section 7.c. provides that allocation holders are required to provide KGID with reports detailing activity and progress towards completion of Douglas County requirements. These reports are due to the district March 1 and October 1 each year and can be used by the KGID Board in considering the need to grant any requested extension.

The William Cole project was issued one (1) allocation for APN 1319-19-802-006 with a validity date of May 22, 2007, was granted a one-year extension on May 15, 2008 and has one year from that date, or May 22, 2009 to obtain a Douglas County Building Permit. Mr. Cole provided the attached report timely for the boards review and discussion.

Runtzel reported Mr. Cole is in attendance to answer any questions.

Schussel asked where the location of the project is and Mr. Cole explained it is above the Clint Purvance project.

M-10/21/02-3 – Motion by Beattie, Second Schussel to approve the progress reports for Out-of-Tahoe Basin water allocations for Clint Purvance and William Cole.

REQUEST BY WILLIAM COLE TO GRANT A ONE-YEAR EXTENSION REGARDING THE OUT-OF-TAHOE BASIN WATER ALLOCATION WAITING LIST – This item was tabled to this meeting because Mr. Cole could not be present at the September 16, 2008 regular meeting. Bill Cole came to the office on August 20, 2008 to check the status of his application for (one) additional allocation on the waiting list and wanted to ensure he did not need to do anything further. In reviewing the Policy and Procedures Regarding the Out-of-Tahoe Basin Water Allocations, I found that his application is expired due to language in item 6d) that reads as follows:

6 d) At least thirty (30) days prior to the expiration of an accepted allocation application on the waiting list, a written request for an extension may be made by the applicant. If such a request is not timely made, the allocation application will automatically expire. It is the applicant's sole responsibility to make a timely extension request. No expiration notice will be provided by KGID. Payment of any applicable fee must be made with the application, and any extension may be subject to additional conditions imposed by KGID.

Mr. Cole's application for the waiting list was originally accepted and given a priority date of August 2, 2007. According the Policy item 6d) above, he was required to provide a written request for extension no later than July 2, 2008. On August 20, 2008 we received a written request for the one-year extension to remain on the waiting list.

Included in this agenda item backup are the following:

- 1) Application for Request for Allocation of Out-of-Tahoe Basin Water Units dated 8/1/07 for William Cole
- 2) Letter from KGID dated Sept. 21, 2007 accepting the application for the waiting list with a priority date of August 2, 2007
- 3) August 20, 2008 – Letter from Cole requesting a one-year extension on the waiting list
- 4) Application for Request for Allocation of Out-of-Tahoe Basin Water Units dated 6/18/07 for Mark White
- 5) Letter from KGID dated Sept. 21, 2007 accepting the application for the waiting list with a priority date of August 2, 2007
- 6) Policy and Procedures Regarding the Out-of-Tahoe Basin Water Allocations second amendment dated April 18, 2006

Staff believes the policy is clear and that the responsibility to request such extension lies solely with the applicants. Mr. Cole is asking whether the language in section 6 c) helps him, which states in part:

6 c) If no allocations of water units are available when a valid written request is accepted, the application will be logged by priority date, will remain valid for one (1) year, and KGID will so notify the applicant in writing.

Mr. Cole's contention is that KGID did not notify him in writing that the application will remain valid for one (1) year at the time of application acceptance or at any other time. Mr. Cole is requesting board determination on whether or not this technicality can or should be waived.

Mark White, who was on the waiting list for 4 allocations with a priority date of 6/28/2007 is in the same situation where a written request was not provided and the letter of approval sent to him did not state the "application will remain valid for one (1) year".

Runtzel explained this was tabled last month because Mr. Cole could not be present. Cole thinks that the staff report misses the point a little. In looking at the policy and procedures, he believes that he has requested within the 12-month period because his application was accepted on Sept 21, 2007 and his request for renewal was on August 20, 2008 therefore only 11 months have passed.

Ron Alling asks that the District incorporate minutes from last meeting. Mr. White did not send letter requesting an extension. Alling wants to incorporate the comments from his last letter provided to the board at the September 16, 2008 meeting and encourages the board to be cautious to strictly abide by the policy language.

Brooke reports interpretation of the policy is based on review of paragraphs in section 6; the priority date is date a complete application is received by KGID; in paragraph c provides that and if no water available, valid for one year and, paragraph d states at least 30 days prior to extension a request must be made. Brooke believes the priority date is the same as the application date per staff recommendation.

Priority date is same as on application and Brooke understands Mr. Cole's position, but informs the board that they have discretion to either take staff recommendation or give consideration to Mr. Cole if the board chooses. Mr. White did not make any extension request and Brooke believes staff recommendation is appropriate.

Schussel questioned if Mr. Cole loses his position in line and re-applies tomorrow, how many positions does he lose. Runtzel explained that both he and Mr. White would no longer be on the waiting list and Heavenly is the sole applicant seeking 55 allocations and therefore, either of these applicants would be behind Heavenly's request.

Cole argues that the priority is date when we receive an acceptable application. 6c is when the application was accepted, in his case September 21, 2007. Runtzel's letter says, "Your application is hereby" accepted. Brooke believes the letter could be clearer. Brooke reiterates that if the board believes Mr. Cole didn't understand, some consideration could be given.

Beattie comments that the letter doesn't state that September 21, 2007 is the effective date and thereby the priority date, and Mr. Cole still believes that because the letter states "hereby accepted" that the date of the letter is the date of acceptance.

M-10/21/08-4 - Motion by Hayes, seconded Beattie and passed to determine that the Business & Contracts Manager provided sufficient notice to waiting list applicants Mr. Bill Cole for his application for one (1) allocation for APN 1319-19-802-006, letter dated September 21, 2007, and applicant Mr. Mark White for his application for four (4) allocations for APN 1319-00-002-028 and APN 1319-00-002-029, letter dated July 23, 2007, and that it is solely the applicant's responsibility to read and fully understand and agree to abide by KGID's Policy and Procedures Regarding the Priority and Validity of Request for Out-of-Tahoe Basin Water Allocations as signed by each applicant in their initial "Application for Request for Allocation of Out-of-Tahoe Basin Water Units", and therefore, determine that a timely written request for extension was not made and therefore, the application has expired and they have forfeited their place on the waiting list. Schussel votes nay.

Schussel has some heartburn over this, policy is clear enough, understands how Mr. Cole could get mixed up.

OUT-OF-TAHOE BASIN WATER ALLOCATION STATUS UPDATE – RANCHO PACIFIC, INC. INCLUDING POTENTIAL RETURN OF TWO (2) UNUSABLE WATER ALLOCATIONS TO THE WAITING LIST POOL BASED ON EXISTING ZONING PER LETTER FROM DOUGLAS COUNTY

The KGID Policy and Procedures Regarding the Out-of-Tahoe Basin Water Allocations, revised April 18, 2006, are attached in agenda item 8 for Board reference and Section 7.c. provides that allocation holders are required to provide KGID with reports detailing activity and progress towards completion of Douglas County requirements. These reports are due to the district March 1 and October 1 each year and can be used by the KGID Board in considering the need to grant any requested extension.

The Sievers/Rowles project was issued fifty-two (52) allocations for APN 1319-19-802-001 & 002 with a validity date of May 24, 2007, was granted a one-year extension on May 15, 2008 and has one year from that date, or May 24, 2009 to obtain a Douglas County Building Permit for forty (40) of the fifty-two (52) water allocations currently held. The remaining twelve (12) water allocations were granted an extension until October 1, 2008 to allow time for Douglas County to make changes in the zoning ordinances to conform to the Master Plan. The project was sold last December to Rancho Pacific, Inc. who provided the attached report timely for the boards review and discussion. Roy Salameh of Rancho Pacific, Inc. and Hank Benoit of Cathexes LLC plan to attend the meeting.

Included in the meeting backup was an email from Harmon Zuckerman of Douglas County indicating that the Rancho Pacific, Inc. project can support a maximum total of 50 units between the two parcels comprised of 48 units on the 3.25 acre parcel adjacent to Tramway Drive and two units on the FR-19 parcel. Rancho Pacific Inc. has proceeded in design of this configuration that Hank Benoit will make a brief presentation on. In discussions with Mr. Salameh, Rancho Pacific, Inc. agrees to return two (2) water allocations back to the allocation pool that are unusable for his project per the current zoning.

M-10/21/08-5 – Motion by Beattie, seconded by Schussel and passed to approve the return of two (2) Out-of-Tahoe Basin water allocations from allocation holder Rancho Pacific, Inc. for Douglas County APN 1319-19-802-001 and APN 1319-19-802-002 which are unusable for the project based on current Douglas County Zoning and determine that the remaining fifty (50) allocations are extended until May 24, 2009, the date by which a Douglas County Building Permit must be obtained utilizing such allocations or on such date that the allocations expire. Hayes votes nay.

Hayes confirms that Rancho Pacific has until May 24, 2009 to obtain a building permit and no more extensions can be granted regardless of Douglas building permit delays. Brooke confirmed that no more than two years could be extended and he reiterates that to Rancho Pacific.

Runtzel informed the board that Mr. Salameh and Mr. Benoit are here from Rancho Pacific and are prepared to make a brief presentation if the board desires.

Mr. Alling asks that before we rush to judgment on this, we should revisit what we spent several hours on in May. At the May 15 board meeting there was a motion to approve an extension to October 1, 2008 for 52 allocations with 12 being returned to the waiting list unless Rancho Pacific is able to use these units on their property. Rancho Pacific was not able to use those units on the project on October 1 nor are they able to today. What he believes has been mischaracterized by staff that there exists in the Douglas County code, chapter 20.440 that allows for density bonus and affordable housing by way of agreement. Per Alling, our minutes in May reflect that our counsel, Rancho Pacific counsel and Alling all agree that there is ability under the code to have additional bonus units by complying with the requirements of the code. Alling states that was 5 ½ months ago. The code states that you make an application and you submit a proposed agreement with these elements and it gets specific with what has to be done. The code also says that application has to go to the County Commissioner for approval. Alling states that has not been done. Code says that has to go to the county commissioners for review. No county commissioner meeting on the affordable housing units to date.

Alling reports that application has not been filed. In May, Rancho Pacific stated that they were pursuing 3 different courses of action, 1) litigation that has been filed for the 52 units, that was defeated by the county 2) they made a substantial modification and reduced the project to 40 units, which has also been filed. Rancho Pacific told us to hang on because the zoning was going to catch up with the master plan in August or September, KGID said fine, no harm in waiting until October. Third, they can apply for a building permit for 39 units on the front parcel and 1 on the second parcel. Alling states, they have not concluded their litigation, they have not sought the bonus density units and they sent us an email from August 2008. He asks we look back at our minutes. Alling believes if they were making a good faith effort to pursue the project they would have had a proposed agreement, submitted an application and had at least one hearing with the Commissioners.

Alling believes it is torturous to try to construe their sitting back and doing nothing as good faith attempts at doing nothing. Rancho Pacific has not lived up to the extra time KGID gave them according to Alling. He urges the board to pay close attention to our motion in May 2008. He represents that all twelve of those units come back to the pool to be issued to the waiting list.

Roy Salameh explained 1st they have pursued the lawsuit expected sometime in November. 2nd course of action is to pull the permit for 39 units and 2 units on FR19 and 3rd course of action is to make request for the affordable housing on the front parcel. They had a pre-submittal meeting today and had a pre-submittal meeting a couple weeks ago on the affordable housing density units. They are all moving at the same time and Mr. Salameh expects resolution on more than one of these before the May 2009 deadline. They have had several meeting at different stages of design Rancho Pacific cannot submit for a building permit until design review has been completed. Architect is expecting 14 weeks for issuance of the building permit. The affordable housing is also in the works.

CR Russell, the senior Project Manager for Vail Resorts comments Rancho Pacific doesn't have entitlements to build the additional bonus density. Per CR, they may or may not obtain that approval which could take several months and they are asking KGID to provide the full year extension.

Runtzel states that KGID Policy requires us to obtain confirmation from Douglas County of the capacity or maximum density of the project and that policy provides that it doesn't matter who is coming in requesting allocations, if the County provides that the parcel has density for the allocations requested, the policy allows KGID to issue up to that maximum amount. At the point of application, the district does not require plans or any detail about the project. This is true for Heavenly or any other applicant. If the County provides a letter states 20 units can be built and the developer decides to only build 10 units, then at the end of the one-year period to obtain a building permit, the remaining ten units come back to the KGID pool. Also, the developer pays a fee for each allocation he/she may be holding for the first year and if an extension is granted they pay again for each allocation. Runtzel stands by staff recommendation, we have documentation from the County that Rancho Pacific can build up to 50 units. Runtzel also explains that there is no way a project will go before the county for affordable housing if they have no water allocations to support the project.

Hayes asks if a copy of the motion from May is available for the boards review. Runtzel provided staff, legal counsel and the board with that motion. Cook comments that when we talked about this we were thinking there would be some progress in the zoning that would have given us better direction on the twelve allocations. We realize there are people that want those twelve units but he still sees the May 24, 2009 deadline as the date that we need to stick to because they are not out of the picture yet. Brooke believes they have an extension for a year as reported, but the issue is whether the 12 units should come back or not. The issue is what we said they needed to do by that date.

A short recess was taken at approx 8:10 –8:25pm.

Brooke has reviewed the minutes of May 15, 2008 referred to by Alling. The 12 units would be returned to the waiting list after October 1 unless Rancho Pacific was able to utilize the units in their project. Also, Runtzel provided a letter to Rancho Pacific after the May 15, 2008 meeting advising them of the action taken by the board relating to their project. The 12 units focused on the extension were to use Douglas County zoning to utilize those units. Brooke concludes that the issue is whether the extension to October 1 to obtain the building unit or have a plan to use the other units. Brooke interprets it from the board intent was that it be more than a plan. The only way he could provide more insight is to review the tapes of the meeting.

Hayes believes that we tried to work with the applicant very close and now the zoning has not been changed and he believes that we don't have any choice but to regain the allocations and return them to the pool. Mr. Zuckerman's letter dated August 15, 2008 indicates that there is an opportunity to obtain additional units if they take certain steps, which was existing code at the time in May.

Hank Benoit provided depictions of the project that were shared with the board.

Hayes believes the first year was the time for progress. Benoit feels that they have demonstrated progress for the 50 units on those parcels, if they can have until May 2009 to obtain the building permit; they believe they can accomplish that. Hayes believes the planning stages should have been made in the first year. Benoit believes the letter from Zuckerman confirms that they have the ability to build those 50 units. They are diligently working towards building 50 units and obtaining a building permit by May. Runtzel confirmed that a lot of the talk at the May meeting was related to the zoning to catch up to the Master Plan which is outside of Rancho Pacific's control, but she believes that since we have an email from Harmon Zuckerman that states they have the potential to build 50 units between the two parcels, she feels very strongly that Rancho Pacific should give back the (2) allocations that they cannot use and KGID should give them until May 2009 to try to obtain the building permit. If they can't use them, they will come back to the pool. Runtzel believes that Rancho Pacific has diligently pursued the project more so than any other applicant that KGID has seen. Cook agreed.

Alling states we are not talking about diligent pursuit of the project. We made it very clear that the zoning needed to catch up with the Master Plan. That's why we gave them until October 1. Section 20.440 was in place long before the May 15 meeting. Alling stated that at the May meeting, Rancho Pacific knew then that they could pursue affordable housing and chose not to. Both Mr. Salameh and Mr. Benoit both strongly disputed that statement. The affordable housing did not come to light to Rancho Pacific until June or July.

Mr. Brooke notes that we have reviewed the entire meeting minutes and his previous comments were based on only a portion of the minutes. Mr. Brooke doesn't believe he needs to review the tapes. The problem is that the project has changed. When this came forward the project was different. Additionally they were in litigation, we made the findings based on 40 units. We gave them through October 1 to use the 12 units. Brooke concludes that the board can make a determination as to the 12 units and its discretion on whether the actions of the applicant are within our policy and whether progress is sufficient to grant the extension.

Beattie states that the motion on the floor was to approve the extension for the 12 units to May 2009. Cook commented Rancho Pacific is in litigation with Douglas County, he believes that we should extend until May 09 for the entire fifty units. Cook sees no harm in waiting and taking the allocations in May 2009, but he does see a big issue with taking them now. If we take them now and Rancho Pacific could have used them and we have no allocations to provide, there could be a big issue there.

Alling reported that Mr. Salemech is correct in that the discussion on the density units didn't take place until July 08. In May the sole discussion was on the zoning. He still believes the recommendation by staff was to approve the 40 and have the 12 come back to the pool.

Mr. Salameh explains that since the July meeting the bonus density affordable housing units have been discussed at each meeting with the KGID board by either himself or his attorney and therefore, the KGID board knew he was moving in that direction.

Beattie had concerns with the fact that the Rancho Pacific project has changed so many times. Runtzel explained again that when we receive an application for water allocations, no matter which it is from, the only information we get is how many allocations they are requesting and how many allocations the county says they can build. We obtain no other information as to what the project looks like, so, the fact that the project itself has changed several times, due to Douglas County denials leaving Rancho Pacific no choice but to revise the project, should not be of concern to KGID. This is why we have drop dead dates to obtain a building permit. If they are unsuccessful, the allocations go to the next person in line.

Hayes comments we provided 52 allocations because that's how many were available and within the Douglas County letter and then found out that was erroneous. Then we gave a one year extension for 40 allocations and also said that 12 were on the table based on the zoning being fixed. Now to come back and say that there is another way to use the allocations, Hayes believes is unfair. Cook believes Rancho Pacific doesn't have to do anything until May 2009. Runtzel adds that the original application was for 68 units and we only had 52 available to offer. Of the 68 units originally asked for included 14 units for affordable housing.

Hayes questioned Runtzel's staff's previous recommendation to extend 40 units for one year and take the 12 units back for the waiting list. Runtzel explained that was her recommendation before she understood that affordable housing was still an option for the project.

Beattie was confused as to why in May we didn't approve the full 52 unit project for extension and Runtzel explained that at that time the 52 unit project was squashed by the County Commissioners and it came to light that Rancho Pacific's maximum density (before affordable housing) was only 40 units.

Schussel comments it seems to him we are trying to get something built and gain revenues. Between now and May he doesn't believe Heavenly would be able to do anything on the 12 allocations, they need more allocations.

CR Russell comments again that they have not pursued the affordable housing and have no entitlements to build the project. Heavenly has been approved, is ready to build and has financing in place. Benoit states that Heavenly's approvals are based on the Rancho Pacific water allocations that are being discussed tonight. CR Russell believes Heavenly is being penalized for something that might or might not happen. Cook explains he's been on the board for 20 years and is on his way out. We have a developer here in town that had allocations for 20 years and we heard this argument for 20 years, people wanted the allocations and were fighting about it, the developer continued to state they were making progress and finally after 20 years they gave the allocations up because they could not perform. Rancho Pacific hasn't even had the allocations for 1-½ years yet and he feels they deserve until May 2009. Cook has seen the other side of the coin. If they don't succeed, Heavenly will get them in May.

APPROVAL OF KGID STAFF TO PURSUE THE ADDITION OF STORM WATER TREATMENT AS A SERVICE PROVIDED BY THE KINGSBURY GENERAL IMPROVEMENT DISTRICT AS ALLOWED BY NRS 318.116

– McKay reported it appears that the Tahoe Douglas Sewer District is making a big play with Nevada State Lands to take over the complete Storm Water Management Partnership program and become the entity that will dictate how storm water will be treated in the Nevada side of the Tahoe Basin. This is quite disturbing as KGID is a major player and has a lot at stake in losing control over the conveyance structures already in place. The last thing we want is some outside agency telling us how to construct the roads, curb and gutters, drainage areas, and how to remove and store snow in the winter.

There are a number of reasons why KGID should not let anyone take control of the storm water.

1. As stated above, control of part of our District would be lost to an outside interest.
2. Although KGID now provides this service, the service of storm water treatment has not been formally granted by Douglas County. They do have the authority to give this power to another entity if KGID does not basic power.
3. There is already a funding source in place as this is part of the General Fund and the combined tax revenue given by the State covers costs. If another entity assumes this responsibility, some of our funding may be taken away from us and given to the new utility.
4. KGID already has in place, the infrastructure, equipment, and to provide this service. We have an existing stake in the clarity of Lake Tahoe, have overseen the design and build of these treatment structures and have spent time and money building and maintaining them. To lose the responsibility to another utility would show poor foresight and management on our part.

In order to keep control in our own District on this matter, staff will need to apply to the Douglas County Commissioners to give KGID the authority to provide the service of ***“Furnishing facilities for storm drainage or flood control, as provided in [NRS 318.135](#);*”** Although *Storm Water Treatment* is not specifically mentioned here, I feel that I can make a good case to have it included as one of our basic powers.

If in the future KGID decides to join a partnership or storm water utility, we have the authority to enter into a MOU with another entity to provide this service.

Following are the parts of the Nevada Revised Statutes that refer to this procedure.

NRS 318.077 Addition of basic powers not provided in formation: Procedure. The board may elect to add basic powers not provided in its formation, in which event the board shall cause proceedings to be had by the board of county commissioners similar, as nearly as may be, to those provided for the formation of the district, and with like effect. The board shall obtain in connection with each such additional basic power a modified service plan for the district in a manner like that provided for an initial service plan required for the organization of a district in the Special District Control Law.

(Added to NRS by 1963, 626; A 1967, 1687; 1971, 1047; 1977, 529)

NRS 318.116 Basic powers which may be granted to district. Any one, all or any combination of the following basic powers may be granted to a district in proceedings for its organization, or its reorganization pursuant to [NRS 318.077](#) and all provisions in this chapter supplemental thereto, or as may be otherwise provided by statute:

1. Furnishing electric light and power, as provided in [NRS 318.117](#);
2. Extermination and abatement of mosquitoes, flies, other insects, rats, and liver fluke or *Fasciola hepatica*, as provided in [NRS 318.118](#);
3. Furnishing facilities or services for public cemeteries, as provided in [NRS 318.119](#);
4. Furnishing facilities for swimming pools, as provided in [NRS 318.1191](#);
5. Furnishing facilities for television, as provided in [NRS 318.1192](#);
6. Furnishing facilities for FM radio, as provided in [NRS 318.1187](#);
7. Furnishing streets and alleys, as provided in [NRS 318.120](#);
8. Furnishing curbs, gutters and sidewalks, as provided in [NRS 318.125](#);
9. Furnishing sidewalks, as provided in [NRS 318.130](#);
10. Furnishing facilities for storm drainage or flood control, as provided in [NRS 318.135](#);
11. Furnishing sanitary facilities for sewerage, as provided in [NRS 318.140](#);
12. Furnishing facilities for lighting streets, as provided in [NRS 318.141](#);
13. Furnishing facilities for the collection and disposal of garbage and refuse, as provided in [NRS 318.142](#);
14. Furnishing recreational facilities, as provided in [NRS 318.143](#);
15. Furnishing facilities for water, as provided in [NRS 318.144](#);
16. Furnishing fencing, as provided in [NRS 318.1195](#);
17. Furnishing facilities for protection from fire, as provided in [NRS 318.1181](#);
18. Furnishing energy for space heating, as provided in [NRS 318.1175](#);
19. Furnishing emergency medical services, as provided in [NRS 318.1185](#);
20. Control and eradication of noxious weeds, as provided in [chapter 555](#) of NRS; and
21. Establishing, controlling, managing and operating an area or zone for the preservation of one or more species or subspecies of wildlife that has been declared endangered or threatened pursuant to the federal Endangered Species Act of 1973, 16 U.S.C. §§ 1531 et seq., as provided in [NRS 318.1177](#).

(Added to NRS by 1967, 1693; A 1969, 201; 1971, 261; 1977, 533; 1979, 571; 1985, 1803; 1989, 1881; 1993, 2783; 1995, 179, 1905; 1997, 483; [2001, 2083](#); [2003, 1513](#))

NRS 318.135 Storm drainage or flood control. In the case of a district created wholly or in part for acquiring, improving or operating storm drainage or flood control improvements, the board may construct, reconstruct, replace or extend storm sewer and other drainage or flood control facilities and improvements necessary and incidental thereto within the district, including, but not limited to, the laying of pipes and the erection of catch basins, drains and necessary inlets and outlets.

(Added to NRS by 1959, 462; A 1991, 1708)

Storm water issues and work done is paid through the combined tax revenue. If another storm water utility came into KGID area, there is a good chance that the revenue we receive would go to the new entity. We are trying to protect our district revenues and rights. NTCD is trying to create a new taxing district for a storm water utility. Schussel asks if we will end up jumping through a bunch of hoops. When MCL says we have to treat drainage a certain way we can have the opportunity

M-10/21/08-6 – Motion by Beattie, seconded by Schussel and unanimously passed that the board approve staff with the full assistance of legal council to vigorously pursue Douglas County in the addition of Storm water Treatment as an additional basic power of the Kingsbury General Improvement District.

DISCUSSION ONLY ON THE NEED TO APPOINT A NEW TRUSTEE FOR KGID IN JANUARY 2009 – McKay informed the board that Bob Cook and Jim Beattie will not be allowed to run for re-election this year. That means that for the three empty seats available on the Board of Trustees, only two will be filled.

Therefore, one seat must be appointed by the Board of Trustees for the next two years to fill the vacant position.

There has been some interest in this position in the District, one of who has already sent in a resume, attached.

No decision will be needed nor can be reached on this until the time of appointment is needed in January.

Cook explained that term limits are up and he and Beattie will not be able to run. There is one vacant position. Anyone interested can submit a resume for the board. Larry wanted to let everyone know that in January will we be looking for one Trustee. Anyone considering this would be welcomed. There will be a newsletter coming out in the bills to remind you to submit a resume.

Schussel reiterated that we would be looking for one trustee in January; he feels several people at tonight's meeting had good ideas and clearly are concerned. A customer asked how long the term of office would be and there was some disagreement whether it would be a two or four year term. Legal Counsel believes it would be a two-year term.

Beattie suggests a brief letter format to provide to interested parties to include in the billing.

BOARD REPORTS – There were no board reports.

STAFF REPORTS – The General Manager, Business & Contracts Manager and Operations Supervisor provided written staff reports, which were including in the meeting backup information. Bookkeeper Garon provided cash position statement and financial statements as of September 30, 2008.

General Manager Report –

Tank 10 the GM took an estimator up to the site that want to bid as a general contractor before snow. 85% design is complete on the project. The BCM and GM participated in a conference call with Whitebark and discussed easement issues. We will get back to them with rendering of the new tank on the proposed site. Runtzel explained that NDEP isn't really holding the purse strings on the project because we were successful in obtaining a two year extension of time to complete the project.

Business & Contracts Manager Report – Runtzel reported she didn't have anything to add. Beattie asked whether we were able to obtain a summary report on the new meters, which were not able to due to the billing system being down for a couple hours. We were able to review the usages and compare calculations of revenue, which would have doubled as compared to the flat rate.

Operations Supervisor Report – Cook commented nice report.

Cook reported that he and McKay have decided to extend billing for metered rates for one more month. Special meeting workshop on November 18th or 20, 2008. 6:00 with location to be determined

ATTORNEY'S REPORT – Brooke had nothing further to report on.

CORRESPONDENCE - The following correspondence was received or provided during the month, 1) Condemnation notification to Mr. Horine of 107 Daggett Way, 2) Condemnation notification to Mr. Coates of 106 Cypress Way, 3) Condemnation notification to Mr. & Mrs. Stone of 104 Cypress Way, 4) Condemnation notification to Mr. Ratti of 103 Daggett Way 5) Letter to TRPA regarding Tahoe Beach Club EIS, 6) Draft Technical Memorandum District GIS Assessment

ADJOURNMENT

M-10/21/08-7 – Motion by Beattie, seconded by Schussel and unanimous approval the meeting was adjourned at 9:30 p.m.

Respectfully submitted,

Robert Cook - Chairman

Attest:

Carolyn Treanor, Secretary