

**MINUTES OF THE REGULAR MEETING OF THE  
KINGSBURY GENERAL IMPROVEMENT DISTRICT BOARD OF TRUSTEES  
TUESDAY, FEBRUARY 17, 2009**

**CALL TO ORDER** – The meeting was called to order at the Kingsbury GID office located at 160 Pineridge Dr., Stateline, Nevada at 6:00 p.m. by Chairperson Schussel who led the pledge to the flag.

**ROLL CALL** – Present were Trustees Hayes, Barratt, Treanor, Peck and Schussel. Also present was Legal 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 Janet Martell of Tahoe Village HOA, Jim Beattie, Robert Cook, Bob McDowell and Cheryl Couch of USDA.

**PUBLIC COMMENT** –Mr. Cook reports he had a discussion with the GM and a couple board members regarding the out-of-Tahoe Basin allocations issue. There has always been someone ahead in line on the waiting list. The Ernie Jones report in 1985 came out and provided for 1000 water allocations, however, there is still property that could be built on with no water allocations. There are not many buildable parcels left in order for KGID to be built out and he believes we can prove on paper that we are using less water than the 500 gallons per day for each residential unit. He's discussed this with Settlemeyer and a county commissioner who would be happy to join with KGID to go before the State Engineer to obtain more allocations. This was never a priority in the past and Cook would like to make a proposal and get a committee together to go back to the state one last time. Reid and Ensign's names were suggested to get involved for a last push. We will put this item on next month's agenda.

Treanor asks if there are any other members of government, or politicians that should be asked to engage in our effort. Cook believes the more the better. Heller, Krolicki or anyone else we could get together would be helpful. Cook believes there is value for KGID and the County to obtain additional allocations that would increase assessed valuation. Cook advises he will not be here next month but would like to organize a committee.

Beattie commented that every time we try to get more allocations they come back to the 500 gallons limit. We may have to go to the legislature, request a hearing, and get all the facts brought up again.

**APPROVAL OF AGENDA**

**M-2/17/09-1** – Motion by Treanor, seconded Peck, and unanimously passed to approve the agenda as presented.

**APPROVAL OF CONSENT CALENDAR** –

**M-2/17/09-2** – Motion by Treanor, seconded by Barratt and unanimously passed to approve the Consent Calendar item as follows:

- B. Approve claims in the amount of \$642,431.45 as represented on the List of Claims by check numbers 42569 through 42656

**CONSENT CALENDAR ITEMS BROUGHT FORWARD FOR DISCUSSION** - Hayes requested Item A, Minutes of the Regular Meeting of January 22, 2009 and requests a revision to strike the sentence "Hayes can only justify paying \$25/mo more now to pay for the infrastructure to meter, but we are trying to look at the long range." Located in the 4<sup>th</sup> paragraph of page 10.

Brooke reports that the minutes on the Tank 10B item should have included language that the board approved the recommended findings as provided by Mr. Brooke. Runtzel explained that language was included in the motion and asks if that is sufficient. Brooke requested language in the body of the minutes that explains that the board reviewed and approved his findings.

**M-2/17/09-3** – Motion by Hayes, seconded Peck, and unanimously passed to approve Consent Calendar Item A - Minutes of the regular board meeting of January 22, 2009 as revised above.

Peck requested that Consent Calendar Item C is pulled and questions what the differences are between the proposed Agreement to Engage Engineering Services from JWA and the District Engineer retainer services that we are seeking. Aren't these the same? Peck comments that it seems that JWA is doing exactly the same work we are putting in the RFP. Runtzel reported that JWA has always been available to the District, which is the purpose of the proposed extension of the agreement, however, the GM wanted to get an engineer who could do more specific work for us. This would not eliminate our use of JWA's services. Runtzel explains that with JWA, we do not pay them a monthly retainer for their availability. McKay clarifies we are requesting an approval of the JWA fee schedule.

**M-2/17/09-4** – Motion by Peck, seconded Treanor and unanimously passed to approve Consent Calendar Item C - Update to the 1996 Agreement to Engage Engineering Services between KGID and JWA Consulting Engineers to include a new fee schedule for 2009 with rate increases averaging 3%.

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

### **NEW BUSINESS**

#### **PRESENTATION BY KAY VERNATTER OF THE UNITED STATES DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT ON LOW COST LOANS FOR INFRASTRUCTURE IMPROVEMENTS**

– Cheryl Couch, a representative from the US Department of Agriculture, Rural Development made a presentation to the board on their process to borrow money for infrastructure projects. She will also bring the Board up to date on the stimulus money that may float this way.

Ms. Couch provided information to the board on available funding from various entities that may be available to KGID. They are a rural lending agency who can fund agencies whose population is 20,000 or less and she reports that grants are also available although, the District is not eligible for the lesser interest rates or grants due to the median household income levels within our district. The MHI limit is \$44,300 annually. Loans are available with interest rates likely in the area of 4.75% and there are no prepayment penalties. Terms of loans provided are typically 40-year loans although we could amortize the loan internally for a shorter period of time. We can also request to do an income survey of our District. Per Couch, it could be good or bad, if the survey is completed and shows our MHI higher than what the census is then we would be stuck with the results of the income survey. A neutral or uninterested third party can complete the survey.

Treanor asks the board if they remember when we completed the income survey for purposes of having the ability to not increase the water rate based on the census MHI? Board doesn't remember what happened with that. Runtzel believes that we did complete the survey but that the State didn't allow us to use the lower income number and required us to use the census survey for calculation of the water rate required. USDA loans are generally secured by revenue bonds, not general obligation bonds. We will probably still have to go before Douglas County Debt Management Commission for approval.

Barratt asks if additional funding will come through the stimulus package? Couch reports they do expect to receive more funding but from the same sources and there will be a much quicker turn around.

Hayes asked if McKay has looked into the costs of completing an income survey? The GM hasn't. he reports one was done through RCAC for Roundhill. Hayes thought we checked on it and were going to complete the survey but didn't. The GM reports that UNR would be the first place he would look to have someone complete a survey. McKay will look into it and come back to the board with costs. The next census will be done in 2010 and results probably not out right away. Water rates for AB 198 are required to be set at 2% of MHI in order to be eligible for grant funding.

Beattie confirmed Runtzel's comments that we did complete the income survey which was lower than the census and that the State disallowed the results and required we use the census number.

#### **CONTINUATION OF WATER METER INSTALLATION PROJECT WITH FUNDING FROM THE NEVADA STATE REVOLVING FUND OR USDA RURAL DEVELOPMENT**

– McKay reworked the numbers and found that the project is feasible within the existing water rates. The original number of \$22 was for a stand-alone project that would be financed within the project time frame, or three years. This was calculated as if we would have to pay for the project over the three-year construction time out of the water rates. Forget that number; it was used to show how any of this type of project could affect the rates.

Below are the numbers used to calculate the cost per Equivalent Dwelling Unit (EDU). All of these calculations were derived from the meter project originally drawn up by Farr West Engineering.

**Figure 1**

2008/2009 Budget Operating income and expenses Projected user fees	\$	2,823,400	
Operating expenses	\$	(1,743,962)	
SRF Interest	\$	(198,753)	
Depreciation	\$	(200,000)	
 SRF Reserve Fund	\$	(253,697.50)	
 Income (loss)	\$	426,988	
 Revenue needed per year	\$	2,396,412	
3387 EDU	\$	58.97	Per month flat rate

The GM reported that here you can see that KGID currently is bringing in more than the needed \$58.97 needed although the depreciation is not completely funded. (That is another item that will be discussed at a later date.)

In the next table everything is broken down into Equivalent Dwelling Units or EDUs. (An EDU = a 3/4 inch service line.) This puts everyone on a level playing field making no difference whether they have a 3/4 inch, 1 inch, or 2 inch line. He took the cost of the total meter project of the loan and interest paid over 20 years; broke that cost down, and ended up with a cost per EDU.

**Figure 2**

Existing Meters	Eq. Meter Ratios	No. of Meters	Eq. EDUs	Original loan	\$	3,000,000
3/4"	1.00	26	26	Interest over 20 years	\$	815,300
1"	1.67	47	78	Total cost	\$	3,815,300
1-1/2"	3.33	25	83			
2"	5.33	38	203			
3"	10.67	4	43			
4"	16.67	4	67			
6"	33.33	10	333			
8"	53.33	2	107			
<i>Sub total</i>		156	940			
Proposed Meters						
3/4"	1.00	1903	1903			
1"	1.67	272	453			
1-1/2"	3.33	0	0			
2"	5.33	17	91			
Total			3387			
Possible Growth			113			
<b>TOTAL</b>			<b>3500</b>			

<b>Meter Project</b>	
Total Cost	\$ 3,815,300
Loan time/years	20
cost per EDU per month	<b>\$ 4.69</b>

Add the \$4.69 meter project cost to the existing cost of service of \$58.97 and you get \$63.66 per month for a water bill. KGID can live with this for now, as the rates will eventually have to increase to cover the complete funding of depreciation and all extra costs can be included at that time. (\$4.69 X 12 months X 3387 EDUs = \$190,620 per year. This can easily come out of the \$426,988 income shown in the figure 1).

Below shows the breakdown over a three-year period, the estimated cost of the meter installation project. The first two years will include design and construction/installation of the meter pits. The third year shows the installation of the meters. As in the original meter plan, the KGID crews will install these meters. The GM included the purchase of meters in all three years, as this will most likely be the only way to get a firm delivery price on the meters. If we waited to purchase all of the meters in the third year alone, the purchase cost would be significantly higher.

	2010	2011	2012	Total
Design & Const	\$ 1,106,524	\$ 1,091,380	\$ 215,867	\$ 2,413,772
Meter purchase	\$ 253,678	\$ 250,206	\$ 49,489	\$ 553,185
Total	\$ 1,360,201	\$ 1,341,586	\$ 265,356	\$ 2,967,144

At the last meeting it was suggested that we would need to go back to the public to ask them how they feel about meters. The GM doesn't agree with this for a couple of reasons.

The first being that as was shown at the water meter workshop, a single resident can rile up enough of his neighbors and get them to show up, making it look like everyone in the district is against something. At the workshop, nearly all of the residents who showed up were from lower Kingsbury, with very few from upper Kingsbury. This was not an accurate representation of the whole district with the few residents from upper Kingsbury in favor of metering.

The second reason is that if we continue with the meter project, KGID will need to go back to either the SRF or the USDA Rural Development for a loan. This will require more public hearings for the bonds that will be needed to borrow this money. At that time the general public will have a chance to state how they feel about the project.

Now some people may ask why doesn't KGID put the meters in themselves. The GM doesn't have an accurate cost on this but says is that the cost would be much higher if we did this complete project in house; it would also take at least 5 years to complete and would tie up equipment that should be used elsewhere. This is work for a contractor that can send out two or three crews and complete the job in a short amount of time. The project could be separated into 4 or 5 separate areas that would run independent of each other, possibly with different contractors in each area.

McKay believes we can complete this project without affecting the residents monetarily, which would raise our standing in the community and with the regulatory agencies considerably.

Once all the meters are installed and data has been accumulated, a rate can be easily reached that will be equitable all residents.

McKay reports he crunched numbers. If we need to go forward with any other grant funding with the state, we have to have water meters in. If we borrow \$3M over 20 years the cost over 20 years is \$4.69 per equivalent dwelling unit (edu). This amount can be incorporated into our cost of service today. Our income will cover the ability to borrow including interest. McKay believes we can successfully install meters. We will need to go back for more grant funding to continue to upgrade our infrastructure. McKay believes it's important to move forward with the metering plan.

Barratt asks whether this can be phased in? McKay reports one suggestion by Runtzel was to break KGID into separate areas of 4 or 5 and put separate bids out in to install all meters in one year. Under this option, we would install the meters at the same time the meter sets are installed. A single contractor could still complete more than one area provided they have the crews to spread out and complete the project. Treanor commented that some areas might be less for meter installations than other areas. An example is the S. Benjamin area may have higher bids than the lower Kingsbury areas.

Once we show AB198 that we are moving forward on meters, we should be eligible to apply for additional grant funding. State Revolving Funds should have more funding because of the stimulus as well. SRF rates are lower than the USDA, but SRF loans are amortized over 20 years compared to 40 years with USDA. We believe SRF rates will be below 3%.

SRF will require public hearings to accept their loans. Schussel wants to have some public hearings right away. McKay sees the project as a complete district wide metering project and envisions waiting 6 months to 1 year to allow users to adjust their usage before we develop metered rates. We will be able to show metered usage to the customers but not what their bill would be because a rate is not established.

Barratt asks if we would have the ability to allow customers to equal pay their bills to spread out the higher usage over the 12 months. This is an accounting issue that staff would prefer not to get into. Currently, we have no metered usage history from which to estimate billings from and therefore, it would be a total guess. We won't have that information until meters are installed, Runtzel reports. We offer a 5% discount for anyone who pays in advance and customers can always pay in advance on their own to try to equalize their annual utility bill. Runtzel further states that once we have the history, equal pay is probably logistically possible as our billing system is very sophisticated. This still would be an accounting nightmare to some extent. Also, when analyzing usage without billing the customer for a period of a year, we will need to be cautious in setting rates because once we actually start billing, usage patterns will change. Providing the customer with a monthly sample bill may not be enough to actually change usage patterns.

Barratt doesn't see a down side at this time to installing meters. Hayes clarifies that in the GM's analysis, it will cost approximately \$4.69/mo to install meters, which the GM believes can be absorbed in the existing water rate. McKay confirmed.

Are there any calculations on the additional costs to read meters and, hopefully, there would be savings in electricity costs? There will be some customers who won't care about water costs and will run over minimum usages and pay extra for their water use. Hayes is concerned that we told the public last year we needed to raise rates and now there's an extra \$5 in our rates to cover the costs of meters. You can include or exclude depreciation to justify these costs, but he wants the GM to be straightforward on this. Hayes believes we are at ground zero and now we are starting over. Before when we went to the public, we had to move quickly because we thought we were getting a grant. Hayes would be more comfortable as a trustee to go out with a newsletter to let public know where we are on this item and include the calculations to justify these expenditures. He believes we should explain that we have no commitments now. No strings attached and let everyone know where we are. McKay points out that the \$4.69 is already included in the existing water rates. Hayes disagrees and comments that if we want to fund depreciation, we will need that revenue. The GM will put together a newsletter. Hayes believes we need to get the public involved and communicate these facts to the public. He wants to build support and understanding and let public know where we are going. The impacts on rates need to be given to our customers upfront. We should also let public know we are not getting a grant and that things have changed.

Schussel agrees and doesn't want customers to come out all of a sudden not knowing anything about water meters and acknowledges normally, we do provide that information in newsletters.

McKay's is frustrated and asks how many times we will have to bring this back. Schussel doesn't see it as coming back because everything is different now, this is not a grant funded project, we gained a lot of information from the customers at the public hearing, they found out about meters, saw the good and bad and now he we are going in a different direction. Schussel believes there are a lot of customers out there now who still think we are going ahead with a grant funded project. He wants to ensure people know things have changed. Hayes wants a newsletter out letting people know the direction we are now heading and include this item on the agenda for the next four months to allow them to attend meetings and provide any input. McKay is concerned about pushing this back and risking any future grant funding opportunities. Schussel agrees that we should include this on the coming agendas. We should also send newsletters announcing this item.

Treanor asks when we want to bid this project; McKay replies we need approval to move forward first. Treanor recommends we move forward with engineering and bidding so as not to slow the process and still keep this item on the agenda so customers can choose to attend meetings. McKay explains we can't do the engineering until we get funding and board approval. Nothing can move forward until funding is in place. Applying for funding is the first step. Construction is expected to take place in summer 2010. Funding approval takes at least 4 months due to waiting periods and public hearings. If we secure funding in September 2009, then we could have it finalized by the end of January. Then we would seek engineering that would move the project towards the end of 2010.

Runtzel asks if we can use the existing left over loan funds to begin engineering on the project? McKay states we may be able to but won't know how much is left until bids close. Runtzel believes we will have more than enough funding left for the engineering available from SRF funds.

McKay reports we will place this item on the agenda in April, which allows him time to put a newsletter together. We can place this item on the April, May and June agenda's with the goal of making a decision in June. We can go ahead and prepare the application for funding so that it's ready to go in June 2009.

McKay will try to get something in the March bills notifying the public.

McDowell comments he likes communications to customers. Water meters came out of the blue from his perspective and the issue has been silent for several months. People have probably forgotten now. He recommends that we put a blurb on the bill and thinks the agenda is not enough. It's imperative that we communicate with our customers.

**M-2/17/09-5** – Motion by Barratt, seconded Hayes and unanimously passed to approve the General Manager to continue with a Preliminary Water Meter Installation Project including initiating a funding agreement with either the USDA Rural Development or the Nevada State Revolving Fund and communicating the facts to the residents via newsletter or bill by the April 2009.

Cook reports he received a couple of emails this week on this item asking what's going on with meters and reports he doesn't know what's been going on. Are we still sending out sample bills so customers know how much water they're using? Cook reminds the board that this is not a grant and that the board has options, we could start installing meters slowly and apply for a grant later. We should inform customers via the newsletters that their water usage is included on their monthly bills. McDowell reported that he receives the usage amount on his bill each month. Runtzel explained that all metered customers receive that information monthly, however, we are not showing them how much their bill would be. Runtzel reminded the board that there are approved metered water rates included in our ordinance now that the board approved but that are not being enforced at this time. We now need to go back and revise our water ordinance again.

**DISCUSSION AND POSSIBLE ACTION TO ATTAIN AN EASEMENT, QUIET TITLE, OR FOR EMINENT DOMAIN, AS MAY BE DEEMED APPROPRIATE, OF PROPERTY, LOCATED WITHIN THE WHITEBARK SUBDIVISION, A PROPERTY OWNED BY THE WHITEBARK HOMEOWNERS ASSOCIATION (APN 1319-30-310-026), APPROXIMATELY TWENTY FEET BY EIGHTY FEET, BETWEEN NORTHEAST CORNER OF EXISTING KGID PUBLIC UTILITIES EASEMENT (23,460 SQ.FT.) AND EXISTING KGID PROPERTY; A.P.N. 1319-30-301-004. SUCH ACTION IS IN FURTHERANCE OF THE CONSTRUCTION OF THE TANK 10B WATER TANK –**

Another small piece of property will be needed to complete the tank 10B project. This is a small utility easement, approximately 20 feet wide by 80 feet long, needed to run the water main from the new tank to the existing water main running from the existing water tank 10A. It does not run across Heavenly property as originally thought. We want to include this small piece of property in the condemnation of the other 20-foot wide parcel approved by the Board of Trustees at the January meeting.

McKay reports there is a small area between the two water tanks approximately 20' wide and 80' long to provide for the connecting piping between the tanks. We originally thought this was on Heavenly property, but later found this is within Whitebark HOA.

Brooke reports Whitebark HOA is not willing to convey the easement to us currently leaving our only option to proceed with eminent domain. He requests the board refer to the seven factual findings that the board adopted last month but modify numbers 5 and 6 to refer to the 20' x 80' easement for a waterline connection and re-adopt them for this specific request. Schussel asks if requesting the additional 80' this will create a problem and Brooke replied it doesn't change the circumstance for the situation we are in at all and is an addition needed component to complete the project. It is necessary to expand easement for the project. Both easements will be subject to an appraisal and must be done before we can have possession. As soon as we have legal description we need to be in a position to go to court. The value of the appraisal must be deposited with court.

Barratt asks if there is no other way around this and McKay reports that Heavenly's snow making area is actually an easement provided by Whitebark, not property owned by Heavenly.

**M-2/17/09-6** – Motion by Hayes, seconded Peck, and unanimously passed to approve District Council and staff to proceed with necessary action to acquire approximately a 20' x 80' easement necessary for waterline to connect the existing tank with the proposed tank 10B and again to adopt the seven findings as previously reviewed and again discussed with a change that items 5 & 6 of such findings refer to the twenty foot x eighty foot easement as opposed to the prior twenty foot easement.

**RESOLUTION 2009-1 ADOPTING IDENTITY THEFT POLICY FOR KINGSBURY GENERAL IMPROVEMENT DISTRICT**

–McKay explains red flag rule for protection of customers from identity theft. McKay used a template from National Rural Water and this is an in-house policy, resolution to be adopted by the board. If this is not in place, the District can be fined up to \$1000 per day until the policy is in place. Training will be coming.

**M-2/17/09-7** – Motion by Hayes, seconded Peck, and unanimously passed to adopt Resolution 2009-1, a Resolution on Identity Theft Policy.

Barratt's name is misspelled on the policy. Runtzel will re-write in a Resolution format.

**CONSIDERATION OF GENERAL MANAGER CONTRACT EXTENSION TERMS AND RELATED MATTERS**

- Originally, this was talked about bringing back at the March meeting. Schussel requested this item placed on this month's agenda. When McKay's contract was negotiated last year, Beattie and Schussel were on the committee to accomplish that goal. At the end, Schussel wasn't available so Cook and Beattie finished the contract. Schussel discussed with Cook and Beattie the possibility of working together to re-negotiate this years contract since they are familiar with the contents and they both indicated they would be willing to be on a committee to review the update of the contract. Schussel feels that since McKay has provided what he is requesting, this will be a simple task. He believes that since Beattie and Cook have knowledge of the contract, they could sit down with McKay and work it out.

McDowell asks that since both Beattie and Cook negotiated last time and it looks as they may negotiate this time, what happens next time? His point is that maybe one or two current board members should take part so they know what's going on for next negotiation. Hayes explains, it's more than that, he was involved with the previous GM contract negotiation and he didn't think it was very good for a trustee to deal directly with the GM on a contract issue. When there's disagreement, it spills over to everything else. Hayes prefers to have a committee to act as a middleman. From Hayes experience, it wasn't a good set up.

Schussel thought he would throw it out to the board for discussion. Beattie points out that the chairperson has to power to appoint a committee, a committee could work with the GM and come back to the board with a recommendation. McKay has lined out what he is requesting.

Treanor thinks it's a good idea although doesn't like the term committee and prefers a working group, not a board committee.

**M-2/17/09-8** – Motion by Hayes, second Treanor and unanimously passed to appoint a volunteer workgroup of Jim Beattie and Bob Cook to act as liaison in the General Managers contract extension and bring a recommendation back to the board.

McKay asks what if he doesn't come to an agreement with the workgroup? Schussel explains it will be brought before the board to deal with. Hayes further explains there are a lot of details in the contract, some of which he doesn't understand and he feels Cook and Beattie are more up to speed on the details. Another set of eyes and ears is what Hayes is looking for.

**EXTENSION OF THE AGREEMENT FOR LEGAL SERVICES WITH BROOKE, SHAW & ZUMPF TO MARCH 31, 2010**

- Scott Brooke provided the attached letter regarding an extension of the Agreement for Legal Services (agreement also attached) that is scheduled to expire on March 31, 2009. He states in the letter "The suggested Renewal and Extension is for an additional period of one (1) year and suggests no changes to the monthly retainer rate, but suggests an increase of the default legal rate by \$20.00. There has been no change in that amount for the past two years."

The original agreement dated March 16, 2004 provided for an annual retainer of \$30,000 and \$160/hour for hours worked in excess of fifteen (15) per month. On May 18, 2006 a two-year renewal was approved by the board providing an annual retainer of \$36,000 for up to eighteen (18) hours per month and an hourly rate for additional services of \$170/hour. On February 19, 2008, the KGID Board approved a one-year extension to March 31, 2009 with no proposed changes to retention or hourly rate for additional time. In the current extension request Mr. Brooke is requesting an increase of \$20/hr, to bring the hourly rate to \$190/hr for all additional time over the base monthly retention.

Also, attached for board review, are sample billings dated July 31, 2008 and November 30, 2008 from Brooke, Shaw & Zumpft. In August 2008, I requested Kim obtain a breakdown of hours for time spent on General Matters that are included in the monthly retainer. After some discussions with Scott, we received the revised July 31, 2008 billing that is attached. The original billing received did not include an accounting of hours spent on General Matters. As you can see from this billing, the General Matters hours total 12.60 hours and all 8 hours spent on Tahoe Beach Club were billed at the rate of \$170/hr per the agreement. The total hours spent during the month of July 2008 were 20.60 hours. When I discussed this with Scott, I was informed that this was a special project that the board requested he work on and therefore billable. My concern at that time was that we did not receive 18 hours of work for the retainer in accordance with my interpretation of the agreement. In looking at the total hours of 20.60, the BCM believed the District should have only been charged for 2.60 (20.60 less 18.00) hours above the retainer, not the 8 hours we were charged.

On the November 30, 2008 bill, Mr. Brooke is not reporting hours spent on General Matters and is charging the district for all hours spent on easement condemnation. The District has no way of knowing whether the 18 hours included in the retainer are being used before we are being billed for additional hours in this case. Kim and I requested in August that Scott provide a detail of all hours spent on all of his billings regardless of whether they were billable, but only received this breakdown for the month of July 2008. Staff is requesting clarification on whether Legal Council should provide a detailed breakdown of all hours spent and ensure that the 18 hours included in the monthly retainer are utilized before there are any additional hourly billings for time spent.

It is Runtzel's understanding that Mr. Brooke believes that any "special project" that the board requests further research or work on is billable outside of the monthly retainer. If that is the board's understanding, staff would request that the agreement is re-written to state so and that a "special project" is defined. Also, if this is what the board desires, future board motions should include an understanding that this is billable work outside of the monthly retainer.

Staff highly value Mr. Brooke's services and recommends that we extend an agreement with him. However, we also believe there should be clarification to the contract terms and unanimous understanding of what those terms are intended to mean, especially, with respect to additional compensation. If Brooke agrees with the recommended action A, B and C, then I recommend also the board take that action. However, if not, then we should prepare revisions to the existing terms and conditions of the agreement that are agreeable and understandable to all.

Runtzel reports Mr. Brooke's agreement was renewed last year for a one year period and is due to expire this year on March 31, 2009. Brooke provided a memo suggesting renewing for another year with a \$20/hr increase for any additional costs that go over the retention amount. Runtzel is requesting that the board provide clarification on their understanding of the agreement.

Runtzel hadn't had a chance to discuss this with Brooke prior to the meeting and asks whether he had any thoughts on the staff report. Brooke reported that he spoke with McKay on this and indicated he wasn't aware of any concern by staff that had been expressed to him. He would be happy to do whatever the district wanted and the GM indicated he would work with him to clarify any details.

Schussel explains that we've enjoyed working with him. Brooke thinks Runtzel is looking for more detail and he didn't know that and will work with her and the GM to provide whatever we need. Hayes believes it is the board's fiduciary responsibility to ensure he is accountable for his hours. Brooke reports it's not a problem to report the hours and he is not concerned at all. Schussel asks whether the first 18 hours per month would be covered under the retainer and anything over would be charged at the proposed hourly rate and asks if that is the way he understood it? Brooke reported that the retainer is for General Services, sometimes less than 18 hours and sometimes more. The idea is that it all works out, however, if the board wants a contract such that the first 18 hours are included in the retention and he bills for hours over that, it's okay with him. Schussel reports that is how he interprets and understands the contract.



C-2/17/09-1 – By consent of the board, this will be worked out between Runtzel, McKay & Brooke and be placed on the consent calendar next month.

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

**STAFF REPORTS** – The General Manager, Business & Contracts Manager and Operations Supervisor provided written staff reports, which were included in the meeting backup information. Bookkeeper Garon provided cash position statement as of January 31, 2009 along with draft financials statements as of that date.

**General Manager Report** – McKay reports we met with Dave Lundergreen of Douglas County, we want to sign off on all plans including remodels, sign off on plumbing inspection and Certificates of Occupancy so that we can ascertain whether service line sizes will require upgrades which potentially can increase our revenues. Sounds favorable.

**Business & Contracts Manager Report** – Runtzel reported a significant amount of time was spent on the Tank 10B Project and preparing the documents for bids. She's also spent a good amount of time on the budget with Kim. Management and Kim will meet in the beginning of March to go over the preliminary budget.

Tom Hall came in regarding a lot he owns and water availability. Runtzel researched it and found that out-of-Tahoe Basin Water has been allocated for this SVHOA lot.

We provided revisions to the Cooperative Agreement for the Operations Yard and provided a redline version to both Heavenly and NDOT.

Hayes asks if snow calls are down, Runtzel confirms due to the light snowfall. Snow Contract will be before board next month and expires in August.

555 Buchanan – 1.3M gallons used – Eric explained the leak on the water feature and what measures were taken

**Operations Supervisor Report** – Hayes asks Johnson if it's possible to hire another water operator and install water meters in-house ourselves? McKay comments its difficult in the summer time because our vacor equipment is being used for other purposes and we can't leave holes wide open in the event an emergency arises.

Johnson apologizes; the report provided to the board was last months report.

During this month a lot of work has been completed at the Lake Station, control system upgrades, linking to the SCADA, replacing the snow melt system that previously failed and left burn marks on the roof.

The EWC/KGID Intertie was run and tested, it functions and sends water in both directions but there are some issues that are still being worked on. We plan to alternate the water each week, sending it to KGID one week and to Edgewood the next. There are some unexplained pump motor noises that are being researched. Sending water both ways and keeping it balances will eliminate water right issues. There is a meter showing how much water goes in each direction. We want to turn over the stagnant water in the long line each week. Eric and Joe will be working with EWC staff to work out the details of the operations agreement.

**ATTORNEY'S REPORT** – Brooke confirms working on revisions to the agreement between NDOT and Heavenly for the Operations Yard. Also working on the Whitebark easement issues during the month. There were no other issues.

**CORRESPONDENCE** - The following correspondence was received or provided during the month, 1) Tahoe Beach Club Cartoon, 2) Brooke, Shaw & Zumpft Annual Summary of Claims and 3) Letter from Scott Brooke to Michael Chapman regarding Whitebark Homeowners Association, Inc. easement issues.

**ADJOURNMENT**

**M-2/17/09-9** – Motion by Treanor, seconded by Barratt and unanimous approval the meeting was adjourned at 8:28 p.m.

Respectfully submitted,

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Larry Schussel - Chairman

Attest:

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Carolyn Treanor, Secretary