

**MINUTES OF THE REGULAR MEETING OF THE
KINGSBURY GENERAL IMPROVEMENT DISTRICT BOARD OF TRUSTEES
TUESDAY, SEPTEMBER 16, 2014**

CALL TO ORDER – The meeting was called to order at the Kingsbury General Improvement District office located at 255 Kingsbury Grade, Stateline, Nevada at 6:00 p.m. by Natalie Yanish.

ROLL CALL – Present were Chairman Yanish, Trustees, Vogt, McDowell, and Norman. Nelson was absent. Also present was General Manager Cameron McKay, Counsel Scott Brooke, Operations Supervisor Eric Johnson, Business & Contract Manager Michelle Runtzel, Joe Pohl & Megan Clancy - Owners of 173 Granite Springs, Craig Schorr - US Bank, Dave Backman - KG Walters, Mike Peron - Lakeview Loft

PLEDGE OF ALLEGIANCE – Yanish led the pledge to the flag.

PUBLIC COMMENT - Backman reported that the site improvement permit for the new water treatment plant was obtained last Monday. The pre-procured items have been delivered and installation has begun. The building permit will be obtained in a week's time. The project progress is positive and the actual costs are lower than projected. A lack of ground water has helped expedite progress on the project. The strategy for approaching UNR is being developed by the legal team. Backman invited the trustees to visit the project field office. Yanish asked for clarification on which permit is still needed. Backman reported that the TRPA permitting is completed and the NDEP and Douglas County permits are near completion. McKay reported that the permit approval is pending the resubmission of plans by CH2M Hill. NDEP turnaround time is typically slow due to the methodical nature of their review process. Vogt inquired about TRPA exceptions to the October 15 construction deadline; Backman reported that TRPA has been known to allow exceptions to the October 15 rule, especially for health and safety issues.

Mike Peron reported that he is working with Mike Murphy of Dart Liquor as the promoter for the Lakeview Loft winter concert series. He asked the board and staff if there is anything they can do to expedite the water line. Runtzel reported that Murphy met with Johnson last week and the situation is outlined in the staff report. Runtzel would gladly update Murphy on the situation if he contacts her directly.

APPROVAL OF AGENDA

As no engineering representative is present at the meeting, the engineers report will move from new business to reports.

M-9/16/14-1

Motion by Norman, seconded by McDowell, and unanimously passed to approve the agenda.

APPROVAL OF MINUTES OF THE SPECIAL MEETING AUGUST 5, 2014 AND REGULAR MEETING AUGUST 19, 2014.

M-9/16/14-2

Motion by McDowell, seconded by Vogt, and unanimously passed to approve the minutes of the special meeting August 5, 2014 and regular meeting August 19, 2014.

No public comment.

APPROVAL OF CONSENT CALENDAR

McKay reported that only cost related items will be approved in the Consent Calendar moving forward.

M-9/16/14-3

Motion by McDowell, seconded by Norman and unanimously passed to approve the Consent Calendar.

No public comment.

UNFINISHED BUSINESS

Discussion on 173 Granite Springs Request for Reimbursement of Fees - At the August meeting, staff was directed to work with the owners to further research the issue.

Staff research revealed a number of properties in similar situations as 173 Granite Springs outlined in the board packet. McKay researched other GID ordinances, but none covered the exact issue.

Allocations are a commodity that can be bought and sold in order to develop on a property within the Tahoe Basin. An allocation is required to obtain a building permit in Douglas County. Pohl reported that their allocation was revoked by Douglas County as the foundation was never constructed and the building permit expired. Pohl stated that TRPA holds the allocations and the County manages the allocation list. Norman suggested the Pohl and Clancy hire someone to guide them through the TRPA system; Pohl noted that this isn't the point of their issue with KGID.

Pohl referred to Item 3 in Resolution 2010-2 stating that if a connection permit becomes invalid due to the expiration/lapse of a building permit, a new connection permit will be required and that water/sewer connection fees shall be those prevailing at the time. A credit will be maintained for the fee already paid which can be applied to reapplying for the connection permit.

Pohl reported that Runtzel never provided the option outlined in Item 3 of Resolution 2010-2 when they first inquired about the situation. Pohl continued that Runtzel only informed them that they would have to continue paying the monthly fees or lose the money that had previously been put towards the original connection permit. Pohl added that the math doesn't add up to choose to keep paying the monthly fees, but they continued doing so because they didn't want to lose the investment made into the connection permit. Pohl continued that the fee rate is based on meter service, but his property doesn't even have a meter. The 70% reduction in monthly fees is no longer an option that Pohl and Clancy are willing to consider as they would like to discontinue paying monthly fees and re-pay the connection permit fee when they decide to rebuild. Additionally, they are requesting reimbursement for all monthly bills they have paid since they have owned the

property. Clancy referred to #12, section D, which outlines the board's ability to make special decisions and pleaded that the board make a special decision for their unique situation as they have been paying nearly \$500 a month and not receiving any services.

McKay reported that the connection permit provides the ratepayer the ability to connect to the KGID system at any time. KGID adjusts its infrastructure to accommodate all connection permits that could choose to connect to the system at any time. He continued that in the industry, potential water usage is reported the same as actual water usage. McKay continued that if Pohl and Clancy don't want to be connected, they may receive a credit for the original connection permit fee and pay the difference for a future connection permit.

Yanish explained that she wants to treat all ratepayers fairly by interpreting ordinances in the right way. McKay explained that the base rate of \$62.92 on each bill pays for costs involved in operating the system before water is even pumped; however fire protection doesn't include a base rate. Pohl and Clancy became aware that something was amiss with their situation when the fire district informed that that there was no water at the fire hydrant.

Pohl and Clancy's situation is being treated the same as the other similar situations outlined in the board packet. Yanish explained that other owners don't know when they are going to build, so they are essentially gambling with whether it will pay off to continue paying monthly bills or relinquish the connection permit and pay the increased fees at a later date. Runtzel further explained that connection permits are pulled when building permits are pulled. It is the owner's responsibility to connect to the system once they have received the connection permit.

Norman reiterated that Pohl and Clancy can refund their current connection permit and reapply for a new one when they are ready to build in order to stop paying any monthly fees.

Yanish stated that KGID can't refund retroactively when it was the owners' responsibility to determine the best plan of action for their specific situation. Clancy stated that KGID must take responsibility for the misinformation communicated to them which caused them to pay the monthly fees. Vogt stated the ordinances may need to be reworked in order to avoid this problem in the future.

Clancy requested the names of the other people in similar situations Runtzel directed Clancy to the board packet which outlines the addresses of the other affected properties. McKay commented that sometimes staff speaks "water language" and the ratepayers may misunderstand what they say; however, Runtzel explained the situation as best she could at the time. Yanish asked staff to find the best resolution for Pohl and Clancy; Runtzel stated that if they aren't building in 6 months to a year, it would be in their best interest to relinquish the connection. McKay stated that only the 6 inch fire protection fees should be refunded. Yanish stated that the monthly fees could be refunded back to when the first letter was sent to KGID from Pohl and Clancy.

Brooke expressed his concern about setting precedent and recommended against reimbursement before the official request was submitted to KGID.

M-9/16/14-4

Motion by Norman, seconded by McDowell and unanimously passed to offer Pohl and Clancy a refund of all paid fire protection fees plus monthly fees since their first letter was submitted to KGID upon relinquishing their current connection permit. Pohl and Clancy would receive a credit for the original connection permit fees. Joseph Pohl and Megan Clancy must communicate their acceptance or rejection of the offer by October 3.

Yanish asked if Pohl and Clancy had any plans for building on the property in order to give them a better idea of what the connection permit fee could look like in the future. Pohl and Clancy confirmed that they do not have any immediate plans to build. Although the exact amount of future connection permit fees is unknown, staff advised that the fees would continually increase and advised that it would be in Pohl and Clancy's best interest to disconnect now if they do not have any immediate plans to build.

Pohl asked as to what drives the connection fees. McKay explained that the District's infrastructure costs and debt service affect the connection fees and that he anticipates future rate increases.

Clancy stated that she doesn't like the offer from the board and wants to further research similar cases that have been in her situation. Runtzel reported that approximately five of the 58 properties outlined in the spreadsheet are most similar to this situation. Clancy inquired as to how many of the researched examples consisted of land without a foundation like her property; Brooke commented that the decision for this property should not be made based upon comparisons of other properties.

Norman commented that the offer is a generous attempt to relieve the situation. Yanish reported that other refund requests presented to the board have been denied.

Clancy inquired as to how long Runtzel has been in her position; Runtzel responded since 2003. Clancy and Pohl purchased the property in the fall of 2011.

Discussion on Agreement with the Nevada Department of Environmental Protection for Extension of Time to Complete Capital Improvement, Construction of New Water Treatment Plant - Brooke reported that it is a take it or leave it contract. His only suggestion is to ensure that the September 16, 2016 date is correct. McKay commented that although he had requested the extension go until July, NDEP only issues a two year extension, thus, the new completion date of September 16, 2016 is correct.

M-9/16/14-5

Motion by McDowell, seconded by Vogt and unanimously passed the recommended action to approve the long term 2 enhanced surface water treatment rule bilateral compliance agreement treatment technique for cryptosporidium with the Nevada Department of Environmental Protection for an extension of time to complete capital improvement, construction of new water treatment plant.

No public comment.

Discussion on Agreement with Sherman & Howard LLC to Act as Bond Counsel for the Issuance of Bonds to Finance the Water Treatment Plant LT2 Upgrade - McKay reported that the agreement will allow KGID to commence the bond process in the full amount necessary. He noted that the contract is typical in that it outlines a not to exceed amount. McKay reported that although the full maximum amount is being approved, only the amount needed would be spent on the project.

M-9/16/14-6

Motion by Vogt, seconded by Norman and unanimously passed the recommended action to approve the agreement with Sherman & Howard to provide bond counsel services for a \$6,000,000 water bond issue for a fee of "not to exceed" \$40,000.

Brooke commented that the bond counsel is a legal firm that orchestrates the sale of the bond with the State. Bonds cannot be sold on the public market without approval of counsel.

Discussion on Approval of Resolution 2014-04: A Resolution of Intent Proposing the Issuance of, and Authorizing the Publication of Notices Relating to General Obligation Water Bonds for the Purpose of Financing Projects for the District; Providing the Manner, Form and Contents of the Notices; Providing Other Matters Properly Related Thereto - An address change is noted in the extra handout.

M-9/16/14-7

Motion by Norman, seconded by Vogt and unanimously passed the recommended action to adopt Resolution 2014-4, a Resolution of Intent for the issuance of General Obligation Bonds in association with a low interest loan from the Nevada State Revolving Fund for the construction of the LT2 Water Treatment Plant.

Schorr asked if it KGID would be able to issue another bond before this one is paid off. McKay responded that additional bond measures could still be passed if KGID could still prove it had sufficient revenue streams, which are based off of the District's value. Schorr inquired as to whether revenue can be pledged more than once. Brooke reported that a cap is set and rarely met and that the ability to raise money always exists. McKay reported that the Resolution of Intent will be publicly noticed and a public hearing will be held on October 21. 90 days afterwards, at the December 16th meeting, the Bond Resolution will be adopted by the board.

Approval of Line Extension Agreement with NV Energy for Relocation of Power Lines -

McKay reported that this item is separate from the NV Energy agreement in the Consent Calendar. This agreement is needed in order to divert lines away from the construction site as the lines currently run directly over the construction site. Upon construction completion, the power lines would be re-routed from the temporary construction placement. Tahoe Shores would move the lines underground as part of their new construction. The lines cannot be placed underground during construction as it would interfere with plant construction. Staff was aware that this project was needed, they just expect it to cost so much. McKay noted that KGID is not exempt from the energy tax included in the project.

M-9/16/14-8

Motion by Norman, seconded by McDowell and unanimously passed the recommended action to approve the Line Extension Agreement #22833 with NV Energy.

Schorr inquired as to why the line extension wasn't covered in the project maximum guaranteed price. McKay reported that the lines cannot be moved by KG Walters, so it wasn't included in the total project cost. Brooke reported that Rule 9 of the Public Utility Commission outlines that only the power company can move power lines.

Discussion on Schilling Agreement - Brooke reported that the agreement already in place is moving forward. Runtzel reported that staff was able to access the property and conduct a fixture count on site; it was much higher than the reported numbers. McKay commented that it is the responsibility of the homeowner to locate service lines and connect the meter. Schilling has not located the lines. Once everything has been identified it can be shut off.

NO ACTION TOOK PLACE ON THE FOLLOWING ITEMS:

BOARD REPORTS

McDowell reported that October will be his last meeting as a Trustee as he is moving out of the District. Brooke commented that a resignation date must be set; McDowell reported that October 30 would suffice. The vacancy will be placed on the November agenda to name a replacement and a courtesy public notice will be posted about the vacancy. Norman inquired about the process to find a replacement. McKay reported that a qualified candidate would have displayed interest and at past meetings. The only candidate who has regularly attended meetings has been Craig Schorr, who has displayed his intellect through meaningful input. McDowell stated that he would like to see Schorr fill his vacancy.

STAFF REPORTS

General Manager Report:

Norman highlighted the roads/snow removal/stormwater portion of McKay's report outlining how the storm drains and gutters failed to cope with the amount of water during the last few intense thunderstorms. McKay commented that the erosion control projects are only designed for a 20 year storm, but that the recent storms showed that greater long-term erosion control projects are needed. Yanish commented that the Vactor truck efficiently cleared the drains during the storm.

Vogt commented that she has seen street sweeper with more regularity than in the past.

Business and Contract Manager Report:

Yanish inquired about staff training; Runtzel reported that staff training has been a difficult and time-consuming process. McKay commented that Runtzel has put in a lot of overtime. Temporary staffing solutions are being utilized to catch up on work.

Operations Report:

McDowell inquired about the manhole covers; Johnson reported that all manhole covers have been covered with a foot of asphalt.

Vogt complimented the new NDOT road signs.

Norman inquired about the progress on Kingsbury Grade. Johnson reported that construction is ahead of schedule; stretched out traffic control helped to speed up work. Norman commented that he hasn't had to use permit to go over the Grade. McDowell inquired about construction over the summit; Johnson responded that the full road replacement is not being completed over the summit, but crews are working on some smaller projects. Johnson reported street lights are being installed on the Grade.

Attorney's Report:

The agreement has been drafted and provided to Tahoe Shores with the petition for court approval.

An attorney has been assigned to the Dengler case; Brooke is working to provide relevant information.

Correspondence:

Yanish noted that an agenda item concerning GID's will be at the next Douglas County Board of County Commissioners meeting; McKay commented that there have been complaints with GID's not staffing boards correctly and not locating offices within the districts.

Norman reported that he received a compliment from a ratepayer about the new KGID office; McKay commented that the new space has increased efficiency in office.

ADJOURNMENT

M-9/1614-9

Motion by Vogt seconded by McDowell and unanimously passed to adjourn the meeting at 8:17 P.M.

No public comment.

Respectfully submitted,

Natalie Yanish – Chairman

Attest:

Robert McDowell, Secretary