



BUCKSKIN SANITARY DISTRICT

P O Box 5398
Parker, AZ 85344

Board of Directors:

Gary Svider Gary Hansen Shelly Rohde William Risen Robert Troxler

MINUTES

OF THE BUCKSKIN SANITARY DISTRICT BOARD OF DIRECTORS

Regular Meeting

Wednesday, May 19, 2010 – 5:30 p.m.

Boat Safety Building, 8484 Riverside Dr. Parker, AZ 85344

Elected Board Members and District personnel present: Chairperson Gary Svider, Vice-Chairman Gary Hansen, Secretary/Clerk Rob Troxler, Absent: Directors Bill Risen and Shelly Rohde. Other attendees: Office Administrator Pam Stark, Administrative Assistant Lin Bachtel, Legal Counsel Paul Harter, JR Pooler & John Bishop of Pooled Resources, Pat Jones, Dennise Jones, Terry Jones, Gene Ohlendorf, Jeff Daniel, Dan & Kathy Miller, Tony Guardalabene, Bob Gory, David Plunkett, Sharon Goodman, Kathy Richardson, Valerie Hinson, Robert Whitacre.

1. Call to Order

Chairman Svider called the Meeting to order at 5:42 p.m.

Chairman Svider discussed a new process regarding using comment cards for the Call to the Public process beginning with the next Regular Meeting to try and bring some order to the process.

2. Approve/Disapprove the Agenda for Regular Meeting, May 19, 2010 as presented.

Director Hansen made a motion to approve the Regular Meeting Agenda as presented, Director Troxler seconded
Call to Vote – 3 ayes/2- absent Motion passed

3. Call to the Public

Dan Miller from River Glen Mobile Home Park stated he was asking the Board to respectfully reconsider the action on Item #7 and they have more information to present.

Gene Ohlendorf asked if someone could explain the Special Assessment. Chairman Svider stated that Mr. Pooler has a report that will be covered later in the Agenda to address this issue. Mr. Pooler stated that maybe this is an item that the Chairman could direct to be covered. Mr. Harter, legal counsel explained the Call to the Public process and reminded the Board of the four (4) ways they can handle items in this forum, by remaining silent, placing an item on a future agenda, direct staff to address at a later time or a Board member respond to direct criticism directly.

A woman asked about the \$7255.00 that is being charged and how it works. She said that she called the office and got no answers. Chairman Svider directed Mr. Pooler to respond to the woman's questions. Mr. Harter again reminded everyone that the Call to the Public is not a forum for open dialogue and that the Chairman has directed Mr. Pooler to respond to the questions.

Clayton Trevett asked who the man was and his name. Mr. Harter responded his name. Mr. Trevett asked if he is the Board of Directors attorney and why the Board needs a lawyer. Mr. Harter explained that he would speak to him at the end of the meeting.

Pat Jones also reminded the Board regarding the upcoming work at Buckskin Valley and he spoke to Tom Simmons and that no one from the District has contacted them and he also asked for something in writing regarding the assessments. Bob Gory stated that maybe in the future we could have something that explained everything and David Plunkett suggested that they just publish it and not send it in the mail and save the postage. Mr. Gory said he understood that it is a State Statute that says you have to do it 30 days from anything being billed.

Phone: (928) 667-7197 * Fax: (928) 667-1697 *

Web: www.buckskinsanitarydistrict.org

An Equal Opportunity Employer and Provider

4. Project Report by JR Pooler from Pooled Resources

a). Mr. Pooler talked about a report on April 30, 2010 from Wagner Construction that the installation of the sewer lines was complete and they have filed a letter of substantial completion. He went over a list of things that are required for completion of the project and acceptance by the District, such as, a punch list and verification of items that need to be addressed, a final walkthrough by Rural Development, a sign off from the County for the asphalt work, any final change orders, final pay requests, submittal of all required documentation and a recommendation by Stanley Consultant to accept the project. Stanley Consultants is preparing the required materials to be submitted to ADEQ for a permit to discharge and that is expected to be submitted on May 21, 2010. He explained that if this submittal date is met, we expect final approval from ADEQ by June 30, 2010. He also addressed the restocking of the E-One pumps and the arrangement with Quadna to accept payment of \$2,063.03 as arranged by James Gorman. Upon receipt of a letter from Wagner releasing all claims the payment would be released. This has provided the District with an approximate savings of \$6000. We have reports from several property owners on the concrete repairs to driveways and Stanley will send a recommendation and the repairs must meet industry standards. A question was asked if they are coming out to fix the problems we are having. The walkthrough will identify any issues that have been called in to the office. If there is concern you need to notify the office and we will look into it. He explained there is a one year warranty period and that gives enforcement power to make the contractor come back and fix workmanship issues. Mr. Harter asked if he would go through the assessment process and Mr. Pooler stated that is later in the Agenda. Someone asked who the gentleman is and Mr. Pooler introduced himself and his company attributes. Director Hansen asked about the turn over date of June 30, 2010. Director Troxler asked the date of the walkthrough. Mr. Pooler said there is a walkthrough tomorrow.

b). Project Summary of Costs

Mr. Pooler went through the costs for the project and how the funds have been broke down by change orders, District participation, incidentals, reimbursements by the County, the RD Grants and Loan amounts, cash payments received and what the shortfall will be to pay the costs of the construction. He discussed the public hearing process that was conducted for the EDU process and cash payment period. He projects the shortfall will be approximately \$158,322.20. Terry Jones asked if we were still in discussions with various entities to offset any costs and Mr. Pooler stated that was something he didn't want to discuss at this time, Pat Jones asked if the \$158,322.20 included any payments that the District has made and Mr. Pooler stated no, Matthew Moore asked if this included Mr. Pooler's costs or office costs and Mr. Pooler stated that this was only construction costs, and Gene Ohlendorf asked if this was due to the change orders, and Mr. Pooler stated that there were several change orders and they contributed.

c). Finance Report for the District

Mr. Pooler went over the various accounts held by the District, there are 2 Reserve Accounts, 2 Assessment Accounts, a Construction Account (which will turn into a 3rd Assessment Account), a General Fund and a Line Of Credit with the Treasurer of La Paz County and a Treatment Plant Account with National Bank and what their balances were and what they are used for. He also talked about a Line of Credit that the District has through the County. Bob Gory asked about the Line of Credit, Pat Jones asked if the co-mingling of funds has been separated and Pam Stark explained that the reserve account funds have never been co-mingled. Terry Jones asked where the Reserve account funds came from. Mr. Pooler explained where the funds came from and that there is no reserve account for ID#3. Dennise Jones asked about the General Fund only being used for operations. Bob Hansen asked where the money will come from for the shortfall. Mr. Pooler explained that this will come from the General Fund. Dennise Jones stated that you are using General Fund money for non operating costs. Pat Jones asked if we will be able to operate the District when this is all paid out and Mr. Pooler stated yes, but we will have to tighten our belts.

d). Assessment Billing Report

Mr. Pooler explained that assessment invoices were mailed out this week. He explained that ID #1 & 2 are invoices for principal and interest. In ID#3, the first invoice is for interest only and have also been mailed out. There will be another one to come for interest only in December. Payment of principal and interest for this ID will be June 1, 2011. Mr. Plunkett asked about the letter that was mailed out and whether this was a bill. Mr. Pooler explained that this was a legal notice that had to be published and explained the letter. Bob Hansen asked that there is nothing new for Area 1 & 2 and Mr. Pooler stated yes.

e). La Paz County Meeting Report

Mr. Pooler explained that a meeting was held with Supervisor John Drum regarding charges that were received by BSD for the Wagner Construction project. He explained the charges covered Pumper Truck/Striping/maintenance workers, Sheriff Deputies for traffic control, squad cars, and additional striping. The County has tentatively agreed to look into possibly reducing the charges for sheriff deputies by \$4000. There was also some discussion of the county assisting in negotiations with ADOT on the Holiday Harbor project. A question was asked whose fault it was that the contractor pulled off the job. The answer was the District, but it had to do with the right of way process. We are still waiting on a response from ADOT. Dennise Jones asked if it would help for the EPA to get involved. Terry Jones asked what about ADEQ. Mr. Pooler said that neither of those are involved with this.

f). Assessment Payoff

Mr. Pooler explained the Assessment Payoff procedures for the District. The principal and interest is billed annually and due June 1 for the duration of the bond debt. An interest only payment is billed annually due each December 1 for the duration of the bond debt. A payoff may be requested and must include the balance of the principal plus the interest expenses through the six month period in which the payoff is to occur. Bob Gory and Robert Hansen asked what the interest rate is. Pam Stark told them it is 4.625%. Mr. Pooler asked if that answered the questions on payoff.

g). Informational Assessment Sheet

Mr. Pooler explained a fact sheet that explains the Assessments and what they pertain to. It also talks about permit fees and what other permits are required as well as User Fees and Ad Valorem Taxes. Matthew Moore asked why they have to pay a permit fee to the District as well as the County. Mr. Pooler said it is up for clarification on another Agenda Item tonight. A question was asked whether they have to pay the monthly usage fee for two lots if it is not used. It was explained that if you don't hook up and don't use the sewer connection there is no monthly user fee. Mr. Pooler said they hope to have this information to you when we send out the letter out that tells you that you can hook up. Someone asked what happens if you don't hook up in 6 months. Mr. Harter explained that if that happens, the District can go to court and get a cease and desist order and the court can compel you to hookup and also seek a fine. He explained that it is all available to you in the Sewer Use Ordinance online. It was questioned that the County may not be able to inspect all of these connections in that timeframe.

h). FAQ's Letter for Hook ups

Mr. Pooler stated that this is a letter that is in the form of a FAQ format and tried to answer the questions by the property owner. It will be distributed when we have accepted the system and it is time to hook up to the sewer system. The staff has been asked to create a complaint log so that it can be tracked on what has been resolved and what hasn't.

CONSENT AGENDA

5a). Approval of Minutes:

Worksession & Regular Meeting dtd 3/12/10

Worksessions dtd 3/31/10, 4/14/10, 5/12/10

Regular Meeting dtd 4/20/10

Special Meeting dtd 5/12/10

Director Hansen made a motion to approve the Minutes as presented, Director Troxler seconded

Call to Vote -3 ayes/2 absent Motion passed

b). Approval of Accounts Payable from 4/19/10-5/18/10

Director Hansen made a motion to approve the Accounts Payable, Director Troxler seconded

Call to Vote – 3 ayes/2 absent Motion passed

6. Approve/Disapprove reconsideration of the Board's Action on April 20, 2010 in regards to Item #8 on that Agenda.

Director Hansen made a motion to approve reconsideration of Item # 8 from the April 20, 2010 Agenda with some discussion
Director Troxler seconded

Chairman Svider asked Mr. Harter if there can be a discussion and he stated that you can discuss whether to reconsider the issue.

Director Hansen stated that he felt there was a stringent process used when considering EDU matters and it is a very difficult issue to address. We don't have a procedure to reduce these EDU's other than an arbitrary process and that opens us up to lawsuits. He was concerned that this is going to set precedence. He also felt that we have problems financially and he wants to set up a procedure to reduce EDU's that mimics the process that was used before to hear EDU issues. He also felt that the process should also include the entire District since it will affect everyone. He would like to investigate a possible ordinance to allow for a structured process to adjust these EDU's. Mr. Harter stated that if this motion is approved then it would mean that the decision that was made on April 20, 2010 would suspend the effect of the prior Board action.

Call to Vote – 3 ayes/2 absent Motion passed to reconsider Item #8 from the April 20, 2010 Board Meeting (now Item #7 on this Agenda) and the prior vote has been suspended.

7. Approve/Disapprove possible modification for Parcel #311-66-136, commonly known as the Tony Guardalabene property as 17 EDU's. This item can only come before the Board if a motion to reconsider is approved by a majority of the Board.

Chairman Svider stated that it has been approved to reconsider this item.

Director Hansen made a motion to table this item until we have additional information regarding possible ordinance to formally quantify an EDU reduction process, Director Toxler seconded

Call to Vote – 3 ayes/2 absent Motion passed to table until a formal EDU reduction policy is put in place

8. Approve/Disapprove reconsideration of the Board's action in regards to Item # 7 on the April 20, 2010 Agenda.

Director Hansen made a motion to approve reconsideration as stated in Item #6.

Director Troxler seconded

Call to Vote – 3 ayes/2 absent Motion passed to repeal the decision made by the Board on April 20, 2010.

9. Approve/Disapprove possible modifications of assessments for Parcel #311-47-016A, commonly known as the Miller property from 15 EDU's. This item would only come before the Board if a motion to reconsider is approved by the majority of the Board.

Director Hansen made a motion to table this item pending a consideration of a development of an ordinance to have a formal process to reduce EDU's, Director Troxler seconded

Call to Vote – 3 ayes/2 absent Motion passed

10. Discussion and possible action to terminate the vault and haul services for Goodman Builders, LLC at 10084 Riverside Dr. effective immediately after the next pumping.

Mr. Pooler explained that the District has been pumping a holding tank located at this property approximately 4 times in a 5 month period at a cost of \$250 per pump. The property was assessed 1 EDU based on a single family residence and it is in a transition with construction activities and increased pumping is expected. On March 19, 2010 Jim Gorman sent the property owners a letter notifying them of possible additional fees and that pumping would cease when the system became operational. It is recommended that the District notify the property owner, because of their change of use and the increase in frequency of pumping that the District will no longer pay for the pumping of the tank after the next occurrence of pumping or when the District system is operational whichever comes first. There was a commitment made to a property owner prior to this property owner and in the meantime you have pumped.

Director Hansen asked what the alternatives are, either we pay for it or they pay for it. Pat Jones commented that he reviewed all paperwork and documents, the bank paperwork says "as is, where is" except for something from Shelly that said she would continue to pump without Board approval and the usage of the building has changed and it is a commercial entity and he didn't feel that as a taxpayer we should have to pay for this. Mr. Plunkett stated that no one in this room was in the discussion with Doug and the prior property owner and the current property owner. He felt that it wouldn't be right to stop something that was promised. Dennise Jones stated that Doug could not make a decision on how our tax dollars are spent and the Board didn't make the decision. Mr. Plunkett stated that Doug was willing to put it in writing what was said and what the Board agreed to. Mr. Harter stated that it is a difficult situation, but contrary to what Dennise said, Doug can bind the District. You can have an oral contract between the property owner and the District. There are a limited number of contracts that are limited and binding, but there is no contract between the District and the current property owner other than conduct and that is the pumping that has continued. It is my advice there is no contract between the District and the current property

Phone: (928) 667-7197 * Fax: (928) 667-1697 *

Web: www.buckskinsanitarydistrict.org

An Equal Opportunity Employer and Provider

owner and they can act in either capacity of continuing or cease pumping. Mr. Plunkett said he has emails from Doug Konkright that need to be viewed and he felt that Doug bound the first person as well as the second person since they had a conversation.

Director Hansen made a motion to table this item pending further investigation of documentation that may be out there.

Director Troxler seconded

Call to Vote – 2 ayes/1 nay/ 2 absent Motion passed to table.

11. Approve/Disapprove adopting the “No Free Ride” Ordinance for the Buckskin Sanitary District.

Mr. Harter explained that at the previous Board meeting he presented this ordinance and was asked to come back with revisions pertaining to the possibility of accepting payments on a payment schedule versus a full payment. He revised the ordinance to reflect the requests, but he doesn’t recommend the financing option as stated in Section 4 as they would not be able to be in the 1st lien position on the property and would not have the same security that they have now. Section 5 addressed the issue of how to allocate any leftover funds back to the taxpayers. He stated that he was concerned about the District staff having to make these calculations on a yearly basis. These Section 4 and Section 5 revisions are the only revisions that have been made to the previously presented document.

Director Hansen made a motion to table the item until we have a comprehensive ordinance of modifications of EDU’s either up or down. Director Troxler seconded

Call to Vote – 2 ayes/1 nay/2 absent

Mr. Pooler asked if this meant there is direction for the staff to prepare a report and present to the Board. He felt there is some urgency to this, but we have people who want to connect and if we don’t have something in place then they hook up and we are done. Mr. Harter stated that it would be brought back at the next meeting.

12. Adoption of proposed language for the Call to the Public to be printed on each Agenda.

Mr. Harter stated that at the last Board meeting Mr. Gorman had proposed some language to address the Call to the Public and Director Risen asked for this to be placed on the next meeting Agenda. Through several efforts, suggested language has been provided with, statutory language, Mr. Gorman’s language and a sample from Camp Verde and a combination of the two. He recommended Sample #3 which addresses the behavior and demeanor of the Board and the Public. Mr. Pooler stated that he provided some language and it is printed on every Agenda. Dennise Jones asked what the language is so they can comment on it. Mr. Harter read Sample #3. Pat Jones responded regarding the behavioral part and he felt that a Board member was not showing respect to the public at the last meeting and now they can be banned from a meeting if they voice their opinion. Mr. Harter stated that this is the Board’s meeting conducted in Public and the Board needs to be able to control the order of the meeting. The Chair can control a Board Member who is acting inappropriately. Mr. Miller felt it does have to go both ways so the public doesn’t feel they are being disrespected as happened to me. Dennis Jones asked what happens if it is the Chair and Mr. Harter said that he hoped the other Board Members would step in. He also stated that you have the ultimate voice at the ballot box. Mr. Pooler asked about the process of barring or expelling people. Mr. Harter said it is a Board action.

Director Troxler asked for a short recess. Chairman Svider recessed the meeting at 8:10 p.m. The meeting reconvened at 8:15 p.m.

Director Hansen made a motion to accept Sample #3 as presented, Director Troxler seconded.

Chairman Svider stated he didn’t like the “barred from future meetings” and he didn’t feel it should be in there. Director Hansen said he could modify the motion. Mr. Harter stated that you could make an amendment to end the last sentence of the paragraph with “expelled”. Director Hansen made the amendment and Director Troxler seconded.

Call to Vote – 3 ayes/2 absent

Chairman Svider called for a vote to the main motion to include the amendment - Call to Vote 3 ayes/2 absent

13. Approve/Disapprove the Permit Fee required for sewer hook up as stated in the Buckskin Sanitary District Sewer Ordinance, currently at \$300.

Mr. Pooler explained the Sewer Ordinance which states \$300 and there was no other documentation that showed any other fee structure being approved. Mr. Harter stated that the item on the web page hasn’t been substantiated by any other action. There was discussion regarding different fees and what costs were associated with the actual work that needed to be

Phone: (928) 667-7197 * Fax: (928) 667-1697 *

Web: www.buckskinsanitarydistrict.org

An Equal Opportunity Employer and Provider

performed. Mr. Pooler stated that the District needs to make a decision so that a letter can go out and state the fee because we will be having people ready to hook up soon. Chairman Svider asked Director Troxler what was done in Quartzsite. Director Troxler stated that it is done differently there. Chairman Svider felt that the \$200 figure is more appropriate due to the environment and if we find we can take it down then we can do a credit and we need to make a decision tonight. He stated that he would make that motion himself. Mr. Harter stated that he would make the motion to revise the Sewer User Fee Ordinance reducing the connection fee to \$200 per connection since that is published in the ordinance.

Mr. Pooler stated that we include two inspections and then \$50 for each additional. Pat Jones also stated that there should be a 48 hour notice for scheduling inspections. Matthew Moore asked why the County can't do the inspection and Mr. Pooler stated the County doesn't own the sewer District. He also stated that they would apply the 48 hour notice.

Director Hansen seconded

Call to Vote – 3 ayes/2 absent Motion passed to reduce the sewer hook up fee to \$200 and revision to the Sewer Use Fee Ordinance.

14. Approve/Disapprove possibly rescinding the contract with Engineered General Contractor, Inc. in regards to the effluent upgrade at the ponds.

Mr. Pooler stated that conversations were had with this contractor and his insurance was not valid and no notice to proceed was issued. There is some question as to the contractors' ability to do the work and provide the equipment. You may have some recourse against them for damages. There is also been some conversation with the County regarding the cause of the problems and you may redefine the scope of the work and could save some money and still meet the County's request to fix the problem. There has been conversation with the County and he believes they are satisfied with a modification proposal. Mr. Harter stated that he has had some conversation with Mr. Pooler and it appears the better approach is to revise the scope of work that would be at a lesser cost to the District. Director Hansen asked if the contractor is in breach and Mr. Harter stated yes. Chairman Svider said he met with the County and the ADEQ requirement needs to be addressed as well as the filtration issue. We can address the water hammer and the backflow issue at the same time.

Mr. Pooler asked if we needed a motion or just direction. Director Troxler stated that we should reconsider terminating the contract and relook at the scope of work. Chairman Svider asked if that is the motion. Director Hansen seconded.

Call to Vote – 3 ayes/2 absent Motion passed to terminate the contract and relook at the scope of work.

15. Approve/Disapprove a possible alternate payment schedule to ADOT on the Holiday Harbor project.

Mr. Pooler stated that this is in regards to the commitment of funds from the District to ADOT based on Mr. Gorman's negotiations with ADOT. ADOT has said they wouldn't entertain a payment plan with us, but were looking at a reduction of work and there has been a conversation with the County and a State Senator and there interest in talking with ADOT to assist the District in getting this project done. Mr. Pooler stated that he was trying to get up to speed as Mr. Gorman had spearheaded the conversation with them. Director Troxler asked about having the meeting with the County and ADOT and the Senator before the 20th. Pam Stark stated that Triguna Israel was suppose to get back with the office regarding the talks that had been discussed and the State Engineer had not answered as of yet. Mr. Harter stated that the Chairman had asked for this item to come back if we had not heard from them by this meeting. Chairman Svider asked if we can leave things in place and Director Troxler asked if we can have a Special Meeting in the event we have a decision next week. Mr. Harter said that you can also do that. Chairman Svider stated that the purpose of the talks is to stretch the payments out.

Terry Jones said in the last meeting it was discussed whether the money from the General Fund monies would be replaced. Chairman Svider said that is his understanding.

No action was taken

16. Approve/Disapprove a new contract with Pooled Resources to provide Interim Management Services to BSD on a lump sum basis, not to exceed \$9,000 per month.

Director Hansen asked this is for how long, indefinite? Mr. Pooler said this is until you fire me. Director Hansen asked if it is month to month. Mr. Pooler said yes. This includes all costs and not billed hourly, which also includes all my staff, all costs including all expenses for hotels, travel, etc. Mr. Pooler went over the Scope of Work and went through several items that he felt needed attention immediately. He also stated that his current contract is over based on what he was hired to do and the cost. He talked about getting the web page under control and in the office. This is all included. Chairman Svider asked if John came with the deal and Mr. Pooler stated that John will deal with the website and he will be in the District 2 days a week. Mr.

Phone: (928) 667-7197 * Fax: (928) 667-1697 *

Web: www.buckskinsanitarydistrict.org

An Equal Opportunity Employer and Provider

Harter asked to make a suggestion to convene to Executive Session under ARS Statute 38-431.03(a)(1) for discussion and consultation of employment of an Interim Management contract. Chairman Svider asked Mr. Pooler if the construction phase and hookups was included. Jeff Daniel asked that the Board consider to bring in Silex Construction at a \$5000 per month for a cost savings. Pat Jones stated that as far as Silex is concerned some of the work that JR does is not something that we do. Pam Stark stated that she felt that we needed Mr. Pooler as far as the help that is needed in the office setting that Mr. Jones admits he is not familiar with. The question was asked if this is in lieu of a District Manager. Chairman Svider said that this is on an interim basis.

Director Hansen made a motion to move into Executive Session.

Director Troxler seconded

Call to Vote – 3 ayes/2 absent

Recessed the Regular Meeting at 9:05 p.m.

Reconvened the Regular Meeting at 9:12 p.m. No decisions were made in Executive Session

Chairman asked to go back and address Item # 16. Director Hansen made a motion to modify and extend the contract with Pooled Resources on a month to month basis at \$9000 per month.

Director Troxler seconded

Call to Vote – 3 ayes/2 absent Motion passed to extend the contract with Pooled Resources

17. Mr. Harter stated that this item should be postponed and come back at the next meeting.

Chairman Svider asked for a motion and Director Hansen made a motion to postpone this item until the next Board Meeting

Director Troxler seconded

Call to Vote – 3 ayes/2 absent

Chairman Svider stated the next Regular Board meeting would be June 15, 2010 and that there could be a possible Special Meeting in the event there is a decision by ADOT.

Chairman Svider adjourned the meeting at 9:15 p.m.

Minutes Approved _____

Chairman Gary Svider

Date _____