

Gallatin Gateway County Water & Sewer District

MINUTES OF THE

BOARD OF DIRECTORS

A special meeting of the Board of Directors of the Gallatin Gateway County Water & Sewer District was held at the Farmhouse Cafe, 76250 Gallatin Road, Gallatin Gateway, MT, on December 27, 2018. Present at the meeting were board members Eric Amend, Ted Border, and David Sullivan. General Manager Matt Donnelly and Secretary Maralee Parsons Sullivan were present. No members of the public were present.

President Border called the meeting to order at 5:02 p.m. Secretary Maralee Parsons Sullivan recorded the minutes of the meeting.

PUBLIC PARTICIPATION OF NON-AGENDA ITEMS

President Border asked for public comment on non-agenda items. None were raised

CONFLICT OF INTEREST DISCLOSURE

President Border asked if there were any items of conflict of interest, or potential conflict of interest, to be raised. None were raised.

REGULAR BUSINESS

Discussion and Decision on Memorandum of Understanding Settling Contractor Claims for Wastewater Construction Project

GM Matt Donnelly reiterated to the Board that the contractor had submitted claims related to underground conflicts and site conditions, and as a result the 3 parties (District, Stahly, JR) had entered into an Article 12 claims process, as prescribed by the construction contract. This Settlement Memorandum of Agreement ("Agreement") is the result of that process. Mr. Donnelly provided a brief update on the project budget to provide a financial framework for the Board, noting that funds are available to cover the proposed settlement outlined in the Agreement. Bond closing is tentatively scheduled for January 17, 2019, and a final inspection has been scheduled for January 3, 2019. The remaining items on the punch list are primarily property pins and road repair. He noted that the Agreement includes construction Change Order #10, which was approved at the last Board meeting. He stated that District council recommends approving this Agreement, and Mr. Donnelly also offered his recommendation to approve. There was some brief discussion on what could happen if the engineer and contractor decided to pursue further legal action against one another. Mr. Donnelly stated his belief that the District's attorneys have done a good job of ensuring the District cannot be legally brought back into the litigation, should that occur (other than perhaps being called to testify). Director Amend moved to approve the Settlement Memorandum of Agreement between the District, JR

Civil and Stahly. Director Sullivan seconded the motion. There was no more discussion. The motion carried 3-0.

Discussion and Decision on Engineer Amendment #11 Covering Additional Construction Engineering

GM Donnelly advised that this invoice covers the additional inspection work required between November 2017 and March 2018, noting that construction CO#10, approved at the last meeting, authorized an additional 133 days of work during this time period. The amendment also includes \$5,000 for additional grant administration work. It was noted that the 133 days includes 90 days of a winter shut down. Director Amend moved to approve Stahly EA #11 for \$55,800. Director Sullivan seconded the motion. There was no more discussion. The motion carried 3-0.

Discussion and Decision on Construction Pay Application #12 for Construction Work Completed in June 2018

GM Donnelly advised that he and the engineer have reviewed the pay application for accuracy and recommends approval, and also noted that the District had previously invoked its right to set off the full amount. Director Amend moved to approve payment of construction pay application #12 (previously set-off), for \$9,808.63. Director Sullivan seconded the motion. There was no further discussion. The motion carried 3-0.

Discussion and Decision on Construction Pay Application #15 for Construction Work Completed in September 2018

GM Donnelly advised that he and the engineer have reviewed the pay application for accuracy and recommends approval. Director Amend moved to approve payment of construction pay application #15 for \$121,427.72. Director Sullivan seconded the motion. There was no further discussion. The motion carried 3-0.

Discussion and Decision on Construction Pay Application #16 for Construction Work Completed through December 2018

GM Donnelly advised that he and the engineer have reviewed the pay application for accuracy and recommends approval. He noted this pay app covers work to substantial completion and beyond. He also noted that the engineer recommends releasing a substantial amount of the 5% retainage with this pay application. There was discussion about withholding payment for the road work that still needs to be completed. Mr. Donnelly stated that there are two approaches to managing the remaining work. One approach is to close the contracts and call the remaining items on the punch list "warranty items". The other approach is to keep the contracts open until all items are completed. He noted that there are pros and cons with either approach and both come with some risk. Leaving contracts open could result in potential litigation, and grant funds are at risk of expiring. Closing out the contract brings the risk of the contractor not returning to complete the work. He noted that the engineers have assured him that they can hold the contractor's bonds through the warranty period. He stated his opinion that there is less risk to closing out the project and

covering the remaining items as warranty. Director Amend moved to approve payment of contractor pay application #16 for \$168,363.97. Director Sullivan seconded the motion. There was no further discussion. The motion carried 3-0.

Discussion and Decision on Engineer Invoice for Additional Engineering Related to the Wastewater Construction Project

GM Donnelly advised that Stahly invoice #70 covers additional engineering expenses authorized by EA #11 and recommends approval. Director Amend moved to approve payment of Stahly invoice #70 for \$55,800.00. Director Sullivan seconded the motion. The motion carried 3-0.

Mr. Donnelly advised that all pay items approved tonight will be processed in an RD grant draw request, totaling \$355,400.32.

President Border then asked for unanimous consent to adjourn. Seeing no objection, the meeting was adjourned at 5:41 p.m.

Secretary