

Gallatin Gateway County Water & Sewer District

PUBLIC MEETING

Date: Monday, May 09, 2022

Time: 6:30 PM

Place: Gallatin Gateway Fire Department, 320 Webb St. Gallatin Gateway, MT
A teleconference bridge for public input can be joined at **1-605-562-8400** and using **Participant Access Code 1286503** or by using the following web link:
<http://hello.freeconference.com/conf/call/1286503>

AGENDA

I. Public Participation on Non-Agenda Items¹

II. Conflict of Interest Disclosure²

III. Approval of Minutes

- A. Approval of meeting minutes for April 11, 2022

IV. Old Business

- A. None

V. New Business

- A. Appoint Eric Amend as a board member
- B. Tom Henesh - Land Lease Proposition
- C. Consideration of 475 Gateway Road South, LLC Annexation Petition
- D. District Budget - Draft

VI. Reports of Officers, Standing Committees and Special Committees

- A. General Manager's Report
 - District Capacity Report
- B. Existing Will Serve Agreements
- C. Gateway Village Report (Director Fox)

VII. Adjourn

¹The opportunity for members of the public to comment on District matters which are not on the agenda. Time limits may be imposed at the discretion of the President.

² An opportunity for Board members to disclose any potential, perceived or real conflict of interest on any item on the agenda or for any District business.

Gallatin Gateway County Water & Sewer District

MINUTES OF THE

BOARD OF DIRECTORS

A regular meeting of the Board of Directors of the Gallatin Gateway County Water & Sewer District was held at the Gallatin Gateway Fire Station, 320 Webb Street, Gallatin Gateway, MT, on 4/11/2022. Present at the meeting were board members Eric Amend (remotely), Ted Border, and Maralee Parsons Sullivan. Staff present included GM Proconier and APE representative Huggins. Members of the public included Pete Stein.

President Border called the meeting to order at 6:30 p.m. Secretary Alison Curry recorded the minutes of the meeting.

PUBLIC PARTICIPATION OF NON-AGENDA ITEMS

President Border asked for public comment on non-agenda items. No comments recorded.

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.

APPROVAL OF MINUTES

After confirming that all directors had a draft copy of the 3/14/2022 meeting minutes, President Border asked whether there were any corrections. None were noted. Director Parsons Sullivan made the motion to approve 3/14/2022 minutes, Director Amend seconded the motion. Motion passed unanimously.

OLD BUSINESS

A. Discussion and Decision on transition of GGWSD Treasurer's financial duties

GM Proconier noted that any adjustment to initial proposal from Peak Water Services with regards to financial duties wouldn't be worth the hassle.

Director Parsons Sullivan moved to approve the Peak proposal as submitted. President Border asked whether there were any comments from the board, none were recorded.

Director Amend seconded, motion was passed unanimously.

NEW BUSINESS

475 Gateway Road South

District Council Swimley provided a report from 475's attorney regarding a general liability policy quote which included insurance for a sewer easement. This report was sent to the District's attorney to look over and explain what this insurance would cover. 475 raised the question of whether pollution insurance will become obsolete, District Council Swimley noted that it would be preferable to use the insurance in the meantime. She advises no action be taken at this time, and the Board decided to wait to hear back from the insurance attorney.

REPORT OF OFFICERS, STANDING COMMITTEES, AND SPECIAL COMMITTEES

General Manager Report

A. 475 Gateway Road South

APE representative Huggins conveyed that 475 has already bored underneath the river for their force main, it has been made clear to 475 that they may not tie in. There was effort made to move the force main, Pete Stein commented noting the gas line has to be a separate bore from the sewer line to avoid explosion hazard.

B. Four Corners Expansions

APE representative Huggins talked to Brad Hammerquist: there are expansions and 1500 available edus from Four Corners, this is the limit. The engineers broached the question of whether the District wants to purchase any of these edus before the limit is maxed out.

C. Turnbay

GM Procnier spoke with Brad Hammerquist, who recommends to survey the area near Zachariah Lane where the point of conflict is; the District's pipe runs between two bridges, one over an irrigation ditch and the other is for pedestrians. This area is very tight and may prevent relocation of the pipe, if so, MDT will need to temporarily reroute the District's line during their project and replace it upon completion. The second location for survey is just to confirm that the District's line is indeed deep enough to avoid relocation as is expected. There was a general discussion of how the exposure, reroute, and replacement of this line should be handled. District Council Swimley confirmed that the District is in possession of an encroachment permit and therefore is the responsible payor.

Capacity Reports

No existing permits at this time.

Ecocamp no response as of right now.

This concludes the GM report

Existing will Serve Agreements

No new will-serve agreements have been issued.

Gateway Village Report

Nothing to report from the Gateway Village, Director Fox wasn't present for report. There is no one living in the Gateway Village as of yet.

President Border then asked for unanimous consent to adjourn. Seeing no objection, the meeting was adjourned at 7:05.

Alison W. Curry

Secretary

KASTING, KAUFFMAN & MERSEN, P.C.

A T T O R N E Y S A T L A W

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KENT M. KASTING, *Of Counsel*

April 27, 2022

VIA EMAIL

Susan B. Swimley
Attorney at Law
1807 West Dickerson #B
Bozeman, MT 59715

Re: Gateway W&S District – 475 Gateway, LLC/Pfeil Acquisition, LLC
Subject to Rule 408 M.R.Evid.

Dear Susan:

This continues our discussions to resolve the dispute between 475 Gateway, LLC / Pfeil Acquisition, LLC and the Gateway Water and Sewer District (the “District”) related to the provision of wastewater services. During our last call we explored what might provide the District the comfort it would otherwise find from an environmental pollution policy that is problematic for my client. Given the depth of the bore and the approvals from the DEQ, DNRC and Gallatin County for the project, we believe the engineering for the project has been properly vetted for protection to the environment. Nevertheless, my client is willing to provide the following protections for the District regarding environmental issues caused the wastewater connection between my client’s project and the District’s system:


1. My client will retain ownership of the line as it passes from its property under the Gallatin River and connects to the District’s system;
2. My client will indemnify the District from pollution claims brought against the District by any third parties that involve environmental claims (e.g. spill/pollution) caused by the pipeline from my client to the District’s system;
3. My client will hold the District harmless from any environmental claims (e.g. spill/pollution) brought against the District caused from the pipeline from my client to the District’s system;
4. My client will secure its indemnification and hold harmless obligations with the property that is the subject of the project, with the understanding it may be subordinate to any financing for the project.

Our most recent discussion involved the value of #4 given the potential for significant movement of the Gallatin River that might devalue my client's property. We believe the risk of devaluation due to migration of the river is very slight, but I said I would look into that issue and get back to you. This is what I have found:

- As part of the permit application for Gallatin County Flood Plan Permit 2020-016, my client engaged Confluence Consulting Incorporated and worked with professional engineers Ty Traxler and/or Ronda Burns, water resources engineers.
- As part of the application process, a 1945 photo and a 2014 photo of the Gallatin River for the same area at issue (outlined in red) were provided and are attached hereto as Exhibit A (1945) and Exhibit B (2014).
- As you can see from the two photos, the Gallatin River has not significantly moved in the 70 years depicted.
- I understand that during that 70 year period there have been several significant flood events, even 100-year flood events, with the most dramatic occurring after 1970, yet the Gallatin River in the area at issue has not move in any meaningful way.
- Apparently the reason for the stability of the Gallatin River in this area has to do with the bridge over the river on Gateway South Road and the materials used to support the same. The support for the bridge is maintained by the Gallatin County Road and Bridge Department. The stability is likely a result of the bridge constricting the flow of the river, as well as the permanent concrete irrigation diversion structure spanning the east channel near the downstream end of the property.

Given the foregoing, it is our hope the District will agree that with items 1-4 above, my client has provided sufficient assurances to resolve the dispute with the District so that our clients can move forward. If they are, please let me know and I will draft modifications to the various documents for your and the District's review. Please let me know.

Sincerely,



John M. Kauffman

Encl.

c. Client (email only)

EXHIBIT A



Figure 1: Aerial Photo of Site from 1945 (USGS Earth Explorer)

EXHIBIT B



Figure 2: Aerial Photo of Site from 2014 (Google Earth Image)

Gallatin Gateway WSD Capacity Report

Current VRU's in Service	157.81		
Additional Will Serve VRU's	80.36		
Applied for VRU's	6.5		Subtotal VRU's
			244.67
Current Capacity and Flow for GGWSD w/ in Service VRU's (5000gal Reserve Included)			
Purchased Flow to FCWSD (total, no reserve)	37080		Total VRU's (160gal/VRU) Alloted to FCWSD
Average Monthly Flow	13500		Average Flow / In Service VRU
Available Flow (w/ reserve)	18580		Total VRU's (Based on Average Flow) Alloted to FCWSD
			200.5
			85.5
			375.00
Future Capacity and Flow for GGWSD once Will Serve VRU's Connect w/ 5000g Reserve			
Total VRU's in Service	238.17	----->	VRU Allotment to FCWSD (160gal/VRU)
Predicted Flow Rate w/ 160gal/VRU	38107.2	----->	Flow Rate Allotment
Predicted Flow Rate w/ current Ave.	20374.5	----->	Flow Rate Allotment
Predicted Flow Rate Using Current Average Flow for in service VRU's and 160g/VRU for Will Serve VRU's	26357.6	----->	Flow Rate Allotment
			-37.67
			-6027.2
			11705.5
			5722.4