

Gallatin Gateway County Water and Sewer District
MINUTES OF THE BOARD OF DIRECTORS' MEETING

A regular meeting of the Board of Director for the Gallatin Gateway County Water & Sewer District was held on March 8, 2021 at the Farmhouse Café, 76250 Gallatin Rd. Gallatin Gateway, MT. A teleconference bridge for public input was available. Present at the meeting were Board Members Ted Border, Eric Amend, Cary Fox, Matt Donnelly and Maralee Parsons Sullivan. General Manager Justin Brechtelsbauer, District Council Susan Swimley, and District Administrator Linda Cox were also present. Members of public present included Pete Stein and Jeff Pfiel.

President Border called the meeting to order at 6:30 p.m. Linda Cox recorded the minutes of the meeting.

PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

President Border asked for public comment on non-agenda items. No public comments were made. Pete Stein asked about water flow coming in through the manhole covers. The covers have been sealed to prevent this inflow.

CONFLICT OF INTEREST DISCLOSURE

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

APPROVAL OF MINUTES

Two minor amendments were suggested and made in the February 8, 2021 minutes. Director Fox moved to accept the minutes as amended and Director Parsons Sullivan seconded the motion. The minutes were unanimously approved as amended.

Old Business

A. Discussion on Sewer Treatment Capacity from Four Corners Water & Sewer

A letter has been developed that the General Manger at the Four Corners Water & Sewer District has deemed sufficient for the GGSWD to obtain 10,080 gallons a day in additional processing capacity for \$573,930. GGWSD is purchasing only treatment and disposal services. The interlocal agreement is being amended accordingly by District Council Susan Swimley.

Director Donnelly moved to authorize President Border to sign the agreement and Treasurer Parsons Sullivan to issue a check for \$250,000 as a down payment on the purchase of additional capacity, with Director Amend seconding the motion. The motion passed unanimously.

B. Discussion and Presentation on Pfiel Acquisitions Annexation

Mr. Pfiel drafted and distributed talking points for his presentation. He stated he was very confused by the Ordinance 2020-10 Accepting the Annexation petition by Mr. Pfiel, which was drafted by Council Swimley, and which was discussed at the October 12, 2020 Board meeting. The draft Ordinance stipulates that Mr. Pfiel assume ownership of all infrastructure associated with lines from the property to the connection with the District's system. In the Wastewater Treatment Agreement signed by General Manager Brechtelsbauer and Mr. Pfiel on September 14, 2020, GGWSD owned all infrastructure. Mr. Pfiel stated that he cannot own the infrastructure because he believes he cannot get liability insurance on the utility infrastructure. He also had pointed out that the required depth for the infrastructure is 9 to 10 feet and he is going to 15 feet to reduce the risk associated with the infrastructure.

Council Swimley pointed out that General Manager Brechtelsbauer was not authorized to sign an annexation agreement with Mr. Pfiel at the time he signed it in September 2020, as the Board had not yet approved the annexation Ordinance and had not authorized the GM to sign the agreement. She concluded that General Manager Brechtelsbauer and Mr. Pfiel signed a **service agreement**, not an annexation agreement. An annexation agreement is not enforceable unless the GGWSD President signs it. Council Swimley also stated her opinion that at some point the river will move and could have a negative effect on a sewer line under the river. Ms. Swimley stated her legal opinion that it is not in the District's best interest to take ownership of the line under the river which serves one customer, as the District would assume liability for any damage which may occur.

Mr. Pfiel pointed out item 3 on the Wastewater Treatment Agreement signed by General Manager Brechtelsbauer and Mr. Pfiel. He stated his opinion that the probability of the river moving is greatly reduced by the presence of the farmer's canal, the proximity of bridge abutments, and the extra feet of line on both sides of the river's edge.

General Manager Brechtelsbauer queried Council Swimley about what the implications might be if another customer on the other side of the river became interested in sewer service. She suggested that this person could work with Mr. Pfiel on potentially sharing use of the line.

Mr. Pfiel again said he remained confused as to what the service agreement is because he felt a complete agreement with rates was drafted and signed by General Manager Brechtelsbauer and himself. Council Swimley concluded that the agreement signed by Mr. Pfiel was signed prematurely and without due authority.

Council Swimley agreed to gather more information about the risk of sewer line in the river from other sewer and water district in Montana and from insurance companies (see Appendix for her report on liability insurance). She currently knew of no examples of sewer lines running under a river in Montana. Those that cross a river were hung on

bridges. General Manager Brechtelsbauer agreed to gather more information from an engineer about the risk of a sewer line in the river.

Mr. Stein has been studying the NorthWest Energy permit about who is held liable for NW Energy lines to Mr. Pfiel's project. The agreement has nine pages about the easement, addressing the County and State permit for the necessary infrastructure under the river. The document signed by General Manager Brechtelsbauer and Mr. Pfiel has one sentence about this issue. Mr. Stein stated his opinion that more information about the risk associated with infrastructure is likely needed. He also noted that the landowner on the Gateway side of the infrastructure would likely need to provide permission for worker's access.

VI Reports of Officers, Standing Committees and Special Committees

A. General Manager Report

Four Corners passed the public comment portion associated with their request to increase capacity. DEQ has approved their request to increase capacity to 1.1 million gallons per day with modifications to ensure that the Four Corners District can build Phase C. This will result in additional 400,000 gallons capacity will be available for purchase in 2023.

B. Report and discussion about Gateway Village (Director Fox)

Fact finding about the project is on-going. A rate sheet has been developed in order to provide an overview of the expected costs. Director Donnelly asked Director Fox to focus on determining what the GGSWD would need in order to manage the sewage treatment plant in Gateway Village. Council Swimley suggested that funding could likely be needed for the GGSWD to purchase the plant.

Adjourn

Meeting was adjourned by President Border after he asked for unanimous consent to adjourn. Hearing no objection, President Border adjourned the meeting at 7:42 pm.

Appendix

Council Swimley's findings about the possibility to obtain liability insurance for a sewer line under the river received via e-mail on March 11, 2021 and submitted for inclusion into the minutes of the March 8, 2021 minutes.

"I contacted the insurance trust of the Montana Association of Counties to inquire if MACo offered such a policy. The answer was "no" and MACo suggested that I reach out to your local insurance agent.

I communicated with First West asking for 1) is there an insurance product that would provision insurance against damage claims for a raw sewage line located under the Gallatin River; 2) if so, could First West provide an estimated cost; and 3) would such a policy be available to the corporate landowner as well as the District.

Here are the answers: 1) yes a pollutant policy (Premises Pollution Liability) exists; 2) the only method to receive an estimate is to submit for the policy. I have the form to be filled out if the Board would like to proceed down that line. 3) A pollutant policy is available to both the District and a corporate landowner.

The Premises Pollution Liability policy could be issued for onsite clean up; offsite clean up and bodily injury/property damage. Depending upon which of these would be covered, the policy price would adjust.

I also inquired at State Farm about a pollutant policy. State Farm does not offer that product."