

# **EAGLE SEWER DISTRICT**

**November 26, 2007**

## **Special Meeting**

**6:30 p.m.**

### **Minutes**

#### **Roll Call**

Chairman Michael Gifford called the meeting to order at 6:30 p.m. Board members present: Ed Hendershot, Jim Brooks, Michael Gifford, Chuck Ferguson and Erv Ballou. All Board members are present. A quorum is present.

Consultants present: Phil Johnson, P.E., MWH. Evan Robertson, legal counsel, and Tammy Zokan, bond counsel with the law firm Moore, Smith, Buxton and Turcke.

Staff present: Lynn Moser, General Manager; RJ Lake, Operations Manager; and Lynne Sedlacek, Office Manager

#### **Unfinished Business**

Tri-Cedars Management Property Contract/Ed Priddy – Ed Priddy, 2475 Rocking Court, Eagle addressed the Board on behalf of Tri-Cedars. Tri-Cedars has entered into a real estate contract with Eagle Sewer District for the purchase of 4.239 acres. The property purchase was necessary in order for Tri-Cedars to gain access to their property located west of the ESD Wastewater Treatment Plant.

Mr. Priddy asked his engineering consultant, Dave McKenna, to explain the entitlement process through the City of Eagle. Dave McKenna, 735 S. Cross Timber, Meridian, provided a brief history. Access from the new signalized intersection of Ballantyne Lane and State Highway 44 has been required by the City of Eagle and the Idaho Transportation Department. Tri-Cedars does not have an approved preliminary plat, but the plat is on the Eagle City Council's December 11 agenda.

Priddy stated that Tri-Cedars is requesting a time extension to the contract. Mr. Priddy indicated that they feel the value of the property has gone down and suggested the Board consider a reappraisal of the property. Mr. Priddy indicated another option would be for Tri-Cedars to pay the \$85,652 to the District for Tri-Cedars' half of the landscaping, and then convert the contract to an option plan. Then after three years, Tri-Cedars could start paying interest on the outstanding purchase price.

Robertson and Moser had met with Priddy and McKenna prior to tonight's meeting and Robertson stated that Mr. Priddy does not want to go forward with the purchase of the property; but Robertson stated that the purchase contract is binding and ESD can sue for breach of contract if the closing price is not paid by November 30.

After long discussion, Brooks requested the Board be given a written proposal from Tri-Cedars. Robertson stated for the record that it must be clear that the ESD Board of Directors has not agreed to change any aspect of the existing contract and that if the full purchase price is not paid by November 30, 2007, Tri-Cedars will be in default and they will receive a formal notification of the default from Robertson.

Robertson stated that if the Board decides later, after review of the written proposal from Tri-Cedars, to consider a change or changes, then the changes must be put into writing and the new conditions are subject to both Tri-Cedars and ESD agreeing and signing the new agreement.

Gifford indicated that the Board will consider taking the issue up again at an Executive Session to be held at the end of tonight's meeting.

**Resolution 07-30/Authorize Petition for Judicial Confirmation** – Gifford provided a brief recap of the judicial confirmation process. At their November 5 meeting, the Board held a public hearing on Resolution 07-30. After a 14-day protest period, the Board may adopt the Resolution. Robertson reviewed the Resolution with the Board. After brief discussion, Brooks moved, Ferguson seconded, to approve Resolution 07-30. Discussion: Gifford commented that he is proud of the way the Board has conducted the handling of the emergency plant repairs and feels ESD did a good job in moving the emergency repairs and funding requirements forward. There was no other discussion, and the motion passes unanimously.

**Report on Palmer Road Lift Station Project** – Johnson reported on the completed process of securing the Conditional Use Permit and Design Review approval through the City of Eagle. The liftstation design is complete and MWH is ready to proceed with the bidding process. Johnson presented a Power Point presentation that explained the benefits of proceeding with this project now and the downside to delaying the construction.

The Palmer Road liftstation will serve the area bordered by Linder Road, Homer Road, State Highway 16 and the Phyllis Canal. The area contains approximately 6500 acres. After review of Johnson's presentation and after brief discussion, the Board agreed to move forward with the Palmer Road Liftstation.

**ESD Board Vacancy** - Gifford has taken a job in Colorado and is leaving the Board effective with the end of tonight's meeting. State code dictates that the remaining Board members appoint a replacement who then serves only until the next general Board Director election. At the Board

Director election, the appointee can run for election. The successful election candidate will be elected to serve the remaining portion of the appointed term. Gifford's term expires in February 2012.

Jim Gruber, a previous ESD Board member, has moved back to Eagle and has voiced interest in the appointed position. Gruber is present at tonight's meeting. There was discussion regarding the correct time to accept Gifford's resignation and make Gruber's appointment official.

Hendershot moved, Ferguson seconded, to accept Michael Gifford's resignation effective with the conclusion of Old Business on tonight's meeting agenda. The motion passes unanimously.

Brooks moved, Ferguson seconded, to appoint Jim Gruber to fill the vacancy and to serve until the next election. The appointment will be effective with the beginning of New Business on tonight's agenda. The motion passes unanimously.

**Board of Directors/Election of Officers** – This item was moved down the agenda to the first item under New Business.

**Miscellaneous** – On behalf of the Board of Directors, Brooks presented Gifford with an engraved plaque and thanked Gifford for his outstanding public service as a Board member and Chairman of the Eagle Sewer District.

### **New Business**

**Election of Officers** – Gifford turned the meeting over to Vice-Chairman Brooks. Moser conducted the Oath of Office to Jim Gruber and welcomed him back to the Board.

After some discussion, Hendershot moved, Ferguson seconded, to nominate Brooks for the Chairman position. The motion passes unanimously.

Ferguson moved, Ballou seconded, that the nominations cease. The motion passes unanimously.

Brooks agreed to step down as Vice-Chairman and agrees to accept the Chairman position.

Ballou moved, Gruber seconded, to nominate Chuck Ferguson as Vice-Chairman. The motion passes unanimously. There were no other nominations and Hendershot moved, Gruber seconded, to close the nominations. The motion passes unanimously.

Ferguson agrees to accept the Vice-Chairman position.

**City of Eagle Request/Cost Share for Dry Creek Flood Study** – A letter from the City of Eagle was included in the Directors’ meeting packets. The City of Eagle is inviting the Eagle Sewer District to participate in a detailed flood study of Dry Creek from the Boise River upstream to Beacon Light Road.

Brooks moved, Ballou seconded, to contribute \$5,000 to the flood study. Discussion: Gruber asked how the study would benefit the Eagle Sewer District. After more discussion, Brooks called for action on the motion. Ferguson aye, Brooks, Ballou, Hendershot and Gruber voted nay. The motion fails 1aye to 4 nays. Moser will send the city a letter stating that the Board could not justify the donation.

**Miscellaneous** – None

Brooks stated that earlier in the evening, the Board had discussed going into executive session to discuss the Tri-Cedars purchase contract. Moser stated the executive session had not been noticed for tonight’s meeting.

Robertson stated that on November 30, he will send written notice to Tri-Cedars putting them on notice that they are in breach of the contract. Brooks suggested this item be added as an executive session for the end of the Board’s December 10 regular meeting. Robertson and Moser will investigate the matter and have a written memorandum prepared for the Board that lists the options they have available in dealing with this matter.

**Adjournment**

Hendershot moved, Gruber seconded, to adjourn the meeting. The motion passes unanimously. The Special Meeting adjourned at 8:40 p.m.

Respectfully Submitted,

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Lynne Sedlacek