

**FREELAND WATER and SEWER DISTRICT
- ISLAND COUNTY WASHINGTON –**

Minutes of May 13th, 2013

MEETING PLACE

5421 Woodard Avenue - Freeland, Washington

IN ATTENDANCE

Commissioners: Eric Hansen (*President*); Lou Malzone (*Vice President*); Marilyn Abrahamson (*Secretary*)
Professional Services: Andy Campbell (*Certified Operator*); Terri Campbell (*Finance & Administration*);
Roger Kuykendall (*Engineer – Grey and Osborne*), Rodney Langler (*Engineer - CHS*); Leslie Clark (*Attorney*)
Audience: See attached List (*sign in sheet*)

1. CALL TO ORDER

Commissioner Hansen called the meeting to order at 5:50 P.M.

2. FLAG SALUTE

3. AGENDA – Addition or Deletions

It was moved by Commissioner *Malzone* and seconded by Commissioner *Abrahamson* to approve the meeting agenda as amended by moving Sunny View Village discussion to unfinished business; and making unfinished business first item. **Motion approved & passed unanimously.**

4. EXECUTIVE SESSION – Commissioner Hanson called for Executive session at 6PM for one-hour duration to discuss “Possible litigation” and standby fees. In attendance: Commissioners; Abrahamson, Malzone and Hansen, Staff; Andy Campbell and Terri Campbell, and Attorney; Leslie Clark.

5. MEETING RECONVENED – Commissioner Hansen reconvened the meeting - 6:30 PM.

6. APPROVAL OF MINUTES

Commissioner Malzone moved and it was seconded by Commissioner Abrahamson to approve the regular meeting minutes of **April 8th, 2013** as amended by changing the word “that” in paragraph 8.3 to the word “whether”. **Motion approved & passed unanimously.**

7. ACTION TO BE TAKEN FROM EXECUTIVE SESSION –

7.1 STANDBY FEES: Commissioner Hansen will prepare a letter to notify vacant land owners in Harbor Hills (Holmes Harbor area) who paid standby fee's, that the commissioners are in a data-gathering phase, are working to resolve the issue, and will keep them updated on the progress.

Terri calculated the actual Standby fees collected at \$79,624.51 from the vacant land owners in 2009 thru 2011. The Auditor reported the amount of \$115,674.00 for the same time period. The District's attorney Leslie Clark advised Terri to write a letter to the Auditor's office stating the difference of \$36,049.49. Terri also reported that \$16,948.72 was collected in 2012 which was not part of the audit period and should also be included in the refunding process to the vacant land

owners.

7.2 DISTRICT RECORDS: Terri will contact the Districts previous attorney Al Hendricks and ask him to forward to the district records he may have in his possession.

8. UNFINISHED BUSINESS -

8.1 Sunny View Village (SVV): Commissioner's discussed that the District has knowledge that nitrates from the SVV area could reach the well sites. The District has an adequate amount of water to supply to the Developer but the District is responsible to protect its wells. With concerns of protecting the wells, what obligation does the district have to provide water to the Developer? The District's attorney Leslie Clark stated that denial of water to the development would have to be based on specific impact criteria established in adopted policy. Commissioner Hansen directed Engineer Roger Kuykendall to draft significant criteria as soon as possible.

The question was asked, who would be operating the SVV sewer treatment system that is within the FWSD boundaries? Andy Campbell reported that their Project plan is to sub-contract operations of the treatment system.

The Commissioners expressed concern that the SVV project team has not contacted the District or its Engineers of the project progress even though the Washington Department of Health and the District is aware of the nitrate levels. The engineers wanted it noted that there is an increasing nitrate level that seems to be creeping up in this area that has to be watched closely. Commissioner Abrahamson said it is written in the RCW that on high risk properties, the District could require a bond to be charged against the property for possible damage to the water supply. Commissioner Malzone responded that it would have to be proven that the damage to the water system was caused by them. This will be discuss further in the June 17th, meeting.

9. NEW BUSINESS –

9.1 District Commissioners Representation – Commissioner Hanson asked the District's Attorney Leslie Clark to discuss how commissioners should represent the District. Ms. Clark presented a hand out called "New Commissioner Handbook" and pointed out some important items that commissioners need to follow in representing their position as District commissioners. The commissioners need to keep in mind what is the best interest of the district. It is the commissioner's obligation to implement and accurately convey the decision the board made on issues that have been presented in front of the board. If approached by a constituent and asked questions on issues that the board has not considered or made, the commissioner needs to be careful not to take a position on behalf of the district, but take the issue back to the board so it can be discussed if action is required. As a reminder, all district action must be taken by vote to determine the district's position.

Other items: 1) in order to have open constructive debate to support issues, don't get bogged down by personal differences, 2) Don't act as a committee of one, all Commissioners have the same authority and cannot act for the district except by a majority vote of the board 3) Establish policy procedures when questions are asked of a commissioner from constituents 4) When receiving requests from any individual outside of a public meeting to perform business on behalf of the District (such as signing a document without the consent of the Board), a commissioner does not have the authority to act on behalf of the district until that business is brought to the board's attention. 5) don't bypass the Administration for day to day operations. All public requests on behalf of the district need to go through the District Administrator in order to keep the commissioners informed and to maintain records.

9.2 Commissioner Communicating Outside of Meetings – If an urgent issue comes up between meetings that the Commissioners need to discuss, the district Administrator needs to be contacted to ask the district president, who has the authority, to decide to call a special meeting (24 hour notice has to be given).

9.3 Rural Economic Development Funds - Commissioner Abrahamson stated her position that the District is not shovel ready at this time and the County should not allocate funds for a sewer project to support Economic development until we have a plan and are eligible to receive funds. She does not trust the County handling the funding of projects due to their lack of oversight and mismanagement of how they exercise to control these funds. She called different agencies to see if a water or sewer district that is not part of a municipality qualifies for Rural Economic Development Funds that is not part of a municipality and was told it was a grey area and that the County would decide if a district is eligible to receive funds.

Engineers disagreed and said that the District should not preclude or exclude any funding that the District may qualify for in order to meet the future scopes of work. Once there is a plan in place from the District, it is up to the County as to how they manage their funding activity. This matter will be discussed further at the June 17th, meeting and it should be determined what message the District needs to send to the Council of Governments.

9.4 Consolidation of Main Street Sewer District (MSSD) – Commissioner Malzone made motion seconded by Commissioner Abrahamson to authorize the District Administrator, Whidbey Water Services, to document a plan for the consolidations, by Resolution of MSSD and FWSD. The plan for consolidation of the two Districts should follow the Revised Code of Washington Title 57, Chapter 57.32, Consolidation of District – Transfer of Part of District. RCW 57.32.010 is cited (see attached) to explain the difference between the Petition Method and Resolution Method of consolidation. Commissioner Malzone proposed that the budget for documenting a plan for the consolidation shall be, \$15,000 allocated as follows: \$5,000 for Legal Expenses (20 hours @ \$250/hr; \$10,000 for Administration Expenses (100 hours @ \$100/hr – inclusive of all expenses

associated with travel, meetings, office supplies, documentation). Commissioner Malzone proposed that funds for the plan would come from FWSD cell tower property lease revenue and that the plan be completed by July 8, 2013.

Discussion:

Engineers Roger Kuykendall's opined that, before action to consolidate takes place it needs to be part of the focused plan.

Commissioner Abrahamson does not feel this is the time to work on the plan due to all the unfinished business the district is dealing with (funds that have to be refunded to the County and for the ready-to-serve fees). She would like to revisit this in the next six months or a year and does not want to start on this right now.

Commissioner Hansen asked that the commissioners think this over and be ready to discuss this at the June 17th, meeting. For the next meeting he wants to have the Administration have a skeleton plan presented to the board.

Motion did not carry

10. REPORTS -

Project Reports:

- A. Beauregard Drive & Joanne Drive Main Replacement** – Grey & Osborne are working with Andy to come up with a scope of work for the main replacement project. They should have the target cost for the next meeting.
- B. Bercot Road Inter-tie** – Working on Scope of Work.

Accountant's Report - Terri Campbell (WWS)

- A. Accounts** – Accounting reports were presented, that included preliminary Income, Expense, Balance sheets of funds for the period ending **April 2013**.
- B. Leak Relief** – Terri presented a letter from account number 61931 who had a water leak and asked for reduction of the water usage amount of the bill. The customer sent proof to the District's satisfaction that the leak was repaired. The Commissioners directed Terri to grant the relief to the customer for the amount charged as per district policy.

Manager's Report – Water Operator; Andy Campbell (WWS)

- A.** *See attached Operation and Maintenance Report*
- B.** Andy reported that a company needed to fill their truck with water from a hydrant for hydro seeding. The district's existing rates of hydrant use does not cover the districts cost. Andy presented a draft revised policy for Commissioners review which will be discussed at the next meeting.
- C.** Bradshaw Division has requested to hook-up and will be paying the fee set by the District. They will be signing a "No Protest" agreement for future main extension should anyone on that road choose to hook-up.

11. AUDIENCE PARTICIPATION-

11.1 Pam Neschke – Informed Commissioners that she does not want to part of the Sewer District, she is not on Freeland Water and her preference is to be outside of the NMUGA boundary. If the district has any influence with the County per this matter, she would like that to be communicated.

11.2 Carol Hanna – Questioned if the district received a letter from the Board of Holmes Harbor Sewer District about acquiring the water system. Terri reported that she has received no letter.

12. APPROVAL OF VOUCHERS

After reviewing the vouchers presented for payment, Commissioner Abrahamson moved and it was seconded by Commissioner Malzone to approve and sign the vouchers:

On May 13th, 2013, the Board by vote, approved payment of the vouchers as listed in the attachment for: **O&M Fund #702 amount: \$17,395.36**

Motion approved & passed unanimously.

13. MEETING CLOSURE- There being no further business the meeting closed at **8:20 PM.**

Eric Hansen
Commissioner; FWSD

Lou Malzone
Commissioner; FWSD

Marilynn Abrahamson
Commissioner; FWSD

Minutes Prepare by: Terri Campbell

Approved: _____