

SEELEY LAKE SEWER DISTRICT
REGULAR BOARD MEETING
June 15, 2020

Pat Goodover	President	PRESENT	Walt Hill	Vice President	PRESENT
Tom Morris	Director	PRESENT	Jason Gilpin	Director	PRESENT
Beth Hutchinson	Director	PRESENT	Felicity Derry	Secretary	PRESENT
Jean Curtiss	Manager	PRESENT	Kim Myre	Missoula Co	PRESENT

Public Attendance - Appendix A

CALL TO ORDER:

The meeting was called to order by Pat Goodover at 5:18pm. The meeting was held remotely via Zoom, due to the ongoing COVID-19 situation.

WELCOME NEW DIRECTORS:

Pat Goodover welcomed Tom Morris and Jason Gilpin. Tom Morris and Jason Gilpin introduced themselves giving some information about their lives, interests and concerns for the community and the environment.

APPROVAL OF AGENDA:

Beth Hutchinson felt that an improper process had been followed to approve the budget. Discussion followed on the different MCAs used for rates and charges and which MCA the District had used.

The agenda was approved as presented.

PRESIDENT'S COMMENTS:

Pat Goodover would make his comments under the legal update.

PUBLIC COMMENT:

None

CORRESPONDENCE:

WRDA Agreement

Jean Curtiss noted that this letter was regarding the 2020 \$660,00 WRDA contract, which the Board had previously approved the President to sign.

Loren Rose, Pyramid Mountain Lumber

Jean Curtiss noted that this letter had been sent prior to the June 4 2020 meeting.

MINUTES:

May 21, 2020

The minutes had not been included in the Board information. Therefore, this item was moved to the July meeting.

FINANCIAL REPORTS:

Invoices – May 2020

The Seeley Lake Water District invoice and the funds used to pay the Great West Engineering bills were clarified for the Board.

Tom Morris moved to pay all of the invoices as presented. There was no discussion. The motion was carried.

Pat Goodover	Aye
Walt Hill	Aye
Beth Hutchinson	Aye
Tom Morris	Aye
Jason Gilpin	Aye

May 2020 Financial Reports

The financial reports had not been completed.

MANAGER’S REPORT:

Jean Curtiss had met with Tom Morris, Jason Gilpin and Amy Deitchler to review the PER and answer any questions.

The easement for Pine Drive had been completed and was waiting to be signed.

The temporary right of construction information was being organized.

The language for the resolution and the notice of hearing was being finalized. There were two options, as requested, for consideration by the Board tonight.

Jon Beal had reviewed the WRDA and TSEP documents and they were ready to be signed.

Work continued on the cash flow, as specified in the letter of conditions.

OLD BUSINESS:

Legal Update

Pat Goodover noted that there had been two court rulings since the last meeting. The lawsuit with Don Larson and approximately fifty other people had been dismissed and was now in the penalty phase. In the Don Larson and Tom Morris case against the Missoula County Elections Office, the judge had ruled in favor of the Elections Office.

Pat Goodover outlined some of the judge's comments in the second case regarding the statute of limitations to repeal the District's resolution, the necessity of moving the project forward, the ability of the District to mandate connection and questioning the possibility that the Board could change direction after the notice and protest.

Pat Goodover then outlined the judge's comments regarding the dismissal of the first case.

Beth Hutchinson questioned the relevance to the Board of the case that was against the County.

Walt Hill commented that the case against Missoula County did affect the Board directly. The judge had commented that the Board should move forward with the resolutions that had been passed and Walt Hill agreed with the Judge's opinion. Beth Hutchinson commented that the opinion should not diminish the Board's responsibility to the public, as the case had nothing to do with the Board.

Jean Curtiss added that the County had used Jon Beal's rational and those materials had been reviewed by the judge. Jon Beal stated that Beth Hutchinson was factually and legally incorrect. Jon Beal had prepared the information, which the underlying decision had been based upon, which had been referenced by the County Attorney's Office, and cited in the judge's decision. It directly affected the Board because the judge had upheld the two existing resolutions that had been challenged by Don Larson and Tom Morris. The Board was proceeding with the sewer system based on those resolutions.

Discussion followed as to when the Board had authorized Jon Beal to prepare a response for the Board and the judge's comments. Jon Beal added that he found the judge's opinion to be clear

Discussion followed on publishing the judge's opinion in the Pathfinder and lawsuits stopping public projects.

Colleen Krause commented that she knew Judge Deschamps well and might reach out to him, for clarification.

Easements Update

Jean Curtiss informed the Board that the Pine Drive easement just needed to be signed.

Assessment Methodology

Beth Hutchinson again questioned the MCA that had been used to set the budget. There was a lengthy discussion as to the appropriate MCA that should be used for the budget and the correct way to notice the public.

Beth Hutchinson started to move a question regarding the budget and discussion followed as to the appropriateness of the motion as it was not on the agenda. Beth Hutchinson moved that in order to progress with the assessment methodology in a legally substantiated sequence, that the budget process was revisited, which had not been carried out legally, and that the Board ensure they follow a legal process for the budget in order to do the methodology for the assessment correctly.

Dan Semmens commented that he was not adequately informed as to what the District had done previously and would have to review the statute to comment further.

Jon Beal felt that Beth Hutchinson's legal analysis was incorrect. The budget had been adopted correctly and encouraged the Board to move forward.

Cheri Thompson felt that the real concern was the exorbitant amount of the assessment and the need for public input.

Colleen Krause, who had participated in the previous meeting, had not seen the budget and would like to review it.

Kim Myre reviewed the MCA that the District had used to establish the budget at the special meeting. That process had been reviewed by the County Attorney and had been used for numerous years. Jean Curtiss added that the budget had been placed on the District's website prior to the special meeting for public review. Also, the assessment options had been on the website for public review since last week.

Pat Goodover felt that the District had followed the law and that it would be inappropriate to follow a different law. Therefore, Beth Hutchinson's motion was not appropriate.

Jean Curtiss reviewed the two assessment methodologies chosen by the Board at the special meeting. The MCA used for the assessment methodology was reviewed. Jean Curtiss explained how the cost was spread for the equal assessment methodology. Pyramid Mountain Lumber's assessment was discussed.

Colleen Krause felt that the assessment for the lake properties was unfair, as most were only part-time residents. The Board should consider the lake properties as well as the Pyramid.

Tom Morris noted that it was unfortunate that the Board was in the current situation as it was not an easy decision. No option was amicable for all.

Pat Goodover commented that he would not be thrilled with the increase in his assessment; however, it was a choice between two painful solutions. Other assessment methodologies were discussed.

Walt Hill agreed that there was no resolution that could make the assessment equal for everybody. While the market value methodology was not totally equitable, it was the more reasonable method of assessment.

Walt Hill moved to use the market value approach for the assessment of properties. Jason Gilpin noted that he was in favor of the market value methodology rather than equal assessment, which seemed unfair to those with small properties. The possibility of postponing the decision was discussed. The motion was carried.

Pat Goodover	Aye
Walt Hill	Aye
Beth Hutchinson	Abstain
Tom Morris	Aye
Jason Gilpin	Aye

Discussion followed on ways that money could be donated by those that had benefited from the new assessment method, to help offset those burdened by the new method.

Discussion followed on the reason for the attorneys attending the meeting.

Schedule Public Hearing

Jean Curtiss reviewed the noticing procedure and the public hearing.

Walt Hill moved to set the public hearing for resolution#08062020 on August 6, 2020. Tom Morris seconded the motion. Discussion followed on the method of protesting. The notice of hearing language was reviewed. The motion was carried.

Pat Goodover	Aye
Walt Hill	Aye
Beth Hutchinson	Aye
Tom Morris	Aye
Jason Gilpin	Aye

Sign Notice of Hearing

Tom Morris moved to authorize the President and Felicity Derry to sign the notice of the hearing. Walt Hill seconded the motion. There was no discussion. The motion was carried.

Pat Goodover	Aye
Walt Hill	Aye
Beth Hutchinson	Aye
Tom Morris	Aye
Jason Gilpin	Aye

Income Survey

Beth Hutchinson outlined how an income survey could be completed and would have more information at the next meeting. MAP assistance and the reasons for an income survey were discussed.

NEW BUSINESS:

Election of Officers

Pat Goodover noted that the President and Vice President positions were up for election. The responsibilities for which were in the by-laws.

Beth Hutchinson nominated Tom Morris for President. Walt Hill nominated Pat Goodover for President.

There were no other nominations.

The vote for Tom Morris being President was as follows:

Beth Hutchinson	Aye
Jason Gilpin	Aye

The vote for Pat Goodover being President was as follows:

Walt Hill	Aye
Pat Goodover	Aye

Therefore, Tom Morris cast the deciding vote for himself. Tom Morris was elected President.

Tom Morris nominated Beth Hutchinson for Vice President. Pat Goodover nominated Walt Hill for Vice President.

There were no other nominations.

The vote for Beth Hutchinson being Vice President was as follows:

Tom Morris	Aye
Jason Gilpin	Aye
Beth Hutchinson	Aye

The vote for Walt Hill being Vice President was as follows:

Pat Goodover	Aye
Walt Hill	Aye

Beth Hutchinson was elected Vice President.

Bank Account Signatures

Since the election of new Board members, the signatories on both of the bank accounts needed to be updated.

Pat Goodover moved that Tom Morris and Beth Hutchinson be added to the accounts as signatories. Beth Hutchinson amended the motion for all Board members to be signatories. The Board discussed all Board members being signatories. The motion was carried.

Pat Goodover	Aye
Walt Hill	Aye
Beth Hutchinson	Aye
Tom Morris	Aye
Jason Gilpin	Aye

Pat Goodover moved to remove Mike Boltz and Davy Good as signatories from both District bank accounts.

Pat Goodover	Aye
Walt Hill	Aye
Beth Hutchinson	Aye
Tom Morris	Aye
Jason Gilpin	Aye

Set Meeting Time & Venue

The Board discussed the time to begin meetings.

Walt Hill moved to hold Board meetings at 6:00pm on the third Thursday of every month. Tom Morris seconded the motion. Continuing to use Zoom for meetings was discussed, as well as the possibility of streaming meetings in the future. The motion was carried.

Pat Goodover	Aye
Walt Hill	Aye
Beth Hutchinson	Aye
Tom Morris	Aye
Jason Gilpin	Aye

Establish Proceeding Rules

The Board discussed the President's role with regard to the District's attorney. Also, there was a lengthy discussion on how the sunshine laws effected the Board's communications and the correct way to request a special meeting.

The Board discussed establishing rules with regard to the by-laws and to avoid accumulating high attorney bills in the future.

Beth Hutchinson moved to make the President the spokesperson/conduit to speak to the attorney about issues that the Board had agreed upon, knowing that the Board could set a special meeting if there was an urgent need. Discussion followed on postponing the vote to allow transparency for the public or putting the motion forward under the next agenda item, which was legal guidance. The discussion turned to how Tom Morris being a plaintiff in the lawsuit effected communication with the attorney.

Legal Guidance

Beth Hutchinson had technical difficulties and left the meeting momentarily and then called back in to rejoin the meeting. Beth Hutchinson moved to follow the recommendations that were given by Dan Clark two years prior, and to separate the litigating attorney concept from the general board guidance concept. And begin looking for a general board attorney that was well versed in local government and sewer concepts and related issues.

Beth Hutchinson felt that the relationship with Jon Beal had been confusing and uncomfortable and outlined how she perceived the Board hired Jon Beal to defend the District against the Don Larson lawsuit. Beth Hutchinson wanted the District's attorney to be able to work with all of the Board members.

Walt Hill noted that the adopted budget was in part due to increased attorney fees. Hiring two attorneys seemed to be costlier than one. Walt Hill found no legal fault in the legal decisions that Jon Beal had made and understood that considerable work had been performed. Walt Hill noted that he would vote against the motion as he had experienced no stress working with Jon Beal and did not feel the need to hire another attorney.

Pat Goodover commented that this gave the impression of trying to remove the attorney who had won the case for the District, beating the Board member who was a plaintiff in that lawsuit. That was a very uncomfortable situation for the Board.

Discussion followed on the job that Jon Beal had done and how the Board could use Dan Clark to enable the Board to move forward. Also, that the conflict of interest with Tom Morris remained as the lawsuit had moved to the penalty phase. Tom Morris stated that he would recuse himself for matters pertaining to the lawsuits and Jon Beal.

Jon Beal clarified that he had not pressured the Board to hire him, it had been voted on at a Board meeting at 9:30pm, leaving his team only a few hours to prepare for the hearing, at which they prevailed.

Jon Beal felt the opinions that he had prepared were well researched and thoughtful, to which Judge Deschamps agreed. There was scientific evidence that the system was necessary to protect the community. However, the cost of the system had been divisive. That energy would be better spent identifying grants and assistance to make the necessary system affordable. Bids were coming in at 40% less than anticipated. The delays had cost the District greatly.

Walt Hill had talked to individuals that were in favor of the sewer but could not afford it. Constitutionally the Board was obligated to act as a government body to provide a clean and healthful environment. The sewer system would help in that matter and it had been authorized by the notice and protest. The construction of the system was not the expense, but the O&M, and the Board had to find a way to resolve that. It was too expensive for the majority of the Sewer District. Other funding mechanisms had to be identified.

Beth Hutchinson questioned the point of order. Walt Hill noted that he was agreeing with Jon Beal and commented that the Board needed to find a way to fund the sewer system that was needed, rather than ways to stop it or find alternative systems.

Beth Hutchinson refuted Jon Beal's account of the events leading to the Board hiring him, and again raised the issue of separating litigation from general board business to help the Board move forward cohesively.

Dan Semmens requested to speak to the authority of the new Board and making decisions regarding the project and the financing. One of the questions raised was the authority of the new Board to exercise its judgement with regard to the project and financing. The new Board was in a position to consider how best to move forward with the project and the financing. The funding agencies, mainly RD and SRF, had said that the new Board had to support the project for the financing to move forward. Dan Semmens outlined the items that still needed to be completed and that the new Board was in a position to weigh in on and exercise its judgement. Jean Curtiss reviewed the items that Dan Semmens had referenced.

There was no further discussion on the motion. The motion to separate litigation and general board business failed.

Beth Hutchinson	Aye
Walt Hill	Nay
Pat Goodover	Nay
Tom Morris	Recused
Jason Gilpin	Recused

Assorted Goals

Beth Hutchinson felt that this item, which had been to help the Board work more cohesively should be postponed. Jean Curtiss and Beth Hutchinson discussed incorporating it in to the Board training and adding this item to the July agenda.

Grant Viability

Beth Hutchinson requested that all of the grants be listed showing what they could be used for, how much had been spent and the remaining balance; so as to assist the Board's understanding of the funding.

Jon Beal asked for clarification on Dan Semmens' opinions as to how the Board could move forward with the project. Pat Goodover requested that the attorneys discuss the matter later and report back to the Board.

Tom Morris noted that he was not opposed to the Sewer District resolving the sewage issues that existed in Seeley Lake. That mission was clearly stated, but it should be in an affordable way. It was the Board's responsibility when the project moved forward to make it as affordable as possible with sufficient treatment.

Jean Curtiss informed the Board that the TSEP Phase II grant application and the first draft of the EDA grant had been submitted. Continuing the Board's efforts to secure more funding for the project.

Jim Erven noted that the lawsuits had been resolved for the most part and questioned when the project would go to bid. Jean Curtiss reviewed the items that were still needed by RD.

Walt Hill noted that Jim Erven had commented on the need to have everybody sign up to make the plant work and to address the pollution in the valley. People were being asked to grant the contractor permission to connect the property to the sewer, at no cost to them. If properties failed to grant the easement, it could cost approximately \$10,000 to connect to the sewer after the fact.

Jim Erven noted that the Health Department remained interested and supportive of the sewer system and offered their assistance.

Walt Hill offered his hardy thanks to Pat Goodover for being a marvelous chairman and moving the project forward. Pat Goodover wished Tom Morris luck as the new President. Tom Morris thanked Pat Goodover and hoped he would be able to rely on him for information to continue in the direction that the Board was heading.

NEXT REGULARLY SCHEDULED MEETING: July 16, 2020

ADJOURNMENT OF MONTHLY BOARD MEETING:

Pat Goodover adjourned the meeting at 8:35pm.

Attest:

Pat Goodover, President

Felicity Derry, Secretary