



Approved Minutes for **January 10, 2017**

An audio recording was not available for this meeting.

CALL TO ORDER: The West Dakota Water Development District convened for its regular board meeting at West River Electric, 3250 SD Hwy. 44 Rapid City, SD. Chairperson Mueller called the meeting to order at 6:00 pm by leading the Pledge of Allegiance. Director Deurloo gave an opening prayer. Directors present: Ken Moss (District 1), Mike Mueller (District 3), Robert Akers (District 5), Ken Steinken (District 7), Jeannette Deurloo (District 9).

Director(s) absent: None. A quorum was declared.

Employees present: Emily Martinez (Administrative Manager), Leon Ewert (Parliamentarian).

Others in attendance: Dan Richer (as outgoing Treasurer), Marilyn Dahm-Borgeson (Area 6 Applicant), Roger Anderson (Area 8 Applicant), Dan Driscoll (USGS), Galen Hoogestraat (USGS), Barry Muxen, Nathan Gjovik (Future Director), Robert Williams (Area 6 Applicant), Joanne Noyes (SD Geological Survey), George Ferebee, Chuck Jasper, Bill Eldridge (Citizen), Dan Bjerke (Future Director), James Bialota (Area 8 Applicant)

APPROVAL OF AGENDA – Moved by Akers and seconded by Deurloo to approve the agenda as modified to include under Items from Administration an update on the discussion concerning a 5-year audit for WDWDD and a request to purchase a printer. Motion passed unanimously.

APPROVAL OF PREVIOUS MEETING MINUTES – Moved by Akers and seconded by Deurloo to approve minutes from the December 13, 2016 meeting with the correction that Sandra Beshara began as a director in 2009. Motion passed unanimously.

TREASURER'S REPORT

Richer reported that WDWDD received \$804.25 more in revenue, 256.95 interest and 547.30 taxes than anticipated for 2017 budget. Richer reviewed the 2016 financial report. Moved by Akers and seconded by Steinken to approve Treasurer's Report as presented. Motion passed unanimously.

OATH OF OFFICE FOR ELECTED DIRECTORS

Notary Public Tina Mulally administered an oath of office for directors elected in November 2016: Dan Bjerke (Area 2); Nathan Gjovik (Area 4). Bjerke and Gjovik then signed and submitted written copies of their oath to WDWDD.

REVIEW OF PETITIONS AND APPOINTMENT OF DIRECTORS

Ewert summarized events leading up to presentation of petitions by individuals interested in being appointed to fill the vacancies on the WDWDD board created by the absence of candidates submitting petitions to appear on the November 2016 general election ballot. (See attached

“Events leading up to January 10 Appointments.”) Petitions received and verified for: Area 6 vacancy from Roger Anderson and James Bialota; Area 8 vacancy from Robert Williams and Marilyn Dahm-Borgeson. A discussion followed concerning the appropriateness of the administrative staff’s decision on December 19 to extend the deadline from January 3 as announced in WDWDD’s designated newspapers to January 5 due to the fact that no one had begun to circulate petitions by December 19. An item of concern was that the extension was announced by a different method than the original vacancy notice. Gjovik felt this could create the appearance of impropriety.

Moved by Moss and seconded by Gjovik to only give consideration to candidates with petitions submitted by January 3 (Biolata and Williams) for appointment to office. Motion passed 4-3. Akers, Steinken, Bjerke opposed.

Williams introduced himself. Moved by Moss and seconded by Gjovik to appoint Williams to fill vacancy for Area 6. Motion passed unanimously.

Bialota introduced himself. Moved by Moss and seconded by Gjovik to appoint Bialota to fill vacancy for Area 8. Motion passed unanimously.

Anderson introduced self and explained why he wanted to be a director. He stated that he could have turned in his petitions by January 3.

Notary Public Mulally administered oath of office for newly appointed directors. Williams and Bialota signed and submitted written copies of their oath to WDWDD.

ELECTION OF OFFICERS

Chair Mueller turned the meeting over to Ewert to conduct election of officers for 2017.

Moved by Steinken and seconded by Gjovik to nominate Mueller as chairperson. Receiving no further nominations Ewert entertained a motion to cast a unanimous ballot for Mueller. Motion passed unanimously.

Moved by Mueller and seconded by Gjovik to nominate Moss as vice-chairperson. Receiving no further nominations Ewert entertained a motion to cast a unanimous ballot for Moss. Motion passed unanimously.

Moved by Mueller and seconded by Bjerke to nominate Steinken as secretary. Receiving no further nominations Ewert entertained a motion to cast a unanimous ballot for Steinken. Motion passed unanimously.

Moved by Deurloo and seconded by Bjerke to nominate Akers as treasurer. Receiving no further nominations Ewert entertained a motion to cast a unanimous ballot for Akers. Motion passed unanimously.

DESIGNATION OF MEETING SCHEDULE AND OFFICIAL NEWSPAPERS

2017 Meeting schedule - Moved by Steinken and seconded by Deurloo to approve proposed 2017 meeting schedule with the addition of adding consideration of renewing H2E's contract to July meeting. Motion passed unanimously.

Designation of official newspapers - Moved by Steinken and seconded by Deurloo to designate Rapid City Journal, Hill City Prevailor and New Underwood Post as the official newspapers for posting WDWDD legal notices. Motion passed unanimously.

MEMBERSHIP DUES

Moved by Bjerke and seconded by Steinken to pay 2017 dues of \$500 to South Dakota Association of Rural Water Systems. Motion passed unanimously.

Moved by Moss and seconded by Deurloo to table decision to pay 2017 dues of \$100 to Black Hills Multiple Use Coalition. Motion passed 7-2. Bjerke, Steinken opposed.

SHERIDAN LAKE HIGHLAND HOA FUND REQUEST

Richer reported that Sheridan Lake Highland HOA (SLH) had requested a letter stating WDWDD had reserved \$20,000 as line item to assist SLH in getting a loan to purchase their water system.

Moved by Bialota and seconded by Moss to have a contract offer signed between HOA and present owner for set amount before considering request. Motion failed 5-4. Gjovik, Steinken, Bjerke, Deurloo, Williams opposed.

CANYON LAKE DREDGING PROJECT UPDATE

Martinez reported that the conditions of the MOA have been revised to having funds dispersed to South Dakota Game, Fish and Parks instead of the City of Rapid City due to a decrease in the amount of funding the city had committed to the purchase of the dredge.

Moved by Bjerke and seconded by Moss to combine multiple line items in 2017 WDWDD budget for the Canyon Lake Dredging project to a single \$150,000 line item. Motion passed unanimously.

ITEMS FROM ADMINISTRATION

Moved by Gjovik and seconded by Akers to pay \$895 to renew Future Use Water Permit No. 1443-2 for 10,000 acre-feet of water from the Missouri River and to notify the SD DENR Water Rights program in writing by the January 16, 2017 deadline. Motion passed unanimously.

Moved by Akers and seconded by Bjerke to pay up to \$200 to purchase a printer for WDWDD. Motion passed unanimously.

Ewert reported on opinions and cost estimates he received from accounting firms concerning an audit of WDWDD books.

ITEMS FROM THE DIRECTORS

Gjovik presented and explained the WDWDD Project Funding Scoring Sheet which he designed. He invited the directors to offer edits and comments prior to submitting the Scoring Sheet for possible adoption at a future meeting.

ITEMS FROM THE PUBLIC – The floor was opened to the public. Ferebee congratulated the new directors and thanked them for serving.

Meeting adjourned at 8:50 pm.

Respectfully Submitted,

Ken Steinken, Secretary

Events Leading to January 10 Appointments

The following notice of vacancy was posted in the November 28 and December 5 issues of the Rapid City Journal.

NOTICE OF VACANCY WEST DAKOTA WATER DEVELOPMENT DISTRICT

The following offices will be vacant on January 1, 2017 due to the completion of present terms:

District Director 6 (4-Year Term) representing Pennington County precincts 3-1, 3-4, 5-2, and CL;

District Director 8 (4-Year Term) representing Pennington County precincts 2-1, 2-3, 2-5, and 4-2.

Any person who resides within Area 6 or Area 8, and is interested in filling the vacancy can obtain a Nominating Petition from the West Dakota Water Development District, 402 Saint Joseph Street, Suite 6, Rapid City, SD 57701 between the normal working hours of 8:00 am – 5:00 pm (MST) on Tuesdays or Thursdays; or the Pennington County Auditor's Office, 315 Saint Joseph Street, Rapid City, SD 57701 between the normal working hours of 8:00 am - 5:00 pm (MST); or via email (administration@westdakotawater.com). Completed petitions with signatures of 25 voters registered in their District can be turned in at the WDWDD office by January 3, 2017.

There had been no calls or known interest in the filling of either position by December 19 so Administration extended the deadline. The following notice was posted on the WDWDD website and on the door to the office.

NOTICE OF VACANCY

The following offices will be vacant on January 1, 2017 due to the completion of present terms:

District Director 6 (4-Year Term) representing Pennington County precincts 3-1, 3-4, 5-2, and CL;

District Director 8 (4-Year Term) representing Pennington County precincts 2-1, 2-3, 2-5, and 4-2.

Any person who resides within Area 6 or Area 8, and is interested in filling the vacancy can fill out a Nominating Petition (found here). Completed petitions with signatures of 25 voters registered in their District can be turned in at the WDWDD office until the position is filled.

Administration started receiving calls about the vacancies from possible applicants approximately 1 week after the notice was posted on the website. It was explained to all candidates, for possible appointment at the January 10 meeting, petitions must be in by January 5 so that there is time for the signatures to be verified. All 4 candidates turned in their petitions by January 5.

There is only one codified law pertaining to Vacancies. Its exact verbiage is below:

46A-3B-9. Commencement of directors' terms--Vacancies. Directors shall take office on the first day of January of the year following their election, or not later than sixty days after election in the case of a special election. Vacancies that may occur on the water development district board of directors by reason of death, disability, failure to be a resident and property owner, resignation, or other cause pursuant to § 3-4-1, or upon expiration of term of office if no qualifying petitions have been filed or if no successor has qualified for the office, unless otherwise provided in chapters 46A- 3A to 46A-3E, inclusive, shall be declared to exist and shall be filled by elective action of the remaining directors from candidates proposed by nominating petitions signed by at least twenty-five eligible voters in the director area for which a vacancy exists.

Source: *SL 1984 (SS), ch 1, § 23; SL 1989, ch 386, § 5; SL 1991, ch 372.*

January 10, 2017, Administration called the Secretary of State's office to get make sure that the extension of the deadline was valid. Administration explained in detail the order of events leading up to the call. The Secretary of State's office stated that the codified law does not specify a procedure of any kind for posting notices of vacancies. The codified law only states that the vacancy must be declared. She said that this is a gray area in the codified law and that an attorney may be able to look at it a little closer. She commented that the extension sounded like a good thing because the board received more petitions and interest. Because there was no known interest in the positions prior to the extension and because the deadline wasn't shortened to cut anyone off, she said the extension should be valid.