

MINUTES OF THE REGULAR MEETING OF THE BOARD OF COMMISSIONERS
OF BIRCH BAY WATER AND SEWER DISTRICT,
HELD **December 9, 2010**

Commission President Patrick Alesse called the meeting to order at 4:30 PM. Other persons present included Commissioners Don Montfort and Carl Reichhardt, General Manager Roger Brown, Assistant General Manager Dan Eisses, Attorney Bob Carmichael, Conservation Specialist Emily Resch, IT Specialist Dustin Sellinger, Operations Manager Mike Sowers, Pat Pollock from BP and Jeremy Schwartz from the Northern Light.

Agenda additions/changes: none

Public Input: none

Consent Agenda included: Minutes for the Regular meeting of November 10, 2010; Accounts Payable Warrants #40125-40165 paying Claims #40125-40165 for \$133,733.23 and Warrants #40166-40191 paying Claims #40166-40191 for \$89,703.16; November Payroll Draw Warrants #6972-6985 for \$21,450.00 and November Payroll Warrants #6986-7009 for \$68,403.77; November Adjusting Entries to UBS for \$1,629.79 charges; November EFTPS withholding deposit made on 11/30/10 for \$28,267.75; November Department of Revenue payment made electronically on 12/03/10 for \$10,456.30: and November Financial Reports for review. It was moved by Montfort and seconded Reichhardt to approve the Consent Agenda. The motion passed unanimously.

2011 Rate Proposal: No public were present for the presentation of the 2011 Rate Proposal. Roger presented to the board an updated rate survey for water and sewer utilities in Whatcom County. District staff sought approval for Resolution 697. It was moved by Montfort and seconded by Reichhardt to approve Resolution 697. The motion passed unanimously.

BP – Sewer Contract and Potable Water Service: Dan presented the proposed BP wastewater contract to the Board for approval. Dan noted that Exhibit C was unclear and wanted to make corrections to that exhibit and the related contract language to more accurately reflect the intent of the parties. It was moved by Montfort and seconded by Reichhardt to approve the BP wastewater contract with clarifications to Exhibit C and related contract language. The motion passed unanimously.

Roger discussed questions regarding the amendment to the District's Comprehensive Water System Plan as it relates to provision of potable water service to the BP Refinery property.

PS #6 Generator/AB Modifications: Mike updated the board about the installation and upgrades to the generator for PS #6. Roger asked the board to approve these purchases as emergency expenditures for immediate replacement of the back-up generator. It was moved by Montfort and seconded by Reichhardt to declare the replacement generator as an emergency expenditure. The motion passed unanimously.

Mike also updated the board about modifications in the WWTP processes that he has been working on. He recently took one aeration basin out of service and increased the hydraulic capacity of the other aeration basin. He had not been expecting flows as high as we have gotten recently, but is happy with the performance that he is seeing.

Water Supply – District and City met for the annual Wholesale Water Supply meeting on November 15th. A joint work session is scheduled for January 24th to discuss current and future collaborative efforts.

Roger briefed the board about task orders 21 and 22 that address Department of Ecology change application that would recognize well 8.1 as an additional point of withdrawal for Well 7. The task orders cover AES scope and fee and authority to carry out the process through the cost reimbursement program. Roger sought approval to sign task orders 21, 22, and the AES scope and fee proposal. It was approved

by Reichhardt and seconded by Montfort to allow Roger to authorize the task orders 21, 22, and the AES scope and fee. The motion passed unanimously.

Legislation: Roger discussed Department of Ecology's Water Smart Bill and some WRIA 1 concerns with the Board.

Forcemain Project: Dan updated the board on the status of the forcemain project. CHS requested additional budget for construction support services. It was approved by Montfort and seconded by Reichhardt to grant additional budget to CHS for the forcemain project. The motion passed unanimously.

Dan also requested approval for the final contract reconciliation contract change order. It was approved by Montfort and seconded by Reichhardt. The motion passed unanimously.

Dan presented a slide show of artifacts found during the forcemain project and discussed the storage issue of the cultural materials that were collected during the project. He is looking further into these issues and will report back to the Board.

Headworks Project Consultant Selection: Dan discussed the status of the Headworks consultant selection process. District staff would like to recommend CHS and Rick Esvelt for the project. Commissioners approved staff to proceed with contract negotiations with CHS.

December 23rd meeting cancellation: Roger requested that the December 23rd meeting be cancelled. It was moved by Montfort and seconded by Reichhardt to cancel the next board meeting. The motion passed unanimously.

Birch Bay Resort Park Settlement Agreement: Roger discussed the proposed Resort Park settlement agreement. Under the agreement, the Park would agree to video the whole system, fix all identified problems, provide as-builts and annually conduct smoke testing and fix any additional problems identified.

Meeting went into executive session at 7:40pm to discuss potential litigation. The time in executive session is estimated to be 10 minutes. The meeting came out of executive session at 7:48pm.

Carmichael requested approval from the Board on the form of the Resort Park settlement agreement with the dollar amount subject to further approval. It was approved by Montfort and seconded by Reichhardt to approve the form of contract with the dollar amount of the settlement subject to further approval. The motion passed unanimously.

Carmichael also requested approval for attorney representing the District in this matter to file a complaint. It was approved by Montfort and seconded by Reichhardt to filing of the complaint. The motion passed unanimously.

Developer Extensions: Dan reviewed developer extensions with the board. Dan discussed the comparison of District and City water and sewer rates for properties specifically in Harbor Shores that are located in the Blaine UGA. Roger and Dan will discuss this issue with the City tomorrow.

The District drafted up a developer extension agreement to grant Birch Bay Community Bible Church fire flow. A more detailed legal description is needed before getting approval to have the general manager authorize the development agreement. The DE agreement is based on the Church's offer of improvements and GFC's that were discussed with the Board at the previous meeting. It was moved by Montfort and seconded by Reichhardt to grant the general manager authorization to sign the Birch Bay Community Bible Church developer extension, with the requested changes to legal description. The motion passed unanimously.

Dan discussed that the Loomis Trail Homeowner's Association have submitted a petition for annexation, a \$13,000 deposit, and a signed deposit agreement. Dan requested approval from the Board to grant authorization to the general manager to sign the deposit agreement. It was moved by Reichhardt and seconded by Alesse to grant authorization to the general manager to sign the deposit agreement. The motion passed unanimously.

There being no further business, it was moved Reichhardt and seconded Montfort to adjourn the meeting at 8:07 pm. The motion passed unanimously.

COMMISSIONER

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THIS IS TO CERTIFY that the above is a true and correct copy of the minutes for the regular meeting of the Board of Commissioners of Birch Bay Water and Sewer District, Whatcom County, Washington, held **December 9, 2010.**

BOARD SECRETARY

(minutes taken by Emily Resch)