

MINUTES OF THE REGULAR MEETING OF THE BOARD OF COMMISSIONERS
OF BIRCH BAY WATER AND SEWER DISTRICT,
HELD **September 13, 2012**

President Pat Alesse called the meeting to order at **4:37 pm**. Other persons present included Commissioner Don Montfort, Commissioner Carl Reichhardt, General Manager Roger Brown, Assistant General Manager Dan Eisses, Attorney Bob Carmichael joined the meeting at 4:44 pm.; Interim Finance Director Meredith Riley, Brandy Kiger from the Northern Light, Skip Jansen and Andy Wojciechowski.

Agenda additions/changes: Added *potential litigation* to the Executive Session; Developer Extensions moved to after State Funding.

Public Input: None.

Consent Agenda included: Minutes for the regular meeting of August 23, 2012; Accounts Payable Warrants #41793-41822 paying Claims #41793-41822 of \$89,606.63; August Payroll Warrants #7440-7448 and auto payments #10310-10323 for \$90,762.69 in total, including Federal Withholding auto payment #10315 for \$23,004.82; Manual Warrant #901162 to Bank of NY Mellon of \$765,000.00 for the 2008 Revenue Bond payment (final payment); Utility Billing adjustments charges of \$913.00 and credits of (\$1,379.70) and LID adjustments of \$0 for August. It was moved by Montfort and seconded by Reichhardt to approve the Consent Agenda. The motion passed unanimously.

Additional Accounts Payable: Accounts Payable Warrants #41823-41846 paying Claims #41823-41846 of \$33,091.30 were presented. It was moved by Montfort and seconded by Reichhardt to approve the additional Accounts Payable. The motion passed unanimously.

State Fund (Blaine Rd/Loomis Trail – Birch Bay Lynden Rd Water Line Loan):: Dan stated that the District had received the PWTF Loan Agreement for the Birch Bay Lynden Road Water Line between Blaine Road and Loomis Trail for \$1.19 Million with a 5% match. The District may be able to reduce the interest rate at the end of the project. Dan asked for authorization for the General Manager to sign the PWTF Loan Agreement. This project is scheduled for design and permitting to be completed in 2013, and construction for 2014. It was moved by Reichhardt and seconded by Montfort to approve and authorize Roger to sign the PWTF Loan Agreement. The motion passed unanimously.

Developer Extensions: Dan spoke to Skip's Broadway project. Skip entered into a DE Agreement in 2006 on his Broadway project; the requirement is that the project must be completed in two years. Dan's recommendation is to enter into a new or amended DE Agreement, a two year maintenance bond, the payment of the increase in the GFCs. Additional District costs are estimated at \$300 and the legal costs associated with the new/amended DE agreement in addition to the \$400 all ready collected and spent.

Skip Jensen spoke to this issue. He feels that both he and the District dropped the ball. March of 2011 Skip sent the bond in with formal request to accept the project. After a year and a half, he was told the bond paperwork was not correct. Skip requests that the project be accepted as of March 2011, accept the bond, and accept the GFCs as paid.

Skip also spoke about the outstanding negative balance exceeding \$12,000 on the Harbor Shores project. Skip went over a time-line that he prepared for the Board. He contends that the deficit is not his responsibility, and feels he never agreed to pay for the revision of the DE Agreement. He stated that his company has paid \$2.9 million to the District over the last number of years; and he is willing to use an arbitrator to settle this disagreement. The Board asked if the costs were actual District costs, and the answer was yes. Bob recommended the Board have a discussion at the next meeting in Executive Session.

WRIA 1 Watershed Planning: Roger discussed the latest information on WRIA 1. Roger went to the BIA meeting this morning. Lake Whatcom's Board is not inclined to share legal costs with the District. Roger is not sure how the District and the Water District Caucus should move forward.

Developer Extensions: None.

Executive Session:

Meeting went into executive session at **5:39 pm** to discuss potential litigation and personnel issues. The time in executive session is estimated to be 1 hour 25 minutes; possible action is expected on potential litigation. The meeting came out of executive session at **7:38 pm**. It was moved by Reichhardt and seconded by Montfort to authorize the District's attorney to assist Whatcom County in defending changes to Whatcom County Code 20.82.030 pertaining to utility lines, all in connection with objections filed to the County Rural Element.

The Board meeting was adjourned at **7:40 pm**.

COMMISSIONER

COMMISSIONER

COMMISSIONER

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 **September 13, 2012**.

BOARD SECRETARY