

# Grand Water & Sewer Service Agency

Special Full Agency Meeting  
March 28, 2001

The meeting was called to order by Vice President Paul Morris at 7:00 p.m. at the Grand County Civic Center, 450 N 100 E, Moab, Utah. Other Agency Board members present were Neal Dalton, Dan Holyoak, John Keys, Karl Tangren, Rex Tanner, Bill McDougald, James Walker, Al McLeod, Kyle Bailey, and Jerry McNeely. Absent Agency Board members: Gary Wilson and Karla VanderZanden.

Others present were Dale Pierson; Marsha Modine; Rhonda Riberia; John Chartier, Travis Taylor – Sunrise Engineering; Michael Liss – Moab Mesa Land Company; Bill Love; Kirsten Peterson; Franklin Seal; Barb Morra.

President Wilson called for additions or corrections to the minutes of the Operating Committee meeting of March 14, 2001. Bill motioned to approve the minutes, second by Jerry. Paul – aye, Neal – aye, Dan – aye, Karl – aye, John – aye, Bill – aye, James – aye, Al – aye, Kyle – aye, Jerry – aye, Rex - aye. Motion carried.

**Citizens To Be Heard** none

**Cloudrock – Request for Commitment of Service** Paul introduced Michael Liss of Moab Mesa Land Company. Dale briefly discussed the items in the Board packets noting a letter received from Mayor Hancock, Dale's memo dated March 26, 2001, a letter from Bill Love date March 16, 2001, a memo from the Grand County Planning & Zoning Commission dated March 9, 2001, and a memo from Dale to the Grand County Planning Commission, Richard Grice, and Mary Hofhine dated February 20, 2001. Al requested that he would like the letter he brought with him this evening from the Grand County Council (GCC) read aloud and entered in the minutes. Dale read the letter aloud, which is presented with these minutes as **Attachment A**. Paul asked if anyone wished to discuss the items presented. In response to a question, Dale noted that if annexation were to occur, it would be something the GCC would vote on, not this Board, and would bring all items of concern [public hearings, etc.] to a public forum.

Al stated that another issue is whether or not Paul Morris is on the board [legally] or not. Dale noted that the legal opinion from counsel had not been received yet. Al noted he had spoken to Mark Anderson and understood the points that will be announced will say a) regarding whether or not this board [SVWSID] should be elected or appointed – no agreement; b) regarding Paul the choices are 1) Paul resign immediately; 2) Paul stays until December 2001 then resigns; or 3) the GCC holds a Public Hearing removes Paul. Al continued to say that if Paul did not resign immediately then Al will do the third item. Al noted that the Agency Counsel had agreed with the second item showing he felt Paul was illegal. Dale explained that the reason for the December 2001 date is that in 1991 terms were changed from six year to four year, but neither the District or the GCC caught this. Paul was reappointed in 1996, and Brent Rose agrees the term is now four year which along with the extension brings his term expiration date to December 2001. Al stated that that specific legislation had been rescinded. Dale replied the Staff was unaware of this and would research it. Al stated that Mr. Morris is on this Board from another County creating a conflict of interest and if the Board [Agency] would not resolve it, the GCC will. Al asked Paul directly to resign from the Board. Paul responded that you [Al] have been extremely disruptive, asked no advise of this Board, suggested election of all members without any input, act as though you have a vendetta or agenda, and have not been a good Board member. He added that if someone needs to step down maybe you [Al] should. Paul noted he had served for nine years, and may be residing back in the District by year's end. He noted that unilateral interpretation of legal opinions that are broad based are not in order. Al commented that he took it the answer is no. Paul replied that if Al was asking him to resign from the Board, the answer is no. Al stated that with you [Paul] as Chair or voting member anything the Board does he considered illegal. He added he will not be a part of it, commenting you are on your own, gentlemen. Paul responded that Al was entitled to his own opinion, good evening sir. Al replied he will go to the Council, you are out of here, Paul. Al McLeod left the building.

Cloudrock  
Request for  
Commitment  
Of Service

Discussion  
followed  
regarding  
suggestion

in light of the conflict Dan Holyoak be asked to Chair the remainder of the meeting. Dale noted that Brent Rose has cited a portion of the Utah Code that states that any Board member remains a Board member until replaced. Dale reminded the Board that the GCC re-appointed Paul in 1996 after informed by Dale that a possible problem may exist in that Paul was no longer residing within the District boundaries. Grand County Attorney at the time, Lyle Anderson, advised that yes Paul could serve. Further discussion was followed by a motion from John Keys to have Dan Chair the balance of the meeting. He added he did not agree with Al. Second by Kyle. John – aye, Kyle – aye, Karl – aye, Jerry – aye, Neal – aye, Rex – aye, Bill – aye, James – aye, Paul – nay, Dan – abstain. Motion carried.

Chairman Holyoak continued the discussion regarding commitment of service to Cloudrock.

Kyle noted that the letters received, from GCC, from the City of Moab have the same request, and that it has always been the position of the City that services within District boundaries are fine, but will challenge any services outside of the District. Michael Liss asked for clarification, first he would receive a commitment of service from the Agency, then apply for annexation? Dale noted that any commitment to this particular project should be contingent upon approval of annexation into the District. Normally, a commitment to serve is a Staff process between engineers and Staff prior to the preliminary plat. A letter would be written by Staff to the Grand County Planning Commission( GCPC) stating that water and/or sewer services and capacities are available. In this case, when the Board accepted the SITLA agreement initially which contained within it a commitment of service specific to Cloudrock, Dale said he had not done a separate commitment of service letter. Once it was learned the SITLA agreement was invalid, it became a board function to commit to serve as Cloudrock is outside District boundaries. Kyle asked if Cloudrock needed the service in order to annex into the District. Dale responded no. Kyle asked then why not wait until the Cloudrock annexation is done, asking if there was a reason this could not be done. Dale responded that Richard Grice asked for the commitment prior to the preliminary plat approval, the GCPC requested this to be put within the correct timeline. Kyle asked if this was then an annexation condition from GCPC? Dale responded it has nothing to do with the annexation process. Paul added that if the Agency did nothing to show the capacity, then it would simply be done after the annexation is completed. A question was asked regarding whether or not the new well was producing yet. Dale responded no, and referred to his memo to the Board dated March 26, 2001 (filed with these minutes). A discussion regarding source and storage followed.

John Chartier was asked to give the well section of his report for agenda item 8, *Water Project – Report* now to aid the discussion. John reported there is a good indication that the well will live up to all expectations, and that Rhoades should be in next week, April 4<sup>th</sup>, to test pump the well, and to monitor local wells. Further discussion followed.

Rex asked if the volume tied into the ability to commit to service, what if the well produced only half as much water as projected, would that affect the ability to serve Cloudrock? Dale responded that a portion of the Water System Upgrade Project was a commitment to attain 1,000 gpm of source capacity. If the wells currently drilled did not achieve that commitment then another well would have to be drilled. Rex suggested that due to the controversy, the well test be done prior to action on this issue. Rex motioned to finish the test of the well before deciding this item, seconded Bill. Paul asked if the intent... Kyle noted point of order, that tabled items could not be discussed or questioned. Discussion followed as to whether or not this item had been tabled, James noted he did not hear the word table spoken in the motion itself. Bill removed his second to facilitate further discussion. Paul continued his question, asking if the Rex's intent was to discuss this agenda item later too, or just the item regarding water capacity. Rex responded that this entire Johnson's-Up-On-Top issue had folks in an uproar, and if the unknowns could be taken care of, the commitment could be based on what is known. Paul suggested that as the developer was unable to attend the last meeting, but was here now, the Board may wish to address any questions they had to him. Rex agreed the discussion process was okay, but not voting on the item.

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exactly the issues are. Someone noted the well would need to be proved which would show if enough ERU's would be left. Rex noted getting the well tested would take one more item off the list, but that based on Al's statements there is a concern as to whether or not the Board was illegal. Jerry agreed the Agency was under a big cloud, adding if we vote the vote may be eliminated later – it was okay to discuss the item, but not to vote on it. Bill commented that according to Robert's Rules of Order, tabled items could not be discussed. Rex removed his motion.

A question arose regarding how the annexation process was done, who requests it, the Agency, or owners? Dale explained that the property owners start the process, but that in the past, the GCC has as a formality asked if the Agency would accept the annexation. Dale added he was unaware of anything in the Utah Code that requires that, if the GCC approved an annexation the District didn't want, GCC could do so regardless. Dale commented that in this case, the developer and SITLA are the only property owners. Michael noted that as developer, he would be handling all the details. Bill agreed that the annexation needs to be done first.

John Keys noted that he preferred working from a punchlist - test the well next week, know what the expected yield is, then we can firm up the numbers for the water source. He added we already show twice as much as is needed with several hundred ERU's left over. John asked for clarification saying he understood the Agency had authority to serve water outside it's boundaries, but not sewer. Dale noted that that is the current dispute with the City as to the interpretation of the original agreement. John agreed, noting it says we really need to do the annexation first. John asked how that would be handled. Dale responded the property owners need to petition GCC. John asked about the County boundaries. Discussion followed, explaining the original boundaries included only areas inhabited at that time. A suggestion was made to suggest that the Lemon Lane area be included in the annexation process.

Bill Love was recognized by the Chair, and asked about the location of the sewer line, where it would come off the mesa. Discussion followed.

Rex asked what the steps were when the North Corridor Development area annexed into SVWSID; if the GCC annexed the area into the District first, or if the District had to give a commitment of service first. Dale responded that the Arches Village Special Service District (AVSSD) approached the District to ask for support of the annexation, which the Board gave them. Dale added the steps for annexation are the property owners do the petition, which includes signatures, and legal descriptions for the properties involved, and present that to the GCC.

Rex noted that since 1) we are unsure if we have the ability to serve, murky due to the well and agreement dispute with the City, 2) a question exists if the Agency can commit, 3) the annexation needs to be completed; what is the order we should use? John Keys responded that the well test should be done next Wednesday, Michael could begin the annexation process tomorrow, by the time GCC does their part, the Agency should have the results of the test back, and be able to vote on the service commitment.

Barb Morra spoke out noting she felt left out as Michael got to speak several times. She asked if the Agency doesn't also have to address a commitment from the State Engineer. John Chartier explained that is the permission to start to drill, a start card was issued for a provisional well, final approval is not written until the well is completed, then the water is adjudicated. Bill Love spoke out regarding saying there is no lease to put the tank up, that that needs to be signed and in the Agency's hands. Dale responded, that yes, it needs to be signed, but the commitment for the tank site is in a number of documents regarding the lease. Bill Love spoke regarding the commitment is to sell not to lease, and that documents had not been provided as he has requested. Barb added she had shown the documents to Jan Parmenter who agreed that SITLA owns the tank.

Barb Morra was recognized by the Chair. Barb stated that she wanted the letter she handed to Board members this evening entered in the minutes, which is presented with these minutes in exact duplicate as **Attachment B**. Barb read the last two paragraphs of the final page aloud.

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the letter. John Keys assured Barb the letter would be read and thanked her for it, but noted she was asking the Board to do things they do not have a right to do. John explained the Board is chartered to provide water service, and suggested Barb present her concerns to the GCC and GCPC who could respond to them. Barb replied the Board was responsible, that they had accepted the analysis and impact laws, and must implement them, they need to be addressed. Barb stated they don't permit commercial service to Johnson's-Up-On-Top, but that she did not expect the Board to understand that tonight. Michael Liss stated that Cloudrock was in full compliance with the Grand County Land Use Code. Barb agreed, that that is true, but added that the Land Use Plan was adopted by GCC prior to the Agency accepting impact fees by GCWCD.

Kyle motioned to table this agenda item until the annexation process is approved by GCC, second by Rex. Paul asked if no questions could be made regarding tabled items. Rex removed his second. Paul spoke regarding the concern that if the item is tabled and cannot be returned to the table until annexation occurs, if a commitment is required as part of the annexation, that can never occur. John Keys suggested amending the motion to simply table the item. Kyle so amended his motion. Karl seconded the amended motion. John – aye, Kyle – aye, Karl – aye, Jerry – aye, Neal – aye, Rex – aye, Bill – aye, James – aye, Paul – nay, Dan – abstain. Motion carried.

**Tabled Item - Castle Valley Request for Monetary Assistance** James motioned to untable this item, second by Kyle. John – aye, Kyle – aye, Jerry – aye, Neal – aye, Rex – aye, Bill – aye, James – aye, Paul – aye, Dan – aye, Karl - nay. Motion carried. Dale recapped this item for the Board and concluded the budget allowed for the full \$15,000.00, and that his recommendation would be the full \$15,000.00. Discussion followed. Motion to provide \$15,000.00 to Castle Valley for their study by Kyle, second by James. John – aye, Kyle – aye, Jerry – aye, Neal – aye, Rex – aye, Bill – aye, James – aye, Paul – aye, Dan – aye, Karl – aye. Motion carried.

**Elect New Operating Committee Member** Dale noted the opening on the Operating Committee was due to Ned Dalton's retirement. Barb asked the Board members to raise their hands to show who lived or owned property in the Improvement District. Board members began raising their hands, and Barb told several they didn't count, she only wanted the SVWSID Board.

Kyle expressed concern that the election of the Operating Committee member was improperly advertised as the member needed to be selected from GCWCD. Dale explained that the special meeting was called in order to have the full Agency Board present for the election. He continued to explain that as per the Interlocal Agreement, Section C, 5 (a) "...An operating committee of seven (7) members shall be appointed by the Board of Directors (the "Operating Committee"). The President and Vice President of the Board of Directors shall be members of the Operating Committee. The remaining five members of the Operating Committee shall be appointed so that the membership of the full Operating Committee, including the President and Vice President, shall consist of three members from the governing board of the Conservancy District, three members from the governing board of the Improvement District, and one member from the governing board of the Service District..." Kyle asked if that meant the entire Board appoints the Operating Committee. Dale replied yes and noted the three GCWCD members to consider were Bill, Rex, or James. Bill motioned to appoint Rex Tanner to the Operating Committee, second by James. John – aye, Kyle – aye, Karl – aye, Jerry – aye, Neal – aye, Rex – aye, Bill – aye, James – aye, Paul – aye, Dan – aye. Motion carried. He added that one of the works-in-progress is a Board Governance Policy that would help clarify items such as this. Dale commented the document was currently with the attorney, but due to the other items which have taken precedence, is not ready to be presented to the Board at this time. Discussion followed.

**Irrigation – 2001 Season** Dale reported that as of Monday snow water content was at 72%, precipitation 107%, but that the figures may not be accurate. Don Andrews of NRCS will check the accuracy of the site on March 30<sup>th</sup>. Dale explained that generally the irrigation season is based on the April 1<sup>st</sup> figure, and that his expectation is that irrigation customers will have to be asked to keep usage to 80% at the start of the season.

Tabled Item  
CV Request  
Monetary  
Assistance

Elect New  
OpCom Member

Irrigation  
2001 Season

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gave the balance of his report discussing the distribution, installation of services, progress on the tank, and what areas need to be reseeded. Rex asked what the ramifications of the new BLM Fire Center that is being considered would be, the locations have been published in the newspaper. Dale responded that he had spoken to the Forest Service, but as yet they have not given sizes needed to calculate impacts.

**Financial Report** The financial report was presented to the Board.

**Check Approval** James motioned to approve the checks totaling \$32,885.80. Second by Paul. John – aye, Kyle – aye, Karl – aye, Jerry – aye, Neal – aye, Rex – aye, Bill – aye, James – aye, Paul – aye, Dan – aye. Motion carried.

**Items from Board** none

**Items from Staff** none

SVW & SID Vice Chairman Holyoak declared the meeting adjourned at 8:48 p.m.

ATTEST:

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Gary N. Wilson, President

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Dale F. Pierson, Secretary/Treasurer