

## Spanish Valley Water & Sewer Improvement District

### Regular Meeting August 25, 2005

The meeting was called to order at 7:00 p.m. at the Agency office, 3025 E Spanish Trail Road, Moab, Utah by Chairman VanderZanden. Other Trustees present were Dan Holyoak (arrived at 7:05), Dan Pyatt, Barbara Morra, and Al McLeod. None were absent. Those in attendance established a quorum.

Others present were Brian Backus, Gary Wilson, Tom Stengel, James Walker, Kyle Bailey, John Graham, Dave Cozzens, Judy Carmichael, Shelly Cook, John Hartley, Audrey Graham, Bruce Keeler, Mary Suarez, Mike Suarez, Marcia Tendick, Stacey Boender, Marsha Modine, and Dale Pierson.

#### Minutes

Motion by Al McLeod to approve the minutes of the meeting of June 30, 2005 as presented. Second by Karla VanderZanden. Dan Pyatt-Aye, Karla VanderZanden-Aye, Al McLeod-aye, Barbara Morra-Abstain. Dan Holyoak-Absent for vote. MOTION CARRIED.

Officers and Their Responsibilities Karla explained she and Dan Pyatt requested this agenda item to “provide comment and feedback because they were uncomfortable” with Al McLeod’s conduct regarding the election petition matter. They were specifically upset by Al’s failure to inform the entire board or staff of his intention to publish an election notice in the July 7, 2005 Times Independent, which was before a petition was certified. The notice called for interested parties to file a declaration of candidacy at the Agency office for a November 8th election.

Dan Pyatt said he was “outraged” by the notice. “How could a responsible appointed board member print a notice six weeks before the petition was certified and had no where near [the required] 270 names at the time? And that no other board members were notified – particularly the Chair.” Al responded that Friday July 1<sup>st</sup>, he was shown a copy of the petition and State Code 17A-1-305 says the clerk had three to ten days to put notification in the paper. The notice went in on the 7<sup>th</sup>. Al stated that everything he did is outlined in the code book and that it “is very specific, yet ambiguous.” Al said he was very careful and consulted with Utah Association of Special District’s (UASSD) attorney Marc Anderson on his procedures. “The notice going in the paper was my only notification duty. It is all spelled out in the code and I assume people are familiar with the codes” that pertain to their District. He stated that he made sure it was correct and when citizen’s bring a petition to the Clerk that is his number one priority.

Dan Holyoak asked “Who initiated the petition – what citizens? It sounds like you gave the idea [of the petition] to the citizens and it doesn’t seem right one board member could do that.” Al reiterated his perceived duty under the code and added that he wanted the letter from the County Clerk certifying the petition entered into the record.

Karla said that action was taken before the petition was ratified. She is supportive of the democratic process, but thinks notice should be filed after there is a certified petition. Karla said “it feels like it’s an end run and [in our phone conversation] you said it is.” She also stated in their phone conversation prior to the meeting that “Al apologized and said that he should’ve informed the board.” Karla also said that she disagrees with the timing; she feels “if a thing is worth doing, then bring it up and stand for what you believe in – it’s a matter of informing the group for awareness. The notice said to contact staff for information. The staff didn’t even know about it until Stacey read the paper on a weekend and noticed it. It is disrespectful and rude.” Dan Pyatt seconded Karla’s statement.

In a March 2002 memo outlining the Board’s job descriptions prepared by Dale at the request of Karla and Barb, it says the Clerk’s function is to attest to the actions of the Board and Chair and sign documents when instructed by motion of the Board. Karla said “based on that memo, it says nothing of acting on your own.” Al responded with “If a petition is initiated I have to go through this procedure – it’s a matter of timing set up by the state. If you have something in the code that says what I did was illegal or wrong...its beside the point whether I called others or not. I followed the state code book exclusively.” Barbara thanked Al for doing his duty. She thought he was careful and looked through the laws.

Karla stated “at this point we have a difference of opinion. It’s more of an aspect of ethics and how we do business.” Barbara asked “What would have been different” if the Board was informed? Karla said there “would have been a vote of the Board and they might still have acted [to publish the notice].” The main concern was why wasn’t the topic brought up under items from Board or Staff? We had a full meeting on June 30<sup>th</sup>, you saw the petition July 1, I feel rumors of a petition would be something to bring up.”

**Resolution to Proceed with District Consolidation** Barbara motioned to table the item until the board has met with separate legal council whose only duty is to Spanish Valley Water & Sewer Improvement District. Second by Al McLeod. Discussion followed. Barbara stated she spoke with Jan Furner with UASSD, who worded her motion and also attorney Shawn McBride, whom she states is not aware SVW&SID is a client. Dan Pyatt-Nay Dan Holyoak-Nay, Karla VanderZanden-Nay, Al McLeod-Aye, Barbara Morra-Aye. MOTION FAILED. Dale explained this resolution, drafted by Shawn McBride, is necessary as the consolidation process moves along as it authorizes the necessary steps and gives staff more concrete instruction. The resolution says SVW&SID is proceeding with consolidation contingent upon final approval of the county. Dale said this is not the final decision on consolidation.

Motion by Dan Pyatt to approve a resolution of the Board of Trustees of Spanish Valley Water and Sewer Improvement District, Grand County, Utah (the "District") authorizing the consolidation of the District with the Grand County Special Service Water District and the Grand County Water Conservancy District, and authorizing staff of the District to proceed with any and all necessary actions to carry out said consolidation. Second by Karla VanderZanden. Discussion followed: Barbara wanted it noted that she is uncomfortable voting either way because she has not seen the resolution, she objects to use of District funds to continue the process, her understanding was that Blaine Carlton said "we couldn't do this until 2006", the duties of a Conservancy District differ from a Special Service District and it is unclear what will happen in the event a new board takes office in the midst of the transaction and wants the new board to be involved. Mike Suarez asked if he could make a public comment. Karla asked Dale for a point of order. Dale said a public hearing is being held by the County Council and none is required by the District; however, the Chair may decide to accept comment. Karla said she would accept public comment at this time and a formal hearing will be held by the County as well.

PUBLIC COMMENTS: Mike Suarez said he passed around the petition calling for an elected board. The number of registered voters in the SVW&SID provided to him by the County Clerk was 2,710. He stated that "an overwhelming majority want a chance to elect the Improvement District Board. We got 420-460 signatures, 377 of which were certified. That is one in seven. We knocked on every door we could, it is a good random sample." Karla asked for people to keep their comments on point to the resolution. Mr. Suarez said "this [resolution] is a pivotal step that will make election of a Board a hollow effort – removing assets and authority. Once this passes they won't have ability to control their District. I talked to sixty people, three declined to sign the petition. My wife talked to fifty people, two declined. There is no doubt that people want a chance to elect their Board. If this resolution passes you say 'you can vote', but you gut their vote. If you wait ten weeks it's a campaign issue. You'll know what 2,700 people will want."

Dave Cozzens stated that he "sees this [election] as a move to sabotage the consolidation effort brought by two Board Members who rarely come to meetings." Al said he did not have to listen to personal attacks. Dave pointed out "370 names is by no means a majority. I spoke with numerous people who want to remove their names from the petition once they found out the motives behind it."

John Graham said he signed the petition and "I don't know the issues, but people think this is the number one issue in the Valley. If you go forward with the motion it will deny the community the opportunity to discuss the issue. I beg you not to approve it."

Dan Pyatt said "I disagree that one in seven is an 'overwhelming majority,' that is not even close to an 'overwhelming majority.' When you explain the ramifications of this petition I feel like a lot of people will want their names off." Mike Suarez replied with "All you're letting people do is vote for who will represent them. I think it should've been an elected board from day one. I don't understand the problem with going through the democratic process." Karla interjected "We are not voting on whether we agree with an election or not, but to approve a resolution. I've been on the board for 10 years. I believe in managing the water and sewer resources as a whole. I think we are best served by doing so. I am supportive of an elective group. I did not sign the petition – it didn't come to me. I believe in forming a smaller group that looks at the whole picture – source, well, distribution, irrigation – it is very important that the group sit together."

Dan Holyoak stated "I founded SVW & SID. It has never been an elected board, we did it on our own time, free of charge and I've been here for 26 years. I can't see that consolidation of the boards would hurt it in anyway. Water is still available. It is simply a matter of cooperation. If a new board wouldn't want to consolidate, SVW&SID would not have enough water to run on their own and would be in rough shape."

Barbara said "The definition of consolidation is to take several entities and puts them into one new one. This is a merger, where the County is swallowing the Improvement District." She also wanted a transcript form of the comments in the minutes.

Karla called for a vote on Dan Pyatt's motion: Dan Pyatt-Aye Dan Holyoak- Aye, Karla VanderZanden- Aye, Al McLeod-Nay, Barbara Morra- Nay. MOTION CARRIED.

**Report on Election Petition** Dale stated the petition was certified on Monday. Seventeen people signed up to be listed on the ballot. Dale is not sure how the two and four year terms will be set up. The County Clerk estimates it will cost \$10,000 to run the election which will be charged to SVW&SID. The costs cover printing ballots, setting up polling places, lunches for the polling judges, etc. This will be an ongoing expense every two years. Staff is in the process of figuring out how to pay for it. One option would be to charge a one time fee in November that would equal roughly \$6.51 given a current rate payer count of 1,536. Barbara asked about tightening the belt in the million dollar per year budget or any discretionary funds that could be tapped. Karla said that this discussion would need to take place under the Agency financials. Marsha explained it is already a really tight budget year and that in November she will have a better idea of how the budget looks.

Chairman VanderZanden declared the meeting adjourned. Hearing no objections the meeting adjourned at 8:00 pm.

ATTEST:

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Karla VanderZanden, Chairman

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Al McLeod, Clerk