

Gallatin Gateway County Water & Sewer District

PUBLIC MEETING

Date: December 20, 2012

Time: 5:00PM

Place: Gallatin Gateway Inn, 76405 Gallatin Rd., Gallatin Gateway, MT

For: Special Meeting of the Board of Directors

AGENDA

I. Call To Order

A. Call To Order

B. Public Participation on Non-Agenda Items

II. Unfinished Business and General Orders

A. Review and Decision on Land Offer from Gateway Village, LLC

B. Discussion of Land Acquisition Options

III. Adjourn

Gallatin Gateway County Water & Sewer District

MINUTES OF THE

BOARD OF DIRECTORS

A special meeting of the Board of Directors of the Gallatin Gateway County Water & Sewer District was held at the Gallatin Gateway Inn, 76405 Gallatin Road Gallatin Gateway, MT, on December 20, 2012. Present at the meeting were board members Merle Adams, Ted Border, David Sullivan, Charlie White and Earl Wortman. Matt Donnelly and Maralee Parsons were also present. Also in attendance were the District's council, Susan Swimley, and Kurt Thompson and Greg Benjamin from Stahly Engineering.

President White called the meeting to order at 5:00 p.m. Maralee Parsons recorded the minutes of the meeting.

PUBLIC COMMENT

President White asked for public comment on non-agenda items. There were no non-agenda items raised.

President White proceeded to the next item on the agenda

UNFINISHED AND NEW BUSINESS

Review and Decision on Land Offer from Gateway Village, LLC

General Manager Matt Donnelly summarized the recent activity regarding the current offer to purchase land from Gateway Village LLC (seller). The District had submitted an offer to purchase 8 acres of land from Gateway Village, LLC. This offer as written was rejected by the seller, as stated in a letter submitted by the seller's legal council sent via email to the District's council, Susan Swimley. This letter had been forwarded to the District GM who forwarded it to the Board. Ms. Swimley advised the Board she had submitted a response on December 17, and reviewed the following points at the meeting:

1. Earnest money of \$10,000: Seller requested an increase of earnest money from \$100 to \$10,000. The seller agrees to stage the timing of the earnest money deposit, although Ms. Swimley has asked Teresa Doig to check if funding agencies would agree to use their funds as earnest money, as the money could be forfeited. The Board agreed to increase of \$10K earnest money.
2. The offer left contingencies open-ended which is unacceptable to the seller. The seller had proposed release of financing contingencies on 9/30/13 and Ms. Swimley responded that the District couldn't be in a position to agree to release funds that are tied to the DEQ approval of the discharge permit, and there are a number of unknowns in the process and a lengthy timeline, which could delay the approval. Ms. Swimley had

proposed a release date of 12/31/13, and allowing the District to withdraw 60 days prior if it is determined that DEQ will not fund. The Board agreed to this.

3. Easements: seller proposed deeding to the buyer a perpetual access right-of-way easement to the 8 acre site, which, according to Ms. Swimley, poses a problem.
4. Water rights: The District is requesting a proportionate share of water to the property, or 8/54 of the property's water rights.
5. Surface rights: The District had offered to grant surface rights to the buyer on a non-assignable lease for \$1/year. The seller counter-proposed perpetual assignability of the surface rights lease/easement in order to ensure the land is properly maintained. Susan stated the District's position is that if the 8 acres stopped being a sewer treatment facility some time in the future, due to change in technology or needs, the District will want to have full control of surface rights to enable it to sell the land unencumbered. There was lengthy discussion among the Board, expressing concern about how Mr. Loseff would maintain land owned by the District and the people of Gallatin Gateway. Director Border stated the area has a number of non-profits, which could take full responsibility for using the land as a park or athletic field. Ms. Swimley suggested offering a short-term lease with option, which would expire if the District ceased to operate on the land. Board agreed to offer a 5-year lease, with a 5-year option. The Board also stated that the offer should include language to ensure weed control is maintained.

Ms. Swimley advised she would present a counter-offer in the next few days, and provide a copy to the Board.

Discussion of Land Acquisition Options

This discussion was deferred until the next regular meeting on January 7, 2013.

President White asked for any additional unfinished or new business and seeing none, President White noted that the next meeting date is January 7, 2013.

President White then asked for unanimous consent to adjourn. Seeing no objection, the meeting was adjourned at 6:08 p.m.

Secretary