

# **Gallatin Gateway County Water & Sewer District**

---

## **PUBLIC MEETING**

**Date:** October 11, 2013

**Time:** 3:00PM

**Place:** By teleconference at (712) 432-1500 (Code: 664384#). Interested members of the public may either dial in or participate in person at the law offices of Susan Swimley, 1807 W Dickerson St. Ste B, Bozeman, MT 59715

**For:** Special Meeting of the Board of Directors

## **AGENDA**

### **I. Call To Order**

- A. Call To Order
- B. Public Participation on Non-Agenda Items<sup>1</sup>

### **II. General Orders**

- A. Discussion and Decision on Retaining the Law Firm Doney, Crowley, Payne and Bloomquist and Incurring Debt to Finance the Retainer

### **III. Adjourn**

---

<sup>1</sup> The opportunity for members of the public to comment on District matters which are not on the agenda. Time limits may be imposed at the discretion of the President.

# **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 via teleconference on October 11, 2013. Present at the meeting were board members Merle Adams, Ted Border, David Sullivan, and Earl Wortman. Board member Steve Janes was absent. District Council Susan Swimley, General Manager Matt Donnelly and Secretary Maralee Parsons Sullivan were also present. There were no members of the public in attendance.

President Border called the meeting to order at 3:02 p.m. Maralee Parsons Sullivan recorded the minutes of the meeting.

#### PUBLIC COMMENT

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

President Border proceeded to the next item on the agenda.

#### Discussion and Decision on Retaining the Law Firm Doney, Crowley, Payne and Bloomquist and Incurring Debt to Finance the Retainer

Ms. Swimley advised she will remain as co-council, and recommends the District retain the law firm Doney, Crowley, Payne and Bloomquist to defend the lawsuit brought forth by Gateway Village (GV). Allan Payne was previously an attorney at DEQ, and will bring much needed knowledge of remediation and the DEQ permit process. President Border asked if the District prevails in the suit, would GV have to pay the District's legal fees? Ms. Swimley advised that they will ask, but normally this is granted only if allowed specifically by statute, or by contract, and we do not have a contract with GV. The users of the District will need to pay via fees/rates imposed. DEQ has in-house council, and Kristen Bower will represent DEQ. An estimate of the total cost of defending the lawsuit is difficult, could be in the range of \$30K to 100K, depending on what the other party does.

Ms. Swimley stated that the District was named in the suit with a trespass charge, which claims that we would be disposing pollutants on GV's property. DEQ will take the lead saying they issued the discharge permit properly, but will have no interest in the trespass claim, so the District must defend against this, or it would have property that could not be used. It was known all along that the mixing zone would spread out to GV's property, but there is an existing drain field with an easement already in place, and the District maintains that it purchased the easement with the property. Ms. Swimley was not aware of any precedents of trespassing cases involving a mixing zone.

The District will ask for a payment schedule from the law firm; the firm is aware that the District has limited funds at this time. Allan Payne will also be submitting a claim to the District's insurance company, to determine if the legal fees could be covered by insurance. The lawsuit may take a year or so to resolve. At this time it is believed that progress on the project can and should continue. If GV wants to stop the project, they will need to put up bond money to pay damages if they do not prevail, which would include the funding money the District has obtained.

Director Wortman made the motion to retain the law firm of Doney, Crowley, Payne and Bloomquist, and to use the existing line of credit from Big Sky Western Bank, to pay the \$1,000 retainer fee. Director Sullivan seconded the motion, and it passed unanimously.

There was some discussion on whether to send a letter to the users of the District, advising them of the situation, and also possibly raising the amount of the monthly fees to be imposed in December. GM Matt Donnelly will talk with Community Liaison Chair Steve Janes when he is back in town, and will also work up some numbers on expected income for 2014, to be discussed at the next regular Board Meeting.

President Border then asked for unanimous consent to adjourn. Seeing no objection, the meeting was adjourned at 3:30 p.m.

---

Secretary