

Bayview Water & Sewer District

P.O. Box 637, Bayview, Idaho 83803

REGULAR MEETING MINUTES

September 20, 2017

Call to Order and Roll Call: Chairman Richard Doney opened the meeting at 3:00 PM and a roll call confirmed that Vice-Chairman Sharon Meyer, directors Jan Jones, Robyn Edwards and Steve May were also present.

Others Present: System Operator Bob Kuchenski.

Guests Present: Members of the public.

Consent Agenda and Minutes: Chairman Doney started with the consent agenda and the approval of the special and regular minutes for the month of August. Ms. Meyers motioned to approve the minutes followed by a second from Ms. Jones. All were in favor, motion carried.

Reports:

Operator Report: Chairman Doney introduced Bob Kuchenski with Integrity Water Management who has been hired by the District to be the system operator. Mr. Kuchenski presented the operators report for the month of August (attached). Ms. Edwards inquired whether it would be prudent of the Board to hold off on cleaning the tank until the Engineers have inspected the tank for the upcoming water system facility plan. Mr. Kuchenski responded by saying the two would likely be done in conjunction each other.

Treasurer's Report: In the absence of Ms. Roe, the District Treasurer, Mr. May presented the financial report for the month of August (attached) and went over the balance of all District accounts, the month's income and expenses and presented the delinquent list for the month.

Public Matters:

1. Wayne Johnson: Said that he is used to sending in one payment stub to cover all three accounts with one check. Because Ms. Roe was not aware of this previous arrangement, she has only applied the payment to the one stub received. In February she asked Mr. Johnson to send in all three stubs he would like his payment to be received toward. This was not done so one account continued to receive credits while the remaining two accounts went 'unpaid'. This accrued late fees which the Board motioned to forgive, this one time, contingent on Mr. Johnson either sending in all stubs or writing on his check his three account numbers. Ms. Jones made the motion followed by a second from Mr. May. All were in favor, motion carried. Mr. Johnson then asked to have emailed bills. The Board directed him to call the office on Monday to get setup.
2. Kenner Renner: Ken Saunders read aloud a letter provided by Karen Renner in her absence (attached). Ms. Edwards motioned to table this discussion until the next Board meeting. Ms. Meyer seconded the motion. All were in favor, motion carried.

Old Business:

1. Finding on #1313 & #1311 account switch/reconcile: Further investigation into the switch is needed as well as a discussion with Mr. Karupiah and Mr. Neubauer. This discussion is being proposed for the special meeting dated September 27, 2017 at 3:30 PM at the District office.
2. Request for Qualification (RFQ) update: Ms. Edwards reported the District had received four responses from local engineering firms. The Board interviewed JUB Engineers and Welch Comer at the special meeting on September 15, 2017. The Board decided to hire JUB Engineers at the special meeting on September 19, 2017.

3. Operating Procedures Manual update: Ms. Edwards reported that no progress has been made in the last month on the manual. She has not seen any involvement or input from the community yet. Whoever is interested can contact the office and she will get in contact with them.
4. Lyvel/Emerson Rd. Letter: Ms. Edwards did additional research and her review of Idaho law indicates that the District would be unlikely to prevail with their claim towards Mr. Karupiah and the use of Emerson Road unless the District had contributed towards property tax payments.

New Business:

5. Trip Charges – customer specific requests: Mr. Kuchenski suggested that the District impose a trip charge fee for customers who request services from the District operator when it is a situation on the customer's side of the meter. The customer would be made aware of this charge and any work completed would only be done with permission of the homeowner.
6. Contracts - Water Systems Management & Integrity Water Systems: Chairman Doney reported that the District is working under a contract with Bob Hansen, Water Systems Management, for sewer operations and Bob Kuchenski, Integrity Water Management, for water operations. Mr. Kuchenski will be obtaining his land application license while working with Mr. Hansen, who currently holds the license, and when Mr. Kuchenski has obtained his wastewater land application license the district will revise the waste water contracts to reflect this change.

Announcements:

The District will be holding a special meeting with Panhandle Area Council (PAC) September 27, 2017 at 3:30 PM. The meeting will be publicized at the office and the post office. The meeting will be for the purpose of informing the Board of grant writing services and funding sources.

Public Comment: The public inquired about the Board's action regarding Chan Karupiah's use of ERs at the property next to the Captain Wheel. He is only allotted one ER yet he has two sewer cleanouts and there were trailers parked there this last weekend. Chairman Doney noted that he has been talking with Chan regarding the usage of ERs and when the Board has finalized the Operating Procedure Manual they will address all the properties who are in violation.

With no further business to discuss the regular meeting was adjourned following a motion from Ms. Meyer, seconded by Ms. Jones. All were in favor, motion carried at 4:31 P.M.

Respectfully Submitted and Approved:

Jessie Roe
Administrative/Treasurer

Richard Doney
Chairman of the Board

OCT 18 2017

To: Bayview Water and Sewer District Board

From: Karen Renner

Date: September 20, 2017

Re: Agenda Item/Public Matters/Budget Clarification and Compliance Issues

I apologize that I am unable to attend the meeting in person, but wanted to submit my concerns and questions in this letter being read by Ken Saunders. I remain very concerned with the outcome of decisions this board has made and is making on behalf of the customers of this district.

Compliance Issues #1 – Violations of the Idaho Open Meeting Law

The Executive Session held on August 10, 2017 violated at least 3 rules of the Idaho Open Meeting Law.

- 1) Executive sessions may take place only at valid open meetings
- 2) A public agency cannot conduct an executive session to consider general staffing needs (cost/benefit analysis of retaining employees vs contracting for services)
- 3) No executive session may be held for the purpose of taking any final actions or making any final decisions

At the general board meeting on August 15th, 2017, decisions made during the executive session were announced including the elimination of two system operator positions, and the decision of which contractor was selected for operation of both water and sewer systems. The law states “Failure to follow the procedural steps for a valid executive session will invalidate any action taken as a result of the executive session. Additionally, it may subject the board members to the liability for those actions”. The customers of this district have a right to request that the board acknowledge these violations, and adhere to the principles of open and transparent government. As stated in the law, a violation is cured by repealing any action taken at an illegal meeting or disregarding deliberations made in violation of the Open Meeting Law. Should it choose to, a governing body may, in a properly noticed meeting, repeat the deliberation(s) that occurred at the illegal meeting.

A CDA press article dated July 22, 2015 quotes Sharon Meyer as stating in complaint of an invalid meeting: "So the emergency meeting that was held was not in compliance with the code, and it would be null and void," Meyer said.

Additionally, the district has failed to comply with requirements for taking and posting minutes of all meetings, specifically all “Special” meetings held.

Compliance Issue #2 – Non Compliance with DEQ Reuse Permit M-105-04

Since dismissal of the previous system operator 8/14/17, permit compliance has not been met as follows:

- Effluent flow meters have not been read daily
- BWSD operating without a properly licensed charge operator for the treatment site
- Proper chlorination of wastewater has not occurred
- Proper application of wastewater to irrigation fields has not been maintained
- Two weekly wastewater grab samples exceeded maximum allowable limits for coliform bacteria (one sample prior to the overflow exceeded permit limits by 7x indicating the system was operating with no chlorination)
- BWSD failed to report these test results to DEQ *within 24hrs* of becoming aware (any violation which may endanger public health or the environment)

DEQ Investigation Report of Overflow at the Treatment Site on 8/31/17:

BWSD cited suspected vandalism and no risk to public health and the environment in an incident report issued. On 9/12/17 DEQ issued memorandum of the overflow event on 8/31. This report has not been referenced by the district, and is not on the agenda for the meeting 9/20/17. The report summarizes the following:

- Water spraying from a broken sprinkler riser due to an aged PVC coupler breaking led to overflow from the access road and onto a forest service road
- Broken sprinkler risers have been a common problem at the site in the past due to falling trees, impacts by animals and general aging of the system
- Mr. Kuchenski reported he had been ensuring the chlorine system was being properly refilled
- Mr. Kuchenski was not a properly licensed charge operator
- BWSD was in the process of contracting with a licensed charge operator

What I have learned, which is not in the report is the following:

- DEQ did not review chlorination logs, or request results of recent wastewater test samples. During the investigation, BWSD failed to disclose the most recent test result which exceeded coliform bacteria permit limits by 7x, the week prior to the overflow
- Allegations of vandalism were investigated by law enforcement and closed
- Operator ran the same irrigation area continuously for 15 days, which saturated the area where the break occurred (estimated over one million gallons applied)
- Previous operators had been replacing aged couplings with a thicker, more durable coupling – I have been told there is a box of these new couplings in the supply room
- BWSD board will apparently take no responsibility to correct previous false claims

System monitoring activity – comparison between employee data and contractor data

Triplex Pump station (main hub for transfer/pumping wastewater to treatment site)

Between 7/15/17 and 8/14/17, checks were documented 21 of 31 days, missing weekend days
Between 8/15/17 and 9/14/17, checks were documented 8 of 31 days, missing weekends and 11 consecutive days over Labor Day weekend.

Pump House #7 Log Data (main water pump house for Bayview)

Between 6/15/17 and 8/14/17, checks were documented 44 of 61 days, missing weekend days
Between 8/15/17 and 9/14/17, checks were documented 8 of 31 days, missing weekends and 7 consecutive days at one point, and another period of 7 days over Labor Day weekend

It would appear our new system operator, and all of his employees were unavailable over the extended Labor Day Holiday to conduct monitoring checks and meter readings at the two critical pump houses for both wastewater and water. The customers of this district were told at the general meeting Aug 15th that Integrity would be operating our system daily – Could the board please define what the definition of daily is? In my opinion, inconsistent checks of our very expensive pumps and systems at extended intervals throughout each month is unacceptable, placing our district at high risk for system failures by not detecting problems early and conducting repairs.

Budget Considerations and Clarifications

Our current surplus/savings after contracting out is \$26,160 less than 2 years ago when we had three full time employees, dedicated exclusively the operations of our district.

The cost/benefit analysis for contracting out is unknown, as these deliberations took place in a closed executive session. Points I would like to have the board consider and explain:

- What would the cost of one system operator be to the district? (Salary, no overtime)
- What would the cost of an employee operator in training be, part time through the summer months? (increased resources trained specifically to our system)
- What duties did our employee operator perform throughout the year that are not part of the contract operator duties?
- How has reduced office hours benefited customer service?
- Customers were told all staff of Integrity are licensed operators. Could you please clarify which licenses these employees have? Has Bob K been a responsible charge operator of a sewer system?
- Previous operator was working average of 50+ hours per week after Neil retired and running our system in compliance – how does Integrity intend to achieve this level of service and compliance with a staff of 3, who also run 20 other systems?
- Is there a corrective action plan and contract monitoring process in place?
- Wastewater contract specifies unanticipated fees are not included in the contract – many of these duties were performed by our employees which will now be an additional cost @ \$45/hr (ie annual report writing, system failures, broken collection system pipes). This exceeds the overtime rate of our previous employee
- It is costing the district more money to contract system operations, compared to claims that we are saving \$82,000 by contracting system operations. The question is, we cannot determine how much more because of the contract add-on charges for unanticipated costs for both the water and sewer system

In summary, the current BWSO board has increased costs, increased rates, decreased customer service, decreased frequency of system operation, eliminated historical expertise of operations and failed to ensure compliance with operating permits. They have all but eliminated our ability to participate in community emergency disasters such as the Cape Horn fire where our system operators worked with fire crews around the clock regarding access to water supplies. With Integrity servicing 20 other districts, I am certain that each of their customers will expect to be first in line for emergency response during winter storms, fires, power outages etc. I did not take the time to touch on ethical issues, such as back dated contracts or deceptive posting of a recent special meeting – that can be shared at another time. Our community deserves better than this, and I consider the decisions being made by the current board to be reckless and narrow minded. I define the character of this board by one example. When Reid was terminated on the spot with no warning, he was allowed a short time to gather his personal belongings of 10 years in the office. During this time, the board sitting before us now was celebrating, in his presence, with cake and ice-cream. Ms. Meyer went so far as to offer some to him as he was on his way out. This level of conduct is embarrassing and insulting, and exemplifies why two of our three previous employees walked off the job.

page 18, Idaho Open Meeting Law Manual

³⁹ Attorney General Opinion No. 81-15.

⁴⁰ Idaho Code § 67-2345(4); Attorney General Opinion No. 77-44; Attorney General Opinion No. 81-15.

Question No. 28: What procedure must be followed before an executive session, closed to the public, may be held?

Answer: It must be noted that executive sessions take place only at meetings. Before any executive session may be held, there must be a valid open meeting and a vote to hold an executive session. Every such "meeting" must satisfy the Open Meeting Law's notice and agenda requirements.⁴¹ If the governing body of a public agency then wishes to consider matters which may legally be considered in a closed meeting, an executive session may be held if two-thirds ($\frac{2}{3}$) of the members vote to hold an executive session. Prior to such vote, the presiding officer must identify the authorization under the Open Meeting Law for the holding of an executive session. Then, when the vote is taken, the individual vote of each member of the governing body must be recorded in the minutes

Pg 17, Idaho Open Law Meeting Manual

"This provision enumerates specific and not general statutory exemptions to the requirement of conducting an open meeting. It is the Attorney General's opinion that a public agency cannot conduct an executive session to consider general personnel matters, but can only meet in executive session to consider those specifically enumerated personnel matters found at section 74-206(1)(a) and (b); that is, "to consider hiring a public officer, employee, staff member or individual agent" or "to consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member, individual agent or public school student." Additionally, Idaho Code section 74-206(3) specifically directs that the exceptions be construed narrowly. No entity should try to "shoehorn" an issue into an executive session exception"

Page 18, Idaho Open Meeting Law Manual:

It should be noted that the Open Meeting Law establishes circumstances where executive sessions are permissible. In other words, the act authorizes, but does not require, closed meetings. In addition, even though certain enumerated matters may be "considered" in an executive session, it must be emphasized that: "[N]o executive session may be held for the purpose of taking any final action or making any final decision."⁴⁰

It is important to remember that section 74-206(1) sets forth specific procedural steps to be followed to have a valid executive session. Failure to do so will invalidate any action taken as a result of the executive session. Additionally, it may subject the board members to liability for those actions. Procedurally, the presiding officer must identify the specific authorization under the Open Meeting Law for the holding of an executive session and at least a two-thirds ($\frac{2}{3}$) vote in favor of the executive session must be recorded in the minutes of the meeting by individual vote.

Question No. 23: What types of records must be maintained under the Open Meeting Law?

Answer: The Open Meeting Law requires that the governing body of a public agency must provide for the taking of written minutes of all of its meetings, but it is not necessary to make a full transcript or recording of the meeting, except as otherwise provided by law.³⁷ These minutes are public records and must be made available to the general public within a reasonable time after the meeting. The minutes must include, at a minimum, the following information:

- (a) All members of the governing body present;
- (b) All motions, resolutions, orders, or ordinances proposed and their disposition;
- (c) The results of all votes and, upon the request of a member of the governing body, the vote of each member by name.

Other statutes may provide more specific requirements for particular entities.

In addition, section 74-205(2) provides that minutes of executive sessions must be kept, but they need contain only sufficient detail to identify the purpose and topic of the executive session and do not need to include the disclosure of material or matters that compromise the purpose of the executive session. The minutes pertaining to the executive session, however, must include a reference to the specific statutory subsection authorizing the session.

September 18, 2017

Bayview Water & Sewer District
Richard Doney, Chair
P.O. Box 637
Bayview, ID. 83803-0637

Re: Incident Report

Richard,

After reading the "Incident Report" that you signed and I received via email on September 3, 2017 I realized that a response to this report was in line. Before I get started, I would like to clarify that I have always had and will continue to have the upmost respect for citizens that are willing to devote their time and knowledge for the betterment of a community. With that said, this is nothing personal regarding BWSO board members either past and/or present however important concerns that I felt needed to be acknowledged and addressed.

I will start from the beginning and work my way forward. Years ago my parents, Richard and Shirley Hansen, were approached by one of the original BWSO board members requesting an easement across a considerable amount of their property to transport millions of gallons of sewage waste-water from the town of Bayview up the mountain hillside to an application site. For a number of good reasons, my Dad was not in favor of the site up on the mountain above Bayview that was chosen for the land application site. First of all, he felt land application of waste-water on a hillside that drains back into the lake was a bad idea. My Dad was also concerned about the consequences if the pipe carrying raw sewage up the mountain site ever failed. Another of his concerns was a protected spring that he used which was located on my parents' property directly below (downhill) from the proposed drainfield site. My Dad did not want to issue the easement but was told that if he refused, Bayview would most likely lose the grant money and the opportunity to provide a sewer system for the town of Bayview and that basically he would be to blame. My Dad met with his close friend and attorney, the late Scott Reed and he expressed his concerns. Scott Reed told my Dad.....bottom line....."They cannot pollute your water".

I believe that our springs have been compromised. The springs are flowing a considerable amount of more water than they did before the application site was installed above them. There currently is ponding of the spring water and downhill surface flow year round.....even during the record dry summers. This was not the case prior to the installation of the drainfield site. As previously mentioned, it only makes sense that if you apply millions of gallons of wastewater on a hillside that eventually some of it is going to make it to the lake. Evidence of the increase of water on the hillside can be witnessed now directly above Cape Horn Road near North Shore Drive where 100 plus year old trees are dead and dying due to oversaturated soils. This was not a problem before.

Now back to the August 31, 2017 "Incident Report". I was notified that there was sewage waste-water running on our property that could possibly drain into our springs. I immediately responded to the site to witness the situation. The "Incident Report" mentioned that approximately 100,000 gallons of treated sewage waste-water flowed onto the field. However based on my observation that day, the waste-water actually flowed onto the field, down an existing access road and onto our property; then proceeded to flow down Forest Service Road #297 for a considerable amount of distance. Later that same day I visited the subject area for a

more detailed inspection and noticed a number of areas where waste-water crossed Forest Service Road #297 and flowed above our spring water. I did meet with a DEQ representative on site during that inspection. Needless to say, the fact that waste-water was flowing above our spring which eventually flows into the lake is a major concern to the Hansen family and the community of Bayview in general.

This whole ordeal leads to another topic. A few years back there was talk that a new regime was going to replace the then current BWSD board and to proceed to "clean house". My main concern when I heard these rumors was that I would hope that a new regime wouldn't get rid of ALL of the employees and board members that have years of experience, a wealth of knowledge and understanding of the systems' layout, design and how it functions. With that said, about a week after the last employee that understood the procedures and was overseeing and monitoring the system was let go.....low and behold....we have sewage waste-water flowing above our springs. Who was responsible for monitoring the spray sites after Reid was let go because apparently, they were not doing their job?? Based on my observation on August 31, 2017, waste-water had been flowing down the road prior to the 31st. I do not believe that there was an "act of vandalism" that caused this problem, I believe that it was neglect on someone's part. Was there someone responsible for monitoring the treatment site on a daily basis after Reid was let go?? From a business standpoint, you do not get rid of ALL of the people that have years of knowledge, experience and have an understanding of how and where everything was put together and how the system functions and then replace ALL of them with someone from the outside and then expect a smooth transition. That's just not going to happen.

I would also like to bring up the problem with the continued lack of water pressure and fire flow on Duwamish Drive. It is also my understanding that there is additional low water pressure issues elsewhere within the town of Bayview. I know for a number of years that my sister has been dealing with low water pressure problems at the corner of North Shore Lane and Cape Horn Road. Low water pressure and fire flow became much more than just an inconvenience when we were faced with no water to fight the 2015 Cape Horn Wildfire event. I do understand that the BWSD is looking at ways to remedy these problems but we are concerned whereas time is of the essence.

In closing, we would like to have our springs checked for contamination. We would also appreciate a written response from the BWSD and the DEQ regarding the concerns as mentioned within this correspondence.

Thank you for your time and consideration.

Sincerely,



Chris Hansen

10/18/17 Bayview Systems Report

A. Water Production update.

7,218,000 gallons produced by the wells during September. This works out to 241,000 gallons per day or 512 gallons per day, per customer. (470 service connections). This compares to systems of similar size where customers average 900 gallons per day, per customer.

B. Sewer system production.

552,000 gallons processed through the land application sewage treatment site for the first 2 weeks of September. This works out to 39,000 gallons per day or 77 gallons per ER.

C. General issues.

1. As noted last month, the treatment site not operating automatically according to the Operations Manual compiled in April of 2016. The sand filter beds are not operational in manual mode either. At this time, further analysis is being performed by our engineer, operators, and RC Worst in order to develop proper operating procedures based upon how the system was designed to be run versus how the system has been modified. Due to the problems noted, the land application treatment system has been shut down since September 14th. It will be winterized this month after further analysis of existing system controls.
2. All three treatment site flow meters have been repaired. This is important for the Winter as the flow meter for the absorption beds records flows throughout the Winter months for proper DEQ reporting.
3. We plan to install sample taps at the entrance of each irrigation zone in order to test for total chlorine weekly as required by DEQ. This will allow us to determine the total and free chlorine residuals as the treated effluent enters each zone for proper bacteria kill.
4. Inspecting and cleaning the water tower.
 - a. Aquadrone Marine can inspect, clean, and record HD video of the tank condition based upon the quote provided last month. With Winter weather approaching, we need Board approval to move on this quickly or we will have to wait until Spring.
5. DEQ has requested a water test site sampling plan as they noted they do not have one on file. This is being developed at this time.
6. Locating, reading, and insulating water meters. Insulating of all meters to be completed this month.

Bayview Water & Sewer District

Treasurer's Reports

| September | | August | | Comment |
|---------------------------------|----------------------|------------------------|----------------------|---|
| General Checking #7564 | \$ 34,230.79 | General Checking #7564 | \$ 21,508.18 | Payroll and general accounts payable |
| Guarantee Fund #1227 | \$ 110,727.72 | Guarantee Fund #1227 | \$ 110,708.92 | Interest: \$18.81 Service Charge: \$0.01 |
| LID Bond Fund #9680 | \$ 368,575.43 | LID Bond Fund #9680 | \$ 367,719.53 | Interest: \$62.48 LID payments: \$793.42 |
| Sewer Savings #8307 (Quarterly) | \$ 38,027.22 | Sewer Savings #8307 | \$ 38,022.70 | Interest: \$4.52 (July, August, Sept.) |
| Water Savings #8299 (Quarterly) | \$ 34,194.35 | Water Savings #8299 | \$ 34,190.28 | Interest: \$4.07 (July, August, Sept.) |
| Total Balances | \$ 585,755.51 | | \$ 572,149.61 | |

Regular Operations for the Month:

| | | | |
|--------------------------------|----------------------------|----------------------------|------|
| - Income: \$ 22,016.07 | Last Month: \$ 36,772.28 | Difference: \$ 14,756.21 | less |
| - Expenses: \$ 9,263.46 | Last Month: \$ 71,573.22 | Difference: \$ 62,309.76 | less |
| | | | |
| -Net Profit: \$ 12,752.61 | Last Month: \$ (34,800.94) | Difference: \$ (47,553.55) | more |
| -Maint. & Repairs: \$ 4,608.35 | Last Month: \$ 14,583.17 | Difference: \$ 9,974.82 | less |

COMMENTS:

- 1.) Income is \$14.5 lower this month due to not billing for overage. Will see this during upcoming months.
- 2.) Expenses look like they are down but bills went out later last month than usual due to training so we will see those expenses hit the account during next month's report. (plus no more paying employees out)
- 3.) \$1,860.00 went to pumping out the Condos on the Water septic tank

User Billing:

| | |
|---------------|--------------|
| Late Fees: \$ | 543.96 |
| Sewer: \$ | 14,298.40 |
| Water: \$ | 13,105.92 |
| | \$ 27,948.28 |

Delinquent List

- 1.) Delinquent List Update:
 - \$772.30 - 4 accounts