

**MOUNTAIN GREEN SEWER IMPROVEMENT DISTRICT**  
5455 West Old Highway Road, Mountain Green, Utah 84050  
**Minutes of the monthly Board of Trustees Meeting**  
Thursday, March 5, 2015 @ 7:00 PM

**Board Members Present:** Mark Devoe, Zane Gray, Wendy Eliason and Tina Kelley  
**Excused:** Shane Rice, Lynn Peterson & Blair Larsen **Employees Present:** Robert Volk  
**Guests Present:** Benson Whitney with Oakwood Homes

**Invocation:** Wendy Eliason

**Chair:** Mark Devoe welcomed those present and conducted the Board Meeting.

**Item #1: Discussion/Decision: Discussion/Decision: Relinquish the portion of the trunk line easement from SSMH7 to the fence line at the Baxter Property to the east.**

At the December 2014 Board Meeting, Duane Johnson asked the Board of Directors to consider relinquishing the portion of the Trunk Line Easement that extends from SSMH7 to the east fence line that borders the Baxter property. In exchange he would grant a right of access via the two roads through his property to the remaining easement, which is currently land locked. The Board is now being asked to review this offer and respond with a recorded decision.

Robert used the easement map on the wall to illustrate which portion of the trunk line easement that is being discussed. He expressed his opinion that the easement should be retained to allow for any expansion east of this property line at any time in the future.

Mark noted that the next two items on the agenda are inter-related so they should be included in the discussion of this item so a meaningful decision can be made. Tina then shared a view of the Development Agreement Map for the Johnson's property that was recorded at the county. It showed the approximate locations of the currently anticipated roads that could provide future access to parts of the trunk line, but she also noted that this plan could be amended at any time. If the current map holds true, the District would eventually have the access it needs without giving up a potentially vital portion of the recorded easement.

Wendy added that she is bothered by the thought of giving up access for sewer connection to the Baxter property or any development to the east. To which, everyone agreed. Mark then explained that there is the potential for Mr. Baxter to grant us access across his property to enter the east end of our easement. Apparently, there is a gate at the rest stop on the highway that would provide entrance onto the Baxter property up to the entrance to the easement onto Mr. Johnson's property, which would allow the District a way to service the southeast portion of the easement and line that is blocked off by the two crossings of Cottonwood Creek. Robert noted that this is a good option, but the District would be required to install a gate at this entrance because Mr. Johnson has a fence at this point of the property line. Tina summed everything up by saying she feels that in looking at the whole situation and the future growth from the east, if we give this portion of the easement up now, the District will never have a sensible way to

connect expansion to the sewer system without investing in expensive lift stations to move the wastewater up to the line on Old Highway.

Tina made the motion that the District does not give up the 344.8 feet of easement from SSMH7 to the fence line that borders the current Baxter property in exchange for access in perpetuity across roads through Johnson's/Soderby property. Zane seconded the motion. Motion passed unanimously.

**Item # 2: Discussion/Decision: Install the remaining 345' of 18" trunk line from SSMH7 to the east fence line at the Baxter property.**

If the Board has decided to retain the easement from SSMH7 to the east fence line at the Baxter property, should the District, at the District's expense, install the remaining 345' section of 18" trunk line while the final work is being done?

Mark expressed his opinion that it is unnecessary to spend the District's money on this installation at this time because there is no development currently planned in this direction, and the District has a legal easement that will allow for the installation at any time in the future when there really is development and a developer to pay for it.

Tina raised her concern over the possibility of time passing and eventually losing or forgetting about the easement without having the line installed, which would cost much more than putting it in right now.

Robert asked the Board to consider the fact that, although the trunk line was financed and installed by Gardner development, the District is paying them back for the entire amount with the money collected from Impact Fees. In essence, the developer is not paying for these installations, the District is. The District is directly financing the new line installation with 'New Growth' money (Impact Fees), which is what was intended. Having the District put in this remaining 350' of line in now and paying for with Impact Fees is the same thing, without the roundabout of the developer in the middle and complicated reimbursements.

Tina then added that all three of these items are so tightly wound together, that if we can make these final decisions tonight and approve this installation, we will not have to address them again in the future, or risk them getting lost and forgotten about in time. There is also the reality that it will cost less to install it now than it will years from now.

Mark was still reluctant to commit the District's money to a project that might or might not ever be used, and he added that he had reservations about having to make this decision tonight when he could possibly use the installation of this section of line as a bargaining chip with Mr. Baxter in order to negotiate the access easement through his land to the east end of the line.

Robert explained that the Board does have to make these decisions now, because he has to coordinate everything with the contractor so he can get his crew and materials in order to get up here within the next couple of weeks to get this done before Wayne Johnson starts his farming operations in April. This is not something we can keep coming back to a piece at a time. If the Board decides not to install this section now, while the final work on the road or manholes is being done, then it will not be easy to get

back in later this summer to dig everything up again. In that case, it will be best to just leave the easement as is until such time that development actually demands it.

Tina made a motion to approve the remaining 345' of trunk line now, from SSMH7 to the east fence line, at the District's expense using Impact Fees. There was no immediate second.

Mark asked if there would be any way to buy some time so he can work with Blair Larsen to communicate and negotiate an easement and access with Mr. Baxter. Robert said that he would try and buy about a week's worth of time, but we would need to schedule an emergency meeting next week so the Board can rule on this item.

At this point, Wendy seconded the motion for discussion. Mark then asked to suspend Item #2 for a few moments so the Board could move on to Item #4 regarding the Will Serves so that our guest that had just arrived, Benson Whitney with Oakwood Homes, would not be kept waiting. Zane then made a motion to suspend discussion Item #2 and move on to Item #4. Wendy seconded the motion. Motion approved.

**Item # 4: Discussion/Decision: Will Serve renewal for Whisper Ridge Phase II**

The Will Serve for 51 lots in Whisper Ridge Phase II expired February 6, 2015. Oakwood Homes has asked for the Will Serve to be renewed for another year as they are still working through the approval process with Morgan County. The renewal request is for only 50 lots, one lot less than the original.

Zane made a motion to renew the Will Serves for 50 lots in Whisper Ridge Phase II. Wendy seconded the motion. Motion approved - unanimous. Tina asked Robert to send a copy of the Will Serve renewal to Bill Cobabe and Roland Haslam at the county.

**Item # 2: Resume Discussion/Decision: Install the remaining 345' of 18" trunk line from SSMH7 to the east fence line at the Baxter property.**

Zane made a motion to reopen Item #2 in order to continue discussion. Wendy seconded the motion. Motion approved.

Mark called Blair Larsen and put him on speaker phone. Mark asked Blair if he could contact Scott Baxter to ask if he would grant the District an easement across his property from the rest stop on the Highway to the end of the trunk line on the Johnson's property where it meets Mr. Baxter's property. Blair said he had the contact information for Mr. Baxter's attorney, and that he would contact him on Friday (tomorrow) with that question. Mark explained to Blair that he believed holding off on the vote for the installation of the remaining 345' of line would give the District more leverage in negotiating an easement with Mr. Baxter. Blair said he did not anticipate needing leverage like that, but that it would not hurt to delay the vote until after he spoke with Mr. Baxter's attorney. Blair added that he cannot guarantee an outcome. Mark asked Blair to confirm that the access easement we are asking for is a viable passage for heavy equipment such as a pumper truck. An easement that we cannot get equipment into really serves no purpose. The call connection was lost at this time.

Mark stated that we have a motion on the table to approve the installation of the 345' of 18" line from SSMH7 to the east fence line that has been seconded. Mark called for the

vote and received one vote in favor of the motion from Tina, and three votes opposed to the motion, from Wendy, Zane and Mark. Motion defeated.

Zane made a motion to schedule an emergency Board Meeting next week on Wednesday, March 11, 2015 at 7:00 PM. Wendy seconded. The motion was approved with a three to one vote, with Wendy, Zane and Mark voting to approve and Tina voting in opposition. Robert will get the minutes and agenda out to everyone on Monday.

**Item # 3: Discussion/Decision: To install or not install the service road for the trunk line across the Johnson's property.**

At the October 2, 2014 Board Meeting an addendum to the 2014 Facilities Completion and Reimbursement Agreement was approved which postponed the deadline for the installation of the Trunk Line Service Road until July 31, 2015 without altering any of the other terms of the agreement. This delay would allow the ground above the pipe line installation time to settle and dry, which would provide a more stable base on which to install the service road.

The Board also discussed the option of not installing the service road at all, and instead, lowering the protruding manholes and then apply the unused service road installation budget to the final payment in the 2014 Facilities... Agreement that is due to the Gardners. Due to the unusually early warm and dry weather, Wayne Johnson will have to start planting and irrigating these areas sooner than expected. He has requested that the District do what it is going to do, either install the road or lower the manholes, before he begins farming around the end of March.

Wendy asked if anyone knew what the timetable was for Mr. Johnson developing his property and getting his roads installed. Tina responded that only the general plan has been approved by the county, but no individual specific developments have come forward and to her knowledge Mr. Johnson has not sold any parcels to developers. Rough estimates would be from two to four years before any development might start.

Tina added that she believes that the District should proceed with the installation of the service road because of the uncertainty and the possibility that no roads might be installed above the trunk line which would make service difficult to impossible. Our Ordinance also states that all manholes must be installed on a designated road and cannot be installed in open fields.

Robert let the Board know that putting the road in is fine as long as we have a way to access it for both weed control and service issues. Currently, there is nothing in the design or budget to provide access to the two land locked portions of the easement road that will allow this. If the District can lock in a viable access on the east end through Mr. Baxter's land, then we would only have to install a bridge on our end over Dry Creek. The bridge would have to span the distance between the berms on each side of the creek and have an access ramp next to the lagoons at an approach angle and steepness that would allow heavy equipment to climb and safely traverse the bridge. This would also have to be accomplished sometime this summer in order to start spraying for the anticipated weeds. Tina recommended that Robert check into having the installation contractor either sterilize the ground to stop weed growth and/or lay down a weed barrier during the application of the road base. Robert said he would

check into this option and get quotes for the costs because this expense is not included in any of the current scope of work.

Wendy made a motion to have the service road installed now as per the original agreement and then plan for the installation of access bridges at the District's expense. Zane seconded the motion. Motion passed – unanimous.

**Unscheduled Item: Discussion: Email from Lannie Jollie regarding Blair Larsen's Board Position**

Per Mark Devoe, the Chairman of the Board, the following unscheduled item was approved for discussion. On Tuesday, March 3, after the agenda had been posted, the District Manager received the following email from Mountain Green resident Lannie Jolley requesting Board consideration and action.

*"Dear Robert,*

*Thank you again for including me in your MGSID Board meeting notification distribution list. It helps me stay current on the important issues you and the board work on to serve the Mountain Green community as a whole.*

*Unfortunately, I will not be able to attend this month's meeting because I will be in Las Vegas donating my money (slot machines, shows, and food) for the economic growth and support of most, (but not all) the things that Las Vegas has to offer.*

*As per our discussion earlier about missing board members on a continuous and reoccurring basis, I have tried to contact Mr. Larson regarding this subject, but have received no response, nor do I believe any more attempts from me will make a difference.*

*This is my concern. As a Mountain Green resident, I feel the MGSID board has a priority one problem that must be addressed ASAP in order to fully serve this township as intended.*

*Here's what I see:*

- *The board cannot provide 100% service to the paying residents of Mountain Green because of board member absence.*
- *Current subject elected board member has not attended required board meetings for an unacceptable amount of time.*
- *Current subject board member is in contempt of promises made under oath when sworn in.*
- *MGSID board does not have any written procedures to correct mentioned items above.*
- *MGSID board decision making ability for agenda voting items is compromised when not enough board members are present to make a quorum.*

*I realize you and the board are frustrated with this issue and would like to see it corrected so you may move on to better things. With that said, and in the best interest*

*of the services that the MGSID provides, it is my desire to see action taken of the above listed discrepancies in order to correct and strengthen the effectiveness of the board for which it is publicly entrusted. Also, I believe waiting until November elections thinking that possibly the issues will go away on their own is not the proper solution. If Mr. Larson runs for a board position then, the public is not aware that he is not fulfilling his responsibilities and could possibly be voted back in again. I think that would be a very negative outcome if that were to happen.*

*I would like to see a motion from the MGSID board to move forward in a fair but timely manner to provide written procedures in the form of proper and legal documentation to justify removal of anyone who will not perform their duties.*

*Thank you for taking time and listening to my points of view and concerns as a customer and citizen of Mountain Green.*

*Sincerely,*

*Lannie Jolley”*

Mark responded to the email by stating that he had met with Blair Larsen last night and had discussed at length the status of the trunk line service road, easement and bridges, along with Blair's lack of Board Meeting attendance. Mark added that he believes that Blair will try to start coming to the meetings because Blair wants to assist the District in completing the unfinished business with the trunk line, the service road and the bridges. Blair had a number of situations in the past year that kept him from attending the meetings and he reassured Mark that he will make a more earnest effort to attend the meetings. Mark concluded by stating that he believes that Blair will turn in a resignation to the Chairman when the time is right, and if Blair does not start making the meetings then Mark will probably be able to force the issue.

Tina stated that the only legal solution the Board has at this moment is to bring charges of malfeasance, and that is not something that anyone wants to pursue. These rules are outlined in the regulations for Special Services Districts. Robert added that he has followed the Board's request to check with Jon Call, our attorney, and the only options are either a legal action like impeachment or malfeasance, otherwise, Blair will hold this position, with attendance or not, until 2017. Mark reiterated, that he believes Blair will do the right thing if the request comes from the Chairman and not anyone else. In the meantime the Board should give Blair a little more time. After this situation is resolved, it would be in the Board's best interest to develop and record policies that will provide the appropriate procedures that will prevent situations like this in the future.

In closing, Mark said he would respond to Lannie Jolley regarding the Board's discussion.

**Item # 5: Discussion: District Operations ~ February 2015**

The Board reviewed the District Operations notes for February 2015 as presented.

**Item # 6: Discussion: District Statistics as of February 28, 2015**

Board members reviewed the statistics on Impact Fees, ERU status, connections, bank statements and financial reports.

**Item # 7: Discussion / Decision: Review and approval of Feb. 5, 2015 Minutes**

Zane made a motion to accept the January 15, 2015 minutes with corrections. Wendy seconded the motion. Three votes for approval with Tina abstaining because she was not in attendance at the February meeting. Motion passed.

**Item # 8: Discussion: Emergency Board Meeting scheduled for next week on Wednesday, March 11, 2015 at 7:00 PM to resolve item #2 from this agenda.**

The next regular Board Meeting is scheduled for Thursday, April 2, 2015 at 7:00 PM

**Adjourned:** 9:48 PM

**Signed:** \_\_\_\_\_