

**Spanish Valley Water & Sewer Improvement District**  
**Full Agency Meeting**  
**November 1, 2007**

The meeting was called to order at 7:50 p.m. at the Agency office, 3025 E Spanish Trail Road, Moab, Utah by Chairman Gary Wilson. Other trustees present were Lance Christie, Mike Holyoak, John Hartley, and Tom Stengel. Those present established a quorum.

Others present were: Dan Pyatt, Jerry McNeely, Kyle Bailey, Brian Backus, Terry Sykes, Marsha Modine, Dana Van Horn, Brenda Harris, Tracy Harris, Julie Durfee, Vivian Klocko, Bryan Torgerson, and Marion Holyoak.

**Public Hearing – Lemon Lane Parcel** Motion to open the public hearing at 7:50 p.m. by John Hartley. Second by Lance Christie. Gary Wilson-Aye, Lance Christie-Aye, Mike Holyoak-Aye, Tom Stengel-Aye, John Hartley-Aye. MOTION CARRIED.

Bryan Torgerson (SITLA): First of all I appreciate you guys putting us on the agenda tonight to listen to what we have to say. I first wanted to start out by just telling you a little about Trust Lands. I think everybody knows us but I still think that we are...that there are some misconceptions out there of what we do. Of course everyone knows that we received money from the Federal Government at Statehood. What a lot of people don't know is that these lands are not public lands. They are trust lands – held in trust for the sole benefit of the beneficiaries. We have twelve beneficiaries. Our main beneficiary is the school fund - the public school system. This piece of property does fall in that fund. Most people understand that part but up until this is when it is sometimes misconstrued. When we make money from these lands it is put into the permanent fund and then only the interest and dividends from that is distributed to the school districts. Last year I think we distributed about approximately \$50,000 to Grand School District. Which may not seem like a lot...

John Hartley: It's not. Sorry, go ahead.

Bryan: No, no please. That's fine. But one thing that people do not understand is that once there's interest - the interest is spent. So that the permanent fund is continually growing and there is always something to help the schools. But those funds actually have no earmarks at all. So they are actually more valued dollar for dollar than any other funds they get. Because they can use them for whatever they want. There's a community council that is formed for each of the schools and it is made of principals, teachers and parents and they decide what these funds should be used for. For instance Helen M. Knight Intermediate School decided they needed an after school tutoring program. They didn't have enough money to do that so they used trust funds to do that. Even though there may not be a lot that is coming to Grand County now; there will be in the future. It is continually growing and they are very important. And I tell you that just to make sure...

Kyle Bailey: Do you know how much they are giving to Grand County?

Bryan: Right around \$50,000

Kyle: \$50,000

Bryan: Yes.

John Hartley: You know fifty thousand dollars doesn't go very far when you consider that if you have fifty acres of property that you annex in here and put four houses an acre on it and we have to have educational facilities for that many more students – how much more money do we get from you guys. We're not going to get anywhere near that amount to cover it. I think that you coming here telling us that \$50,000 we should feel good about it – I don't feel good about it.

Bryan: And that's your opinion. One thing that I want to point out is that most of the funds that do come into the permanent fund actually do come from the Uinta Basin from the oil and gas stations in those areas. Last year we made 170 million dollars. The majority of that was put into the permanent fund so it's continually growing and it is growing at an exponential rate. So you have to understand that only ten years ago we had 10 million dollars in the permanent fund. Now it is close to a billion. So in that short amount of time – it has grown very rapidly. And it's going to continue to grow rapidly. It will come back and be a very smooth...

Mike Holyoak: They do ration it out per pupil?

Bryan: per pupil

Mike H: Okay. It's fair that way...

Bryan: The one thing... Utah school children as a whole. They are all Utah's children.

John Hartley: It's not when you consider that we don't have nearly the money per capita to spend on students that they have a....

Bryan: I shouldn't have brought that up. Maybe...

Gary Wilson: I appreciate it. Let's move on to the duty at hand guys...

Bryan: But just to go back to how this... I'd just like to tell you a little bit about trust lands but... Going back about 8 to 10 years ago we participated in the water tank up on Johnson's Up On Top. We spent some significant monies to do that and the main reason we did that was to increase water pressure in that area. There was very insufficient water pressure there. And so we partnered with GW&SSA and other interested parties and partnered on that. We believe that this is probably an error, an oversight, that this land wasn't previously annexed into the water and sewer district for the following reasons: This is just our opinions who knows what is to say but...It's the only TLA property in the Spanish Valley area located in Grand County, so it isn't in the GW&SSA service boundary. It is the only property in the area that is located in the GW...(there are so many different departments so I apologize if I get this acronym wrong but)... it's the only property in the area that isn't in the service district boundary. And as I talked to Marsha initially, how we uncovered this, is that the GW&SSA map actually showed that it was in the district boundaries and the only thing that uncovered it is that she recommend that we double check it against the County Recorder's Office and after doing so they said that – no, we don't have a record of it being in the district. And so – no matter what if it's an oversight or whatever – we are here before you because it needs to be done. So going back to the Johnson's Up On Top thing, we contributed significant monies to increase the pressures there and from that we have 270 prepaid impact fees and we always intended to use some of them for the development of that project when it comes on line. Even though there's, you know, serious sewer issues in the county right now we still want you guys to consider annexing this property for the following reasons: the one, in theory, is that the district could still provide water service to the property, using those prepaid impact fees, without providing sewer services. The other one, in theory, is that if we were in the district we could use the water and provide our own sewer services. We're probably not going to do that. But that is, in theory, that's there. And we'll likely be at the table for helping to solve this sewer system issue that's in front of us. And the law does allow us to annex into the sewer district even though there's not capacity right now. But in conclusion I just wanted to sum up by saying that we're not asking for any commitment to service or any type of project at this point in time. We're only asking that we be annexed into the district so if or when sewer and water is available that we can petition you guys at that point in time to connect into it. And so once again that's all we're asking tonight – is that you consider us to annex into the district so that when water is available and sewer so that we can petition at that time to connect into it. And there is a map on the back that does show our parcel – it's right across from the arena and it shows, the dark blue line, of course is the rim line property that is in question and the orange line is the boundary corridor – the current district boundary. That's all I have at this point in time. I appreciate your time.

Gary Wilson: I'm going to let the public if that's what they're here to ask and then I'll throw it open to the board because I'd like for us to hear them first. So if anybody from the public wants to speak to this then we'll give you a few minutes each and you can do whatever you want to do.

Tracy Harris: Just one question I guess. If you going to be adding...

Dana Van Horn: Can you state your name please? I'm sorry.

Tracy: I'm sorry. Tracy Harris. If you're going to be adding services, requests for services, it would probably be helpful for the county to know how many housing units you're looking to service because there's a big difference between, you know, maybe a dozen versus a hundred and that could make a big difference.

Bryan: That's a fair question. And once again we're not here at this meeting to ask for any commitment to service on any type of level. We're just asking, at this point in time, to consider annexing us into the district so that once we do sift all that out that we can petition you for a certain amount.

Kyle: What is the zoning?

Bryan: Right now it is currently zoned range and grazing one to five acres – so it would be a total of 15 – 16 units.

Gary: So to answer one question – it would be covered by whatever county zoning is and that's out of the control of this board. It's quite... we're going to want to know also. Any other comments?

Vivian Klocko: I have a question then. Vivian Klocko. The notice posted at my house says they're trying to be annexed into the city and not in the county. So now you're saying you're trying to be annexed into the county? Because the notice on my property that's posted said you're trying to annex into the City.

Bryan: That's a good question. No, this application is not to annex into the City district but the county sewer district.

Vivian: Okay.

Terry Sykes: To annex into the improvement district and that's what the posted notice says.

Vivian: The letter says the city so that's why I thought they were trying to change the zoning on us or something.

Marsha Modine: I don't think so

Bryan: I apologize. I...our application was only for...

Terry: We posted them and they do say into the...

Marsha: Spanish Valley Water & Sewer Improvement District.

Vivian: There's something about the city on there. The ones that are on the things.

Mike Holyoak: Don't get involved in the city...it (unintelligible) (laughter)

Vivian: That's fine – I just read it wrong then.

Kyle: My question is why would you even want to be annexed in at this time if you're not going to do anything until services are provided. My name's Kyle Bailey and I'm not a member of that board so... It seems to me, at this time,

that the Improvement District, at this time, has its plate pretty full with a moratorium on service connections and to accept more property into the Improvement District just burdens them with more responsibility and it also... and just because you say that you won't do anything...the pressure may...

Bryan: I'm not saying anything like that.

Kyle: Yeah, right. It sounds like you are saying that nothing will happen for several years until everything is solved. It just puts a lot of pressure on the board. It also...at any given time you can come in and ask to be developed or to put in whatever you wanted to but...

Bryan: That's a great question. If I could...

Kyle: It just seems, with the moratorium going on, it just seems like you are putting the cart before the horse if they do that - if they annex more property in.

Bryan: I can speak for my/our opinion – but our opinion is/ what really puts the pressure on the Improvement District is really the commitments or will serve letters that they actually have to commit at that point in time. We're not asking for any type of commitment of any...

John Hartley: Once you're in the District, we have to. So you are asking for a commitment. This is a commitment from us. Once you're in our district, we can't tell you "no". We have to build for it.

Bryan: We can even work that into the annexation letter or agreement that says that we are not asking for any...

John: I don't think that you can give up your rights to that law in court. In fact, your agency isn't that stupid.

Gary Wilson: Okay, let's finish up with the public. Go ahead.

Mike Holyoak: This is just a public hearing – let's not get into...

John Hartley: This is a public hearing – I'm part of the public. I'm on this board.

Mike: I know but...

Gary Wilson: Let's let the public finish. Go ahead Marion.

Marion Holyoak: My question is that if he comes in and he says that this is residential- no he said it is zone three. Right? So five acre plots is that correct?

Gary: One to five.

Marion: One property to five acres? Right?

Bryan: Correct.

Marion: So if he gets this agreement with you guys to be in this agency then can he change that?

Lance Christie: Yes, he could petition the county planning and zoning.

Marion: And if he gets the okay from you guys to put in that many (I don't know what the term would be)

Kyle Bailey: Density

Marion: Thank you sir. That much density... then does he have to come back to you guys? Because they do want to put in more than that.

Bryan: We won't be able to build until we have the capacity for water and sewer.

Marion: I was wondering if he has to come back to you and ask for more?

Terry: There is a formal process – it's called a will serve request/process and yes, they would have...

Marion: They do have to come back and ask for more?

Terry: Yes, but the only criteria is "Is it available?" and "Can we provide it?"

Gary Wilson: We don't do zoning.

Marion: I understand that

Gary: If you are concerned with this then you need to be talking to the County Commissioners and say "We don't want this."

Marion: Well, we're just going through this process with them because this is how this is going.

Gary: Right. And you ought to be concerned as neighbors with what is going on in your neighborhood. Terry said it. If we have the ability to serve it – that's our obligation. John said it also. That's... once we annex this – if they want it and we're able – we need to do it just like for anyone else. Anything else? Go ahead.

Julie Durfee: Yes, my name is Julie Durfee and I would request that it not be annexed because I live smack across the street and I was in a previous city council meeting when the same group came and asked for rezoning and their plan was all ready to go for 88 units to go in - in this little triangle parcel in Lemon Lane and it would be so highly congested the density would be so intense that there's – the roads aren't available. It's not feasible space-wise. It would just be...its a little area like a little cove and everything settles in there like smoke / gas fumes – so if there were that many homes over there and everyone started their cars in the winter in the morning it would just be way more pollution than you'd even find in downtown Moab. The way the air flow is right there and the traffic would just be crazy – we talked about this before and I know...the road company was even involved and it's just a one way...it's just a two lane street up and down and to have another hundred cars, well it would probably be three cars per household – another three hundred cars on one little two lane and the highway is 65 miles per hour where Lemon Lane meets the highway down below. That's a 65 mile per hour limit. It's just not even feasible to have that kind of traffic flow and I just know it would totally deteriorate the quality of life that's out there now – which is country. And I'm real concerned about all the consequences of...I know once its in, and water is available that it is just a matter of time – that's just step one. Sure, make it sound like "now its just the first step" but one thing leads to

another and of course its all about the big dollar bill so...I am against it with everything in me. I just wanted to state that.

Gary: Thank you. And we'll conclude.

Tracy Harris: Just one more question. I just want to know because I don't really understand about the water and sewer as well. If they add 60 to 80 homes on that line; will that drop the water pressure because it is uphill? Does that happen? Would that affect the water pressure that we have already?

Terry Sykes: If there were enough homes it could. But those lines are of a size that it wouldn't.

Tracy: Okay.

John Hartley: What size are they Terry?

Terry: Eight inch. Prior to the upgrade it could have happened but I think that's part of what Bryan was saying.

John: Well you know eight inch to my recollection is now minimum sizing for most distribution systems so even though eight inch is bigger than what we had, but we are probably looking at needing 12 inches at some point with the development that's going to happen out there so...

Terry: Which there is a 14 inch main that runs down the highway. There are some lots on that too that are on the upper end that are borderline pressure-wise even with the existing pressure point. So that would be addressed in the will serve process.

Gary: Marion – go ahead.

Marion: Just real fast. So I'm still on a well. Would I have to do city water then? No? Just wondering.

John: You may be required to tie onto the sewer.

Marion: We're on the sewer. We had to do the sewer.

Vivian: You made us.

Gary: Anything else with the public then?

Brenda Harris: Is there any way to guarantee if this thing goes ahead that it can only go one dwelling per...

Gary: It's up to the County Commission

Brenda: Okay. Then I'm against it.

John: Well, you could get them to promise to give up their development rights. They're not going to give them up to us. But if they give them up to you – that's different.

Brenda: Okay – We're all against it.

Vivian: I have another question too. He made the statement that they would provide their own sewer because we couldn't handle it. They might, that was a statement he made something that they might do their own sewer if they couldn't handle it at the time. But they made mandatory that all of us hook into it so how can he put in another 80 homes and not have to...

(unknown board member – Mike Holyoak?): he's not going to be able to.

Vivian: So...Okay...It wasn't available to my home but then you made me make it available to my home.

Lance Christie: Right now anyone could develop that property. Not being within the water and sewer improvement district. He could put in the well, a culinary system of his own, and he could put in septic tanks...

John Hartley: No he couldn't

Lance: and get a permit – he's not in our district.

John: I doubt they would give him 87 of them.

Vivian: I understand you think I...

Terry: Then it wouldn't be a regional plant.

Gary: Anything else? Bryan? I think we're going beyond the scope. Rough 80 here, you started out with six. We don't want to second guess what you're doing and I understand the concern of these people because I suppose of the potential here and that's why we have public hearings. I think your concerns though, personally, need to be addressed to another agency instead of us but I can see if we stop things that it might help – so. Anything else from the board? Go ahead Lance.

Lance: Yes, I'm going to be institutional memory here. In 1996 when we were doing the build out study, Mr. Hoffman and I were under the impression, due to the maps of the Grand Water and Sewer Service Agency, that this was in the sewer district. And so we included providing services to this parcel and it's in the build out study - yes – at its zoning density of 16 units. So basically, our build out study assumed that we would be providing 16 ERU's of water and sewer service to that parcel. So, it's not adding something to the build out study that isn't already there. Obviously if he up-zoned it, which is a matter of determination for the Grand Water – I'm sorry – the Grand County Council to either approve or not approve the zoning change request. If he was successful in up-zoning it, then there would be greater density than we had planned to serve. But, we had planned to serve the density that the current zoning would provide. And I also think the fact that he's not in the district is in fact, a historical error. Because when we were designing the district originally we intended to have it from the San Juan County line rim to rim down to the Moab city limits.

John Hartley: There are other people who have not fallen in on time and they don't get the consideration. So I don't think there is any consideration due here.

Gary: Terry – go ahead.

Terry: Just a couple points...about the process. This begins a 30 day comment period. So, you have 30 days to provide written comment.

Gary: ...if you want to send a written comment- you're welcome. And, of course, everything you said is on record to be considered.

Terry: And at the end of that 30 day period then the Improvement District has another 30 days to grant or deny this request. The other thing... I did request of legal staff because I had the question "Can we even consider annexation if we can't provide sewer?" And the answer is, yes. Yes we can. It would be a condition of the annexation so that is legally doable.

Tom Stengel: Even if they're not in our district isn't there some State law that if they are within X number of feet of the sewer line that they have to tie-in?

Terry: The State changed that. It used to be 300 feet and now they kind of passed the buck back to the county. It's kind of arbitrary. It is a "reasonable distance" – I would say that this is a reasonable distance.

Tom: That they would have to hook into sewer?

Lance: If they were in our district then they would have to connect to sewer to be able to obtain a building permit by County ordinance.

John Hartley: I don't think they could be forced to accept anything – annexation wise. Once we annex them – that's when the responsibility exists...

Lance: I believe John is correct. We are not under any obligation to annex them – Any legal obligation. It is discretionary.

Gary: Alright. Dan had something. Go ahead.

Dan Pyatt: Just something that kind of struck me listening to all of these comments was that most of the concerns seem like they are outside the realm of what this agency deals with. I mean there are density questions, traffic questions. So I think you, as a group, need to be exchanging this dialogue with the Planning Commission or the County Council because some of your concerns are really outside the realm of this agency and / or district.

John Hartley: I agree, but with this statement that is that we have been regarded by the County Council as if we say it's okay...It's okay if they change zones. I think that when we approve something or say we can do something, we need to indicate – like Lance said – we planned on 16 units here. If they wanted – if we're going to annex them then that's what we should annex – based on what our build out...our master plan is. And that gives the County Council a different message than saying "we can serve whatever you guys decide you want to give them." Because that's what...there's been a circular firing squad going on here. The County Council is shooting at us and we're shooting at the County Council and everybody...neither one of us seems to know what the other one is doing. And I think we need to change that. And I think that this would address some of these people's concerns too. That we're not carte blanche saying "yeah, go ahead. Change the zone because we can handle it." Because as we all discovered, we can't handle the zone changes.

Gary: Go ahead Marion.

Marion Holyoak: But isn't that what you just said you couldn't do?

John: Well, no, all I'm saying is that if we were to approve this annexation; what we should do is approve it based on what we had originally conceived as the build out for that property which is 16 lots. Not 80. So that's what we should be saying when we say we can do it or we can't do it. We should be saying – based on these figures that we used, we'll do this approval. And it's something that if they want to go back and ask the County Council for more...then the County Council will make the decision to use up our capacity. Or tell us to use it up. But we shouldn't just give it up because the County Council thinks that once we do that it's cool. They're doing it with other issues too so I won't get into that.

Gary: John, keep in mind...they've already got two hundred and some prepaid water impacts. They're entitled to use them wherever they want.

John: I know but...I'm not telling them they can't use their prepaid impact fees.

Gary: You're trying to tell them where they can't use them.

John: I'm just trying to tell them that we had 16 lots there. And just because they have two hundred of them doesn't mean that they can stick them all there. That wasn't part of the deal.

Gary: If we can serve them - that was part of the deal.

John: We can serve them based on what?

Mike Holyoak: I move that we go out of the public hearing.

Gary: I agree.

Julie Durfee: I just want to say one more thing. I have bad water pressure in my front yard. I put in a sprinkler system and it doesn't have enough pressure to run it. I have to do one part at...there's not enough pressure at my house to do a sprinkler system.

Gary: We need to have the staff look into that.

Mike: That is something we can address.

Gary: Go ahead and then we will close the public hearing.

Tracy: I have the same issue.

Gary: Well then come and talk to the staff about it and let them go do some checks. Alright, we have a motion to close the public hearing.

Lance Christie: I'll second.

Gary: All in favor. – Okay. Thanks people.

**Minutes – meeting of 9/20/07** Motion to approve the minutes of 9/20/07 by Lance Christie. Second by Tom Stengel. Gary Wilson-Aye, Lance Christie-Aye, Mike Holyoak-Aye, Tom Stengel-Aye, John Hartley-Aye. MOTION CARRIED.

**Financial Statement** Marsha presented the September 2007 financial statement to the board.

**Approve 2008 Preliminary Budget** Motion to approve the 2008 Preliminary Budget by John Hartley. Second by Mike Holyoak. Gary Wilson-Aye, Lance Christie-Aye, Mike Holyoak-Aye, Tom Stengel-Aye, John Hartley-Aye. MOTION CARRIED.

Chairman Wilson declared the meeting adjourned. Hearing no objections the meeting adjourned at 8:20 p.m.

ATTEST:

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Gary Wilson, Chairman

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Mike Holyoak, Clerk