

OFFICIAL IBSD MINUTES

SEPTEMBER 16, 2010
IONA-BONNEVILLE SEWER DISTRICT (IBSD)
MONTHLY BOARD MEETING

Meeting called to order by Chairman John Price at: 7:00 p.m.

Board Members Present: John Price (Chairman); Mike Klingler; Jason Blundell; Glen Clark; Kelly Howell

IBSD Staff: Cindy Wellman, Manager; Donna Bridges, Field Coordinator

Attorney: Tony Sasser, Sasser Law Office

Public: Dave Noel, Forsgren & Associates/patron; Eric Christensen, EIRWWA; Kevin Harris, Forsgren & Associates; Bill Manwill, Forsgren & Associates/patron; Allen Beazer, patron; Sally Price, patron

Agenda Items:

1. Discussion of formal proposal for serving IBSD as a customer and formal proposal for serving IBSD as a partner: Eastern Idaho Regional Waste Water Authority - Mayor Christensen, City of Shelley
2. Facility Planning Study agreement approval: Forsgren Associates Inc. and Tony Sasser, Sasser Law Office
3. Discussion and scheduling of work meeting for IBSD/Ammon separation
4. Legal Counsel: Discuss extension of separation agreement with Ammon
5. Building Update – Landscaping proposals, Side table quote
6. Payment of bills
7. Approval of Minutes: 08/19/2010, 09/01/2010
8. Adjournment

Meeting minutes: For additional information, please reference the meeting recording.

00:00:00 **DISCUSSION OF FORMAL PROPOSAL FOR SERVING IBSD AS A CUSTOMER AND FORMAL PROPOSAL FOR SERVING IBSD AS A PARTNER: EASTERN IDAHO REGIONAL WASTE WATER AUTHORITY - MAYOR CHRISTENSEN, CITY OF SHELLEY**

Mayor Christensen addressed the Board stating when the request for proposal from IBSD was presented to the EIRWWA Board it was accepted unanimously. He believes it is to the advantage of both the EIRWWA and IBSD. He thanked the Board for considering the project again. Mr. Price stated the reason for the requests to EIRWWA and to Idaho Falls was to get firm figures so that the best decision for the future can be made.

Mr. Blundell asked what would be the advantage of going with EIRWWA. Mayor Christensen stated a great service could be provided. A formal proposal will be presented within 90-days of the request.

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Mr. Klingler stated that he would like the letter from the EIRWWA acknowledging receipt of the request for proposal to be attached to the minutes. Ms. Wellman noted the second paragraph of the letter stated that an independent review of the proposal will be performed by a group at Boise State.

Mr. Blundell asked if anything needed to be done as a follow up to the previous work meeting where separation from Ammon was discussed, this is a later agenda item.

Mr. Price stated that some decisions with Ammon hinge on the outcome of the proposals but he still wants to proceed with the separation so that there are options.

00:04:55

00:04:55

FACILITY PLANNING STUDY AGREEMENT APPROVAL: FORSGREN ASSOCIATES INC. AND TONY SASSER, SASSER LAW OFFICE

Mr. Sasser stated he has reviewed the contract, made a few changes and feels comfortable with the final contract as drafted. Mr. Sasser suggested having the Board review the scope and proposal and schedule a work meeting to address and discuss any concerns.

Mr. Klingler questioned the time and materials portion of the contract that is above the base cost. He is concerned the contract will end up being more than the base cost of \$150,000.00. Mr. Harris stated that parts of the scope are left open-ended since there are assumptions of what data needs to be collected and it allows the Board to expand on items not included in the base cost. Any additional work will be approved by the Board.

One item of concern is the GIS data that was restored by Bob King. The data is at least three years old and from the original system install. GIS data from Idaho Falls and Bonneville County has been received but the source of the data these entities received the data may not be accurate so verification may be necessary.

Mr. Noel stated the reason to have additional services listed is when a system has not been looked at in 20 plus years they expect surprises and unknowns. They prepare a contract with the base items they know have to be done with the option of adding additional scope if necessary and at the discretion of the Board. He stated that until they dive into the study and see what data is needed, it is difficult to predict.

Mr. Price asked how long it would take for Forsgren to explain the scope and what the Board could expect as a product from the study. Mr. Harris stated about an hour; he would like to sit down and explain everything so the Board feels more comfortable.

Mr. Clark asked Mr. Manwill how accurate the information about the pipe is. Mr. Manwill stated the original system is known and the additional subdivisions are mostly 8-inch lines so a lot can be assumed. He also stated the contract is formatted so that IBSD does not have to pay for work that not needed. Mr. Price stated he and the Board need to become more comfortable with the subject matter.

00:31:30

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00:32:30 **DISCUSSION AND SCHEDULING OF WORK MEETING FOR
IBSD/AMMON SEPARATION**

Ms. Wellman asked if the Board would like to combine a work meeting to discuss the scope of the Facility Planning Study with the meeting to discuss the separation. The Board discussed whether a work meeting was needed with the City of Ammon and concurred additional information is needed as a result of the previous meeting.

(A work meeting was not scheduled.)

00:33:40 **LEGAL COUNSEL: DISCUSS EXTENSION OF SEPARATION AGREEMENT
WITH AMMON**

Mr. Sasser stated he has been working with Scott Hall, City of Ammon's attorney, drafting an agreement for an extension of time for the proposed IBSD interceptor line. The contract extends the deadline from March 31, 2010 to January 1, 2013. The thought process is this allows extra time for the decision regarding future treatment service to be made.

The original agreement stated the line has to be turned over to IBSD before Ammon terminates service with Idaho Falls. Ammon's contract with Idaho Falls expires in 2014. Mr. Sasser asked the Board to review the proposed agreement to be discussed at a future meeting.

Mr. Sasser also commented on the legalities involved with separating customers that are flowing into Ammon. He is concerned with the Constitutionality with respect to homeowners and whether there is a "taking" involved. He has spoken with the Attorney General's office and believes since this involves a service Idaho State Code must be followed. IBSD and City of Ammon must decide how they want to separate before the legalities move forward.

Mr. Klingler believes the legalities are driving the solution. The Board needs to know what is legal before moving forward. The best solution is to realign boundaries but the Board needs to know if and how the courts will allow this. Right now there are about 300 affected patrons that flow into Ammon lines.

Mr. Sasser stated the best way is to petition the court and see what the ruling is. He would like to put the affected patrons on notice so they have time to get their concerns addressed.

Mr. Price stated there are ways to separate that won't cost anything and then ways that will cost \$4 million plus. He would like to know what is allowed as far as dealing with the patrons. Once the Board knows what is legal then a program can be presented to patrons.

Mr. Klingler noted a similar situation with Idaho Falls where they petitioned not to have an election because the improvements were required.

Mr. Sasser is going to work with the City of Ammon on this since it affects them and continue to get more information. He will then present options of what can and cannot be done at the next meeting.

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Mr. Price stated he has a problem with the extension agreement draft since it sounds like IBSD wants the extension and that is not the case at all. Ammon wants the extension since they are in financial and logistical trouble in meeting the delivery date. He would like it understood since Ammon does not seem like they are willing to cooperate. He thinks there needs to be full cooperation between IBSD and Ammon and he doesn't think that is happening at this time.

Mr. Klingler agrees and stated he believes there is benefit to IBSD to continue with the interceptor line whether IBSD decides to go with the EIRWWA or stay with Idaho Falls.

Mr. Price stated IBSD needs to take the negotiating high ground. Ammon is coming to IBSD not the other way around. He doesn't want to give the interceptor line away.

Mr. Howell suggested making a proposal to Ammon and upon agreement IBSD will make the concession to agree to the extension.

Mr. Sasser will redraft the extension agreement and work with the City of Ammon's attorney. He will also get an official opinion from the Attorney General's office regarding the rights of patrons in regards to boundary changes.

Mr. Klingler and Mr. Clark both stated that IBSD is ready to move forward with the interceptor line. IBSD can write a check today and if Ammon were ready to begin construction today they would like the line to be installed. The agreement for the line is in place and separating now will eliminate the problem of separation in the future.

Mr. Noel commented when the request for proposal was made to EIRWWA the thought was that if IBSD decided to go south with Ammon then the interceptor line would not be needed. He suggested communicating this to the EIRWWA Board. He knows from attending meetings that the design is complete and approved by DEQ so Ammon is ready to move forward with the interceptor project.

Mr. Sasser does not believe this was communicated at the previous meeting with Ammon. He will go back to Ammon and redraft the agreement.

Mr. Blundell believes it would be better to move forward with the interceptor line so that IBSD has additional options in the future. Mr. Price stated the attitude of this Board is that there will not be a shared line.

Mr. Howell, going back to the issue of separating patrons flowing in to Ammon's lines, asked if the Board had the right to say that since the lines are flowing to Ammon they belong to them. Mr. Sasser said the Board could do this but it may open up the possibility of lawsuits. The goal is to take care of patrons but do what's best for the District as a whole.

Mr. Blundell asked how the breakdown of the new rate for Ammon was developed. Mr. Noel answered that the rate is made of three components consisting of treatment which pays for the facilities (about \$20 a month), operations and maintenance that pays for operation facilities (about \$9 a month), and then the third component, that Ammon came up with, for administration (\$14 a month).

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Mr. Blundell stated his initial impression is that the EIRWWA will not be able to beat Idaho Falls' price. Mr. Noel stated that the EIRWWA never stated it could be done cheaper. The initial reason IBSD, Ammon and the other members originally participated in the feasibility study for the regional project was that there were concerns about Idaho Falls being forthcoming with information about the projected costs for updating their facility. The report Idaho Falls has prepared states that there are \$40-90 million in upgrades. The members felt that even if it wasn't cheaper to leave Idaho Falls, the numbers were at least known. It is yet to be known if Idaho Falls will respond to the request for proposal since there is conflicting information coming from Idaho Falls.

Mr. Klingler stated there were additional reasons Ammon decided to construct a wastewater facility in Shelly including most of their flow runs south and in order to continue their growth in the southern direction, they needed a facility in the south. This does not hold true for IBSD since IBSD will not be expanding towards the south.

01:29:30

01:29:30 **BUILDING UPDATE – LANDSCAPING PROPOSALS, SIDE TABLE QUOTE**

Mr. Klingler stated that the materials were on order for the audio installation for the board. He expected this to be done in the next week or so.

Ms. Wellman presented bids for landscaping maintenance.

MOTION: Mr. Klingler made a motion to use B & K Landscaping for lawn maintenance.

MOTION SECONDED: Mr. Clark seconded. **MOTION PASSED:** 4-0 (Yay: Mr. Klingler, Mr. Blundell, Mr. Howell, Mr. Clark; Chairman Price abstains)

01:38:10

Greg Johnson has submitted a bid for an additional table for the board room. The Board discussed the requirements and dimensions.

01:42:00

01:42:00 **PAYMENT OF BILLS**

Mr. Blundell asked about access to statements, these are available online but he would like a copy to be provided at the meetings.

The Board discussed the need for a spigot to be installed for the building.

MOTION: Mr. Clark made a motion to pay the bills. **MOTION SECONDED:** Mr. Howell seconded. **MOTION PASSED:** 4-0 (Yay: Mr. Klingler, Mr. Blundell, Mr. Howell, Mr. Clark; Chairman Price abstains)

01:52:20

01:52:20 **APPROVAL OF MINUTES: 08/19/2010, 09/01/2010**

Mr. Klingler asked that more time markers be added to minutes with single agenda items and long discussions so the conversation can more easily be followed.

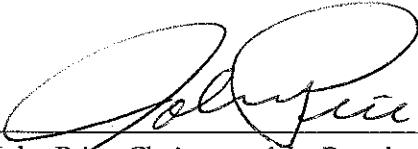
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Mr. Blundell also updated the Board on funds that he has reinvested. Mr. Klingler requested that totals of funds be presented each month.

MOTION: Mr. Clark made a motion to approve the minutes. **MOTION SECONDED:** Mr. Klingler seconded. **MOTION PASSED:** 4-0 (Yay: Mr. Klingler, Mr. Blundell, Mr. Howell, Mr. Clark; Chairman Price abstains)
01:56:30

ADJOURNMENT

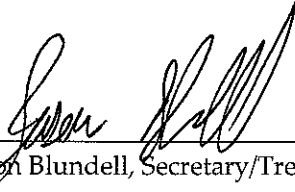
The meeting Adjourned at 9:00 p.m.



John Price, Chairman of the Board of Directors

10/4/10

Date



Jason Blundell, Secretary/Treasurer

10/12/10

Date