

Swan Creek Water District

Record of Proceedings
Thursday, March 10, 2016

The meeting began with The Pledge of Allegiance at 6:30 p.m.

Roll call attendance showed the following Board members present: Dale Brunner, Mark Fowler, Shawn Albert and Walt Lange. Also present were Tina Whalen, Manager, Cindy Fowler, Office Assistant, Tom Shelley, Inspector and Township Trustee, Ron Holdeman. Visitors list attached.

Minutes Approval from Regular Meeting on February 25th - Motion was made by Trustee Lange, seconded by Trustee Brunner, to approve the meeting minutes from February 25, 2016. Roll Call Vote: Albert, yes; Brunner, yes; Fowler, yes; and Lange, yes. Motion Carried.

Manager's Report

Cash Summary by Fund Report was given to the Board for review.

Resolution(s) 2016-11 thru 13 were reviewed and signed by the Board. Details of these resolutions are in the February 25th meeting minutes.

February's Bank and Investment Statements were reviewed and initialed by the Board.

February's Fund Ledger was given to the Board's Treasurer, Mark Fowler for review. Trustee Fowler asked for payment details on a customer account. Trustee Fowler will be updated at the next meeting after customer account review has been done.

Purchase Orders were reviewed and initialed by the Board.

Cindy & Tina in Columbus for Training March 22-24th – Cindy and Tina will not be at the March 24th meeting, but will have meeting materials ready for Board prior to leaving for training.

Treasurer's Report

Bill Payments – Trustee Fowler reported that he has gone over all the bills. No questions or concerns.

Resolution 2016-14 was motioned by Trustee Fowler, Seconded by Trustee Lange to approve payment of the bills in the amount of \$14,448.70. Roll Call Vote: Albert, yes; Brunner, yes; Fowler, yes and Lange, yes. Motion Carried.

Inspector's Report

Tom said he took apart the old hydrant meter and verified that the Check Valve was broken, but the meter can still be used as a backup meter. Tina contacted Pollard Water where the meter was purchased from, and was informed that they do not make parts or check valves for that model any longer. Tina has ordered a new Hydrant Meter.

New Business - No new business at this time.

Old Business

Johnson Trucking on Airport Hwy – No one from Johnson Trucking was present at the meeting to discuss details. Tina received a letter from Johnson Trucking asking if it was possible to obtain water from the Swan Creek Water District and if so, what the cost would be to obtain a water line. Tina said she sent a hydrant meter contract to Johnson Trucking but has not heard back from them. Trustee Brunner said Johnson Trucking had stated that they were going to send a letter to the District as well as the Village of Delta. In his opinion a hydrant meter would be a short term fix for their needs. Tom added that if Johnson Trucking is interested in getting a hydrant meter from the District, while other options were being explored, that another hydrant meter should be purchased.

Vacant Water Board Position (Original Court Entry vs. Bylaws) – The Board discussed the Final Entry Court document from when the Water District was originally formed. This was recently brought to light by the District's attorney.

It states that if the Township Trustees fail to appoint a successor within three (3) months of a resignation or expired term, the District Board, by majority vote, shall have the duty and responsibility of selecting and appointing a replacement for any Board member who has so resigned or whose term of office has expired. This information is different from the Bylaws that the Board has been going by. However the final court entry supersedes the bylaws.

Trustee Lange said he feels that the Board has no choice but to abide by the Original Court Document. Tina explained that the bylaws could be changed by the Board at any time, but the Court Document can only be changed by going back to Court.

Trustee Brunner said that everyone has been making decisions according to the bylaws and that the Township Trustees have not intentionally failed to appoint someone, but has been delayed due to some conflicting legal advice.

Township Trustee Holdeman said the Township is waiting on an opinion from the Attorney General as well as the Ethics Commission and doesn't know when they will get a response. He was aware that the County Prosecutor and the Water District Attorney have spoken and both feel that the Water District should do the appointing of the current open spot.

Trustee Albert expressed his concern with appointing someone while there is pending litigation. He does not feel that the Water Board should appoint anyone until the law suit is over. Doing it now would not be fair since the District's attorney advised against appointing someone who is listed in the law suit. He feels everyone should have a fair shot.

Trustee Lange stated again that the Final Court Entry that formed the Water Board supersedes everything else that has happened since then, and that the District Board needs to appoint somebody.

Trustee Albert stated under normal circumstances he would agree, but under these circumstances he doesn't agree. Trustee Albert feels the Board might be subject to more legal matters

Trustee Fowler said he felt that 1-2 months' time were lost due elections, the application process and to the pending litigation.

Trustee Fowler said he feels a letter to the Ethics Commission might be considered and he feels the Board can proceed with interviews. He asked the Board how they felt about having one of the Township Trustees sit in on the interviews.

Township Trustee Holdeman said they also sent a letter to the Ethics Commission when they sent off their letter to the Attorney General.

Trustee Lange said he had issue with the Township Trustees making the appointment or sitting in on interviews, but whatever we do, we need a Motion to do it.

Trustee Brunner said in the Court Entry does not state a time frame on when the Board needs to appoint someone after the 3 month lapse.

Mr. Durholt asked where this new document came from, and was told that they received it from the Board's Attorney who was involved when the District was originated.

Township Trustee Holdeman said the Township does not want to go against their Legal Advice on any appointment to the Water Board.

Sharon Niedzwiecki made a few comments, she stated that Mr. Mc Quade their Attorney has said it doesn't make sense to not appoint someone who is against the proposed project. A diverse Board would be a better Board. She also said some property owners have sued out of frustration because they felt they were talking to a brick wall and there are people against the proposed project. Sharon said Mr. Wagoner approached the attorney and said "these other people" are just opposed property owners, but because they didn't form a group they are listed with the word "and" on the litigation. She does not know why the Attorney listed the additional people in the litigation with the word "and". She and Mr. Wagoner are the ones paying the legal fees.

Trustee Brunner said that Attorney Client Privilege Information would be a conflict of interest if someone named in litigation was appointed to the water board.

Renee Walker said she is not in the proposed water project area. She knows of several people who think some of the Board Members run their mouth and don't honor confidentiality. She would honor any oath she took.

Trustee Lange indicated that the board needed to know what the township trustees were going to do and we needed to correspond with them.

County Road 3, EF and Peaceful Valley Project

Executive Session to discuss Pending Litigation – At 7:09 p.m. **Motion** was made by Trustee Fowler, seconded by Trustee Albert to go into Executive Session to discuss pending litigation as well as reviewing information provided by the Attorney opinion regarding an appointment of the vacant Water Board position. Roll Call Vote: Albert, yes; Brunner, yes; Fowler, yes and Lange, yes. Motion Carried.

At 7:33 p.m. **Motion** was made by Trustee Brunner, seconded by Trustee Albert to return to the regular meeting. Roll Call Vote: Albert, yes; Brunner, yes; Fowler, yes and Lange, yes. Motion Carried.

Sending a Letter to Township Trustees - Motion was made by Trustee Fowler, seconded by Trustee Lange to send a letter to the Township Trustees asking them where they stand on filling the vacant spot on the water board and asking for a response in writing. Roll Call Vote: Albert, yes; Brunner, yes; Fowler, yes and Lange, yes. Motion Carried.

Public Forum

Kim Bowser made a public records request to have the Original Court Entry for the Water District emailed to her. She also asked what the Regulations the Board are working on. Tina explained that is has to do registered contractors, operations and daily duties, such as what size pipe to run in a specific circumstance.

Sharon Niedzwiecki made a public records request to have the Original Court Entry for the Water District emailed to her as well. She asked where the waste water from Johnson Trucking is going. The Trustees stated that Fulton County installed a storm basin and referred her to the Fulton County Engineer with any further questions.

Renee Walker asked when the contract with Toledo water runs out. Tina explained that the Water District's contract is with Fulton County, who purchases the water from Lucas County who purchases it from The City of Toledo. She would have to contact the Sanitary Engineer, Ziad Musallam if she wanted more information on how that works.

Richard Bowser wanted to share his information on Fracking and how California is using Fracking water to spread on the fruits and vegetables we buy in the store including organic.

Adjournment – At 7:44 p.m. Trustee Fowler moved to adjourn seconded by Trustee Brunner. Motion Carried.

Up Coming Meeting

The next two regular meetings are scheduled for Thursday, March 24 and April 14, 2016 @ 6:30 p.m.

SWANCREEK WATER DISTRICT BOARD

Mark Fowler

Dale Brunner

Shawn Albert

Walt Lange – Secretary, Water District