

**TOWN OF WATERFORD SANITARY DISTRICT NO. 1
MINUTES**

December 08, 2010

Commissioner Hinz called the meeting to order at 4:32 p.m.

Present: Commissioners Hinz, Gerard and Ciesielski
Absent: None
Also Present: Lynn Tamblyn, WRCSD; Duane Erickson, Operations Superintendent; Debbie Nelson, Administrator; Norm Nelson, Operations Assistant; Attorney Chris Geary; Linda Proeber, CRB Insurance; Mary Carignan and Town of Waterford Residents

Gerard asked Hinz to clarify his use the word “mediator” to describe Erickson during the November 10, 2010 meeting. Hinz stated Duane was not any type of mediator it was just a phrase used by him. Gerard read the meaning of the word and questioned Hinz if this was still the word he would like to use. Hinz could not come up with the word he intended to use and said he would stay with using “mediator”. Gerard motioned to approve the minutes from the November 10, 2010 meeting with the meaning of the word “mediator” in parentheses following its use, seconded by Hinz. All in favor. Motion carried.

Report from WRCSD: Tamblyn did not have anything to report.

Municipal Insurance: Linda Proeber presented a booklet to the Commissioners and outlined her recommendations for municipal insurance. Gerard stated he would like some time to study this material before making a decision. Since a resolution would need to be signed at a meeting for the Local Government Property Fund, Gerard motioned to have a Special Meeting Wednesday, December 15, 2010 at 4:30 p.m. to further discuss this matter, seconded by Hinz. All in favor. Motion carried.

Administrator Nelson explained she had contacted the District’s insurance broker regarding employee health insurance plans. The current insurance plan with United Healthcare is the only plan that would comply with the current contract. Nelson pointed out that although the renewal increased 20% for 2011, due to a change in personnel the district will actually be saving \$2,192.27/month or \$26,307.24/year. Ciesielski motioned to renew the current employee insurance plan with United Healthcare, seconded by Hinz. All in favor. Motion carried.

Mary Carignan who lives at 28932 Elm Island Drive explained that during last month’s meeting the Commissioners said that Erickson would come out and fix her lateral. After televising the lateral several times a leak was determined to be by the mailbox near the road. When the digging commenced the lateral was not where it was determined to be but rather was under a cement slab by her garage. Erickson stated after checking the lateral again and not finding a leak he decided not to dig any further as there was an existing crack in the slab further back from where he was working. The area was backfilled with slurry which should keep the slab from settling. Carignan acknowledged receiving Gerard’s phone call after he went to the above location with Norm Nelson and personally inspected where the work had been done. Gerard stated this issue would be revisited in spring.

Public Comments: Hinz asked Geary to take care of this. Geary explained the parameters for public comments.

- Gerard questioned Geary on his involvement with the wording of the agenda and placement of items thereon. Gerard stated his reason for asking for an “open discussion” was to cover items that have been brought up in previous meetings that were not on the agenda, however Geary changed the verbiage to “public comments”. Gerard felt that if there was a reason for a Commissioner wanting an item on the agenda the item should not have been changed without finding out what their intent was. Hinz and Geary stated that it is the President that creates and approves the agenda. Geary further stated that an “open discussion” does not work under the state law as it allows the Commissioners to go into discussing items that were not noticed on the agenda.
- Tom Hincz: Asked what the response is from the board members regarding the allegations that are circulating and where do we go from here? Hincz further questioned the user rate increase.

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Hinz responded the Newsletter was written by Gerard and is one man's opinion and the user rates were increased due to WRCSO rate increases. Gerard stated in 2005 the treasurer was not keeping an eye on the financial situation even though the minutes reflect Administrator Nelson stating there was more money being spent than what was being brought in but nothing was done. Since 2005 the District has been running in the red somewhere in the vicinity of \$80,000/year and there are charts to prove this. Gerard further stated that for five years increases in expenditures, inflation, and the WRCSO rate increases were not being kept up with. Gerard stated that when he recently became Treasurer he got up to his neck in what had been happening. Gerard read part of the approved June 09, 2010 minutes referencing how to save money by cutting what is being spent on legal fees, a lot of which are personal and political issues. Geary had recommended having an official policy in place as to who can contact the attorneys and pointed out that since there is not a policy in place any of the Commissioners can contact him and they feel obligated to take their call. Geary had further stated that ultimately there is little that can be done to control what each Commissioner does other than if District business is being discussed between two Commissioners which is a quorum outside a meeting to which Gerard replied "bingo". Gerard held up bills from Hostak, Henzl & Bichler for the past three months; September \$1,095, October \$390, November \$540, pointing out the majority of the calls were from Hinz. Gerard stated this is what is costing the District money, and this is why we are broke. Gerard asked Administrator Nelson to read a letter he wrote on November 08, 2010 to Geary reiterating what he has been saying. Gerard stated that he has tried to have a policy put in place but it will not happen with the other two Commissioners. Furthermore Hinz has contacted the attorney because he needs help with some answers, however Gerard feels Administrator Nelson has been employed with the District a long time and has the answers and if she doesn't she will contact the attorney. Geary said he stood by the minutes from the June 09, 2010 meeting with the exception of not charging the District as he should have since it took time away from other clients. Geary stated that with regards to Hinz he had contacted him on two issues; the referendum and possible problematic issues on closed session discussion. Geary stated he has seen the Newsletter and has spoken with others at the firm who feel they clearly do not see eye-to-eye on how things should be handled, therefore Hostak, Henzl & Bichler can no longer continue to represent the District. They will continue until new counsel is found. Geary stated they receive phone calls that generate bills which are then questioned as being inappropriate and draft agendas but their comments are disregarded. Geary is not sure who he should be dealing with and stated that quite frankly the Commission is so fractured that anyone he deals with creates a problem. Hinz wanted to clarify that he has had questions in the past regarding the referendum and has called Geary and he is sorry for that. Geary asked to add one more thing that being this is not open comment and is not suppose to be a free for all this whole conversation should not be happening. The point of the conversation is to listen to comments from the public and anything else should be noticed on the agenda and it has not been.

- Ray Littmann, Town of Waterford: Littmann questioned if the Newsletter was sent out monthly with Hinz answering it was done by Gerard alone. Littmann questioned if it was board approved with Hinz answering it wasn't however it will be on the next month's agenda. Littmann feels that all Newsletters should have board approval. Littmann suggested if three people can't do it going to a five person board. The room broke into applause. Gerard stated Administrator Nelson had previously been directed to look into having a five person board however we are mandated by state statute.
- Mary Carignan: Carignan stated she had requested to be on the agenda back in 2006 or 2007 regarding the lateral leak at her property. After being placed on the agenda she was contacted by Administrator Nelson to remind her of the meeting date and time. The following month she was on the agenda again but the Commission (Hinz, Ciesielski and Pisarski) decided what to do and she was not notified of the meeting. Carignan contacted Pisarski (then Commission President) and questioned how he could discuss this issue without her being notified and wanted to be placed on the next month's agenda but the Commission would not let her. Carignan stated it is a dynasty where they are picking and choosing who they will let on the agenda. Geary stated there doesn't need to be notification of being on the agenda and the Commission does not have to allow anyone on the agenda. Geary stated that the agenda is posted in three different public places.

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- Gerard asked Littmann if he was aware of fiduciary law or the word. Gerard explained the three Commissioners are acting in the trust of 1,924 people that use the sanitary district. If at anytime any one of three commissioners see that there is something wrong, as a citizen they are covered for pointing out that there is a problem here. Gerard stated he did the Newsletter on his own and has the right to do so. Littmann stated Gerard did so as a Commissioner and asked if they could not air their dirty laundry amongst each other and not have this go to the public. Geary stated he saw the Newsletter and there are allegations of wrongdoing and discussion about investigations that may or may not be on going, however because this topic is not noticed on the agenda the discussion should be cut off at this point. Geary further stated that as the legal counsel for the District their position is that if something illegal has been happening it should be found out and uncovered. However, if there is some investigation on going Geary would hate to see something happen at a meeting that would taint that. Geary suggested no official statement be made until the investigators are known.
- Donna Block, 5011 Riverside Road: Block stated she is here because she received the Newsletter and is concerned that the business of this District is not able to be done because it seems as though the board is dysfunctional. What Block would like to see is a resolution so the Commission can conduct the business of the sanitary district and feels the Commission owes it to the people to make it occur. Applause could be heard from the crowd. Gerard commented that it will change and apologized for the slow hand of the law due to heavy case load in Racine. Had it not have been so bad this meeting would not have existed because these things would have been taken care of.
- Jeff Bratz, WRCS: Bratz wanted to advise everybody to listen to counsel and not talk until it is the appropriate time because anything that is said or done will harm that investigation.
- Dick Kosut: Kosut stated that as a taxpayer and a sanitary district user he is totally embarrassed by the board. Kosut does not feel that they are representing the people and would like to know what he or anyone else can do to get a five person board appointed for this area. Geary stated that statue states it must be a three person board or be controlled by the town. Kosut stated this board is a disaster and all three Commissioners should be embarrassed and ashamed.
- Jeff Santaga: Santaga stated that after listening to the comments of counsel, he feels it is a shame that the District is going to lose good counsel. Santaga has done some review of work they have done, their invoices, and they are responding to what they have to. He feels the Commission is wrong for letting anyone contact the attorney but rather should have the board meet, discuss, and with a consensus contact counsel so they can do the job that they have to. The Commission has placed counsel in a very tough position which is unfortunate and does not feel this is the way to run things. Hinz addressed Santaga's comment stating he did not have enough time to get legal counsel on the agenda, however on next month's agenda will be to have a legal team at every meeting until further notice. Santaga commented that he does not feel that is necessary if the Commissioner's discuss things and if they get outside the box and feel they need a legal opinion, then as a board they should decide to engage counsel which would eliminate the bills for them being contacted all the time. Santaga did not fault Hostak, Henzl & Bichler but rather feels the system is broke.

Monthly O&M Report:

- Erickson did not have anything to report.

Administrator Comments:

- The appropriate delinquent payments were processed and forwarded to the Town Clerk and Racine County Real Estate Description for placement on the tax bills. This year there was \$62,043.54 in delinquencies compared to \$62,714.03 in 2009, a decrease of \$670.49.
- With regards to the Newsletter from Commissioner Gerard and questions that have arisen afterwards, as a District employee she cannot comment or say anything at this time and has been legally advised not to due to legal ramifications. It was noted that Commission Gerard has been

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working very hard on some issues. Administrator Nelson stated she has worked for the District over 11 ½ years and will answer any Commissioner's questions to the best of her ability and without reservation. The reason for this comment is she feels that questions directed to the District's Legal counsel could be answered by her.

- A reminder that the Town Christmas party is this Friday at 12:00 p.m.

Correspondence consisted of:

- WRCSD Agenda & Minutes

Accounts payable were approved on a Ciesielski/Gerard motion. All in favor. Motion carried.

Administrator Nelson referenced the November Cash on Hand report stating the commercial checking which shows a balance of \$23,862.28 is in the red after processing the accounts payable, therefore she will need to hold on to some of the payables until more money is generated.

Hinz wanted to clarify why he moved the agenda item regarding Norm Nelson from last month's meeting to this month. Hinz stated his intent was to keep Norm Nelson and Administrator Nelson separate but after a two hour discussion with Administrator Nelson last week at which time many other town employees with personal relationships were pointed out he felt comfortable with going ahead with the closed session tonight. Hinz further stated there has never been any problem in the past, he is grateful for the great talk they had and wanted to put this to bed. Hinz thanked Administrator Nelson for the talk. Administrator Nelson said this tied in with her comment regarding talking and keeping the lines of communication open and felt a lot had been accomplished.

Gerard motioned to adjourn to closed session pursuant to Wisconsin Statute 19.85 (1)(c) to consider personnel matters, seconded by Hinz. Roll call of Commissioners: Hinz aye, Gerard aye, Ciesielski aye. All in favor. Motion carried. Meeting adjourned to closed session at 5:55 p.m.

Ciesielski motioned to return to open session at 6:49 p.m., seconded by Gerard. All in favor. Motion carried.

Gerard motioned to offer Norm Nelson \$30/hour with the same overtime payment terms that Nelson currently has, a job description to be prepared by Geary using the current contract with the understanding it is not a contract but rather an at will employment, subject to going forward and negotiating, seconded by Hinz. All in favor. Motion carried.

Ciesielski motioned to adjourn at 6:50 p.m., seconded by Hinz. All in favor. Motion carried.

Respectfully submitted,

Debbie Nelson
Administrator