

**MINUTES OF THE REGULAR MEETING OF THE BOARD OF WATER AND SEWER
COMMISSIONERS HELD ON JUNE 15, 2017, AT 8:30 A.M., IN THE PLANNING
ROOM AT THE MUNICIPAL BUILDING, 101 N. HALAGUENO STREET,
CARLSBAD, NM**

VOTING MEMBERS PRESENT:	Craig Stephens Larry Henderson Russell Hardy Gary Perkowski Fred Beard	Chairman Member Member Member Member
VOTING MEMBERS ABSENT:	None	
EX-OFFICIO MEMBERS PRESENT:	None	
EX-OFFICIO MEMBERS ABSENT:	Mayor Dale Janway Steve McCutcheon	Ex-Officio/Member Ex-Officio/City Administrator/ Secretary
OTHERS PRESENT:	Mike Hernandez Eileen Riordan Annette Barrick Wendy Hammett Ron Myers Jamey Schwiger Wes Nichols Richard Aguilar Joe Harvey Jeff Patterson James Bradford Richard Creb	Deputy City Administrator City Attorney City Clerk Finance Director/City Treasurer Double Eagle Superintendent Water Dept. Superintendent Collections Superintendent Environmental Services WW Superintendent City Planning Director Co-Applicant Applicant (<i>Telephonically</i>)

Time Stamps and headings below correspond to recording of meeting and the recording is hereby made a part of the official record.

0:00:03 1. Call to Order
Craig Stephens called the meeting to order.

0:00:03 2. Roll Call and Determination of Quorum
Craig Stephens called Roll and it was determined that there was a quorum of voting members.

0:00:38 **3. Approval of Agenda**

The motion was made by Russell Hardy and seconded by Larry Henderson to Approve the Agenda. The Vote was as follows, Yes: Craig Stephens, Gary Perkowski, Larry Henderson, Russell Hardy and Fred Beard, No: None, Absent: None. The Motion passed.

0:00:38 **4. Approval of Minutes of Regular Board of Water and Sewer Commission Meeting held on April 20, 2017**

The motion was made by Larry Henderson and seconded by Fred Beard to Approve the Minutes of the Regular Board of Water and Sewer Commissioners Meeting held on April 20, 2017. The Vote was as follows, Yes: Craig Stephens, Gary Perkowski, Larry Henderson, Russell Hardy and Fred Beard, No: None, Absent None: The Motion passed.

0:00:52 **5. Request from Vista Encantada for Water Service Outside the City Limits**

Mike Hernandez confirmed that Mr. Creb would be attending the meeting by telephone. Mr. Creb said he appreciates the Board allowing his attendance telephonically. He explained options and design/development plans. The discussion was as follows:

Larry Henderson said he has concerns regarding the metering of Water Service. He said he opposes using one meter and subdivision of the metering because there are different types of uses and meters. Mr. Creb explained that there are other options being pursued. Since they are considering several thousand homes in the area, he has researched the matter and one option is Annexation. He said his property is not currently contiguous to City property. He explained that his plan is to begin with the opening of an RV Park and he requested that the RV Park be metered by one meter.

Mike Hernandez asked if the line would be run on BLM or State property and if the line would be above ground. Mr. Creb said it would temporarily be above ground. He said they preferred not to be annexed because of the funding requirements. He said it is possible that half of the property could be annexed. He said Larry Gregory has committed to assist with obtaining permits. He said upon obtaining permits for the above ground line for 180 days, they would approach the BLM for an in-ground line. He said they are working on other wells as an alternative. James Bradford said BLM is on the west side of their property. Gary Perkowski said he thinks it would be easier to obtain permission from the State than BLM. Mr. Bradford said the Gregorys have experience with the BLM.

Gary Perkowski said he has a problem with the RV Park being out of the City Limits and using City Water Services. He said he is more comfortable with annexing the property to serve them. Mr. Bradford said this plan was initiated by Mayor Janway and Steve McCutcheon. They recommended in the future, they get assurances that work will be done by code. The RV Park is not a man camp. They have standards; many of the oil companies will take these spots, they want high quality. Mr. Creb said another big factor in development is the county qualifies for major USDA funding. He said they could utilize many programs for the development and then annex into the City. The programs are not available for City property. He said they are trying to reduce costs. He said he feels it will be of benefit to the City as well as to them.

Russell Hardy asked the about their Sewer plan. Mr. Creb said they would do temporary treatment plants. They are considering a system that is semi-trailer size and treats 500 homes. It treats to 99.1% effluent. The water will be ponded with a surface discharge permit for a 6 acre property with a pit previously used by the State. The effluent would then be used to water the park area.

Gary Perkowski questioned the plan for a school. Mr. Creb said they are dedicating the space for a park or central community area or school. They plan to offer the land to the Carlsbad Municipal School. But will not contribute financially.

Craig Stephens asked what rates would they expect to pay. Mr. Creb said the rate that would apply to the RV Park.

Craig Stephens asked if they plan to sell water. Mr. Creb said if they obtain water with Gregory's expertise, they could possibly sell from their wells.

Craig Stephens asked if USDA funding would be available if they annexed. Mr. Creb said no, only in the County.

Mike Hernandez said Industrial Rates are higher than and commercial rates. Ron Myers explained that the Industrial Rates are not posted on the City's website. Mr. Bradford said he requested records from the City's two highest Industrial users. Mr. Creb explained that the big demand is the RV Park. One meter, one line and the water will not be used for any other use. Mr. Myers said it is difficult to be certain of the use. Mr. Creb said he if he could get one meter for one use; he is would be willing to double meter to verify the use.

Russell Hardy asked what is the concern with the west side property being in the City. Mr. Creb said the main reason is that the RV Park is not the most desirable project in the community. Russell Hardy said there would not be a problem with the RV Park in that area due to the lack of residential development. Mr. Creb said he wanted to make a combination of water services to make the entire project work.

Larry Henderson confirmed that the RV Park was going to be utilized by typical RV Park participants. He said the plan appears to be accommodating the man-camp type RV Park. Mr. Creb said the lots will be bigger and more desirable to permanent living.

Gary Perkowski asked about the distance to the City Limits. He said there needs to be some way to get it annexed. James Bradford said it is 3.5 miles and they have checked into several ways.

Russell Hardy asked how long it would be until the Montclair development was annexed into the City. Jeff Patterson said the Council has given approval of the annexation but it will take a couple of months before it is official.

Russell Hardy asked about the property between the two developments. Mr. Creb said he assumes that the 300 feet was purposely left out of the annexation to isolate his property. James Bradford said it was based off of the 2013 and 2014 plans that were developed, it was done in 2013 not recently. Craig Stephens asked if they could consider it contiguous. Mr. Patterson said no, the City Limits are not variable. He said the 300' was a planned green zone, a tree farm; and he could not speak to the opinion of the other developer.

Craig Stephens asked if a green zone would be allowed in the City. Mike Hernandez said yes it is allowed but the developer chose not to have it in the City. James Bradford said if annexed, all the homes along the highway would be forced into annexation too. He said they spoke with one neighbor and he was unwilling to work with them. He refused their offers to purchase the property.

Craig Stephens asked Jeff Patterson if the Council was aware that there was the 300' between the two properties and if they were aware that there was a second development in the area. Jeff Patterson said yes the Council knew about the 300' strip of land and the other developer. Mr. Creb said the Mayor was surprised that the property was not fully annexed. Mike Hernandez said it was brought up at the Council Meeting and the other annexation was unanimously approved. Jeff Patterson said he informed Mr. Bradford a couple of weeks prior to the annexation being approved by Council.

Mr. Creb said they are trying to get multiple sources of water that will work for everyone. He said he thinks they can annex the east side of the property. The approval of the meter for the RV Park will get the project going.

James Bradford explained that they have been dealing with the City on the needs at the Industrial Park. He said there are many irregularities in the development in Carlsbad. He said the oil and gas industry has taken lodging facilities away from tourism. He said their development will help Carlsbad.

Mr. Creb said they are trying to build a city out there, a planned community where there is control over development. He said they have received support from the community. It will be a beautiful development.

Mike Hernandez asked what size water meter is being requested. Mr. Creb said the final line would be 12". He said that is to service the RV Park. James Bradford said they will be working with the Gregory's. Gary Perkowski asked if the Gregorys are contracting for them or if they are partners. Mr. Creb said the Gregorys will do whatever is needed. James Bradford said the Gregorys are partners with Select Energy and they have an interest in developing housing for Select Energy employees. James Bradford said there is 3 miles of potential tax base for Carlsbad. If forced to develop the water and sewer, it will make it impossible for the city to ever annex. That 3 miles is landlocked by the State and Federal Land. Mr. Creb said the land can be annexed by the City but the USDA funding will keep development costs down.

Craig Stephens said part of the reason the Committee is leaning towards annexation is that this Committee and the City over the years has inherited Water Systems that were outside the city limits and we have spent years cleaning up these Water systems.

Craig Stephens said the City has some incentives for reimbursements. Mr. Creb said the City offers 15% but the USDA program has more funds available. He said they are seeking temporary system now to serve the immediate needs. He said there is speculation that by mid-2018, there will be 20,000 to 30, 000 employees moved into Carlsbad.

Mr. Hernandez asked if they had hired an Engineer for the hydrologic model of the demands and the 6" and 12" lines. Mr. Creb said they have not engaged an Engineer but they have one lined up.

Jeff Patterson said his department will have no control over land uses after water is delivered because it will be in the County. Normally a Master Planned Community in the City is approved by the Planning Commission and the City Council. The City requires a Master Plan that involves final models of utilities, traffic, and design criteria. Mr. Creb said they have a preliminary plan but there is nothing holding them to that plan. There is no use regulation in the County and he feels that should be noted.

Mike Hernandez said the Agreement for Water Service Outside the City Limits can be drafted to specify the use. He said they are subject to being cut-off if the use is not in compliance and also these special contracts are subject to cut-off during times of water rationing, if or when that ever occurs. James Bradford said they understand that there are priorities. But they are willing to comply with whatever the City requires. Craig Stephens asked if we can require in the Contract that the construction be inspected to meet the City requirements. Mike Hernandez said yes. Mr. Creb said the plan is to develop to the City's specification because eventually it will be annexed into the City.

Gary Perkowski said the Board has disapproved others for similar uses. He said he recommends getting them annexed into City. He said he isn't against their plan but he feels that it needs to be annexed. Fred Beard said he thinks that the 300' strip is the key. James Bradford said they want to go over and above anything that is being done now. He said they intend to build better than what the City expects.

Mike Hernandez said the City would not want to take over the sewer. Mr. Bradford said the sewer is portable. Mr. Hernandez asked about the plan for bringing sewer in the City. Joe Harvey said regarding waste water; permits are normally obtained before work begins. He said he is concerned over the temporary water line for an extended time. He said the State does not usually approve and he feels they should be contacted first. Mr. Bradford said Larry Gregory has been getting permits for 6 months. Mr. Harvey said the Bureau is very concerned with temporary water for safe drinking.

1:19:17 Motion

Larry Henderson made a motion to approve a single source water line for the RV Park with the provision that the construction of the lines meet the City's requirements within the area. And the billing would be similar to the type of use.

Mr. Creb confirmed that they are bringing in Park Model RVs and they are Mobile Homes rather than RVs.

Ron Myers said additionally, that the water could not be used for anything other than the RV Park.

Jeff Patterson asked what is the space count for the park. James Bradford said there are 610 units on the Southern part. Mr. Creb said there are 1330 total units in the RV Park. Mr. Bradford said there will be some that are more permanent.

1:22:19 Motion

Larry Henderson made a motion to approve providing water to the mobile home subdivision and that the water will only be metered and billed for that type of use and subject to City Infrastructure requirements and inspections.

Jamey Schwiger said it will not meet the City requirements for the first six months if it is above ground. James Bradford said the BLM allows 6 months above ground. Jamey Schwiger said there is no rate structure for use for water outside the city limits other than residential. Gary Perkowski suggested it be 2 and one half times the commercial rate.

Craig Stephens said before the Board makes a recommendation to the City Council; a rate clarification is needed. Gary Perkowski said he still feels that they need to be brought into the City Limits. Fred Beard agreed.

Motion dies for lack of a second.

1:25:45 Motion

Russell Hardy made a motion and Fred Beard seconded to Table the request pending the completion of the Monclair Subdivision Annexation and a clarification on the 300' as to whether the development can be brought in by Annexation.

Gary Perkowski said he hopes we can get them going on an Annexation. Mr. Beard said he is in favor but he is not comfortable approving until the issues are cleared up. He understands it may need to happen but he can't agree until it's annexed. Russell Hardy said we will be setting precedence for service outside the City.

Mike Hernandez asked if annexed; will the west side of the property be annexed. Mr. Creb said they are still looking at all options. He said they are still looking at doing a private water and sewer system. If they do that, it would be done in the County. He said if the numbers work, they will request annexation. Gary Perkowski clarified that their preference is not to annex but stay in the County. Mr. Bradford said that was the agreement with Mayor Janway and Steve McCutcheon to begin with. That they will build with the intentions of annexation but with the conditions of annexation, the Mayor and Steve didn't see any problem with going forward with the intentions of being annexed in the future. Mr. Creb said a private water system for the RV Park may be more feasible to remain in the County. He said they are still investigating their water rights but eventually it will be annexed into the City.

1:29:30 Motion

Russell Hardy restated his motion. The motion is: Table this proposal pending the Montclair development coming into Annexation and getting a legal clarification on the 300' as to whether we can force annex this particular development. Fred Beard seconded the motion. The vote was as follows: Yes: Craig Stephens, Gary Perkowski, Larry Henderson, Russell Hardy and Fred Beard, No: None, Absent: None. The Motion passed.

1:30:07 Mr. Creb thanked the Board for putting in the second Motion which allowed them another option. He said at least they know the annexation is supported and they can put that into their equation to make sure it is an option.

1:31:14 6. Approval of Water Rights Agreement with Mosaic

Scott Goodale explained that the 40-year contract expires in 2039. Mosaic has 2300 acre feet of City Water as part of the agreement. He said Mosaic is transferring Rights to other wells. He said Potash water has value to the Oil & Gas Industry. He said the request that has come in was approved to transfer 600 acre feet to four ranch wells south of town. Those have been leased to Oil and Gas. Mesquite SWD is the broker that had a contract with Henry McDonald and some others down there. There has been a request for additional water by Mesquite, Gregory Rockhouse and a couple of others to transfer water into other wells in that vicinity. With the political climate of water for commercial use Mr. McCutcheon postponed signing the lease agreement and transfer request until it was approved by this Board so that Mosaic could answer questions regarding the transfers in case the public approached the Board on the topic.

Ms. Riordan said this is not really a transfer but an additional place of use. These Rights are permitted to be used out of the IMC wells out of the City's and Mosaic's Well field. They would not take those away from the permit so the City could still pump out of its Well Field. A number of years ago, the City came very close to pumping our limit out of Sheep Draw, we had some of those Rights

and we pumped them out of there. This would be an additional place of diversion, Mosaic and the City would keep their place. This is not a transfer of ownership, or place of diversion but adding an additional place of diversion. The City's Water Counsel, Maria O'Brien has reviewed and approves of the agreement. Craig Stephens said the agreement said it is for one year. Mr. Goodale said once signed, it is for the duration of the lease. It could be renewed by Mr. McCutcheon. He can present it to the Board or sign.

Mr. Goodale said Mosaic has perfected their Rights so that it cannot be taken under a water call. Mosaic has other 3100 acre feet in that well and they will perfect it in 2018. After 2018, they may transfer their own water, this is a bridge period. Ms. Riordan said the City is covered by the 40-year plan and we are not subject to the same standard as Mosaic. Craig Stephens asked about the term of the agreement. Mr. Goodale said the agreement is for one year lease. The previously approved was approved for 5 years. There are two more agreements coming with a term of two years with the extension of a 3rd.

Eileen Riordan explained that the first agreement was reviewed and approved by Mr. McCutcheon. At that time of the first agreement, we did not realize that there would be a series of them. When we realized that it was more than a one time, one-off deal, we needed to know what the Board's policy was going to be. Russell Hardy asked if there were revenue opportunities to the City. Mr. Goodale said it is Mosaic's agreement and he brought that up to Mr. McCutcheon. He said the Capitan Reef has an additional 2000 acre feet that could be a revenue opportunity. Gary Perkowski confirmed that the water belongs to the City. Ms. Riordan said the 2300 acre feet belong to the City but Mosaic retained the use of it for approximately 40 years. It is in the City's name and that is the reason we have to sign the agreement. Gary Perkowski said the City has a good relationship with Mosaic.

1:44:46 Motion

The motion was made by Gary Perkowski and seconded by Larry Henderson to Approve the Lease Agreement. The Vote was as follows, Yes: Craig Stephens, Gary Perkowski, Larry Henderson, Russell Hardy and Fred Beard, No: None, Absent: None. The Motion passed.

Mr. Goodale confirmed that all future Agreements would be reviewed by the Board. The Board agreed.

1:47:01 7. Monthly Reports

Jamey Schwiger said Pump 6 well house construction has begun. Mike Hernandez said that the Water Trust Board Requests from the 2017 cycle were postponed by the Water Trust Board until the 2018 cycle. We will not do the Effluent projects this year.

1:48:16 8. Utilities Department Project Updates

There was no discussion

1:48:26 9. Financial Reports presented by Wendy Hammett

There was no discussion

1:48:17 10. Adjourn

The motion was made by Russell Hardy and seconded by Fred Beard to Adjourn. The Vote was as follows, Yes: Craig Stephens, Gary Perkowski, Larry Henderson, Russell Hardy and Fred Beard, No: None, Absent: None. The Motion passed.



Chairman