

**MINUTES OF THE BOARD OF WATER AND SEWER COMMISSIONERS MEETING  
HELD ON FEBRUARY 21, 2013, AT 8:30 A.M. IN THE PLANNING ROOM, #204, AT  
CITY HALL, 101 N. HALAGUENO STREET, CARLSBAD, NM**

<b>VOTING MEMBERS PRESENT:</b>	<b>Craig Stephens Steve Massey Larry Henderson Larry Sells</b>	<b>Chairman Member Member Member</b>
<b>VOTING MEMBERS ABSENT:</b>	<b>Gary Perkowski</b>	<b>Member</b>
<b>EX-OFFICIO MEMBERS PRESENT:</b>	<b>Jon R. Tully</b>	<b>Ex-Officio/City Administrator/Secretary</b>
<b>EX-OFFICIO MEMBERS ABSENT:</b>	<b>Mayor Dale Janway</b>	<b>Ex-Officio Member</b>
<b>BOARD SECRETARY PRESENT:</b>	<b>Jon R. Tully</b>	<b>Ex-Officio/City Administrator/Secretary</b>
<b>OTHER PRESENT:</b>	<b>Steve McCutcheon Monica Harris Luis Camero Mike Abell Richard Aguilar Joe Harvey Art Sena Annette Barrick Edward T. Rodriquez Kevin Kerst Erin Meacho Regina Ballard Trey Hughes Scott Branson Clay Wilson Grant Mabrey McKenzie Mabrey Lavern Johnston LW Gregory Scott Gregory Wayne Smith John G. Marrs Danny Masters Debbie Masters Adrian Stiteler  George Dunagan Donny Gregory</b>	<b>Deputy City Administrator Finance Director Public Works Director DE Superintendent Environment Officer Water Superintendent Waste Water Superintendent Exec Asst./City Clerk Citizen Citizen/Requestor Citizen Citizen B &amp; R Trucking SB Oil Field Services Mesquite Services Applicant Applicant Citizen Gregory Rockhouse Ranch Gregory Rockhouse Ranch Smith Ranch Citizen Rio Tanks Fasline Rio Tanks Fasline Superintendent at Brantley Lake State Park Citizen Gregory Rockhouse Ranch</b>

OTHER PRESENT: (cont'd)

Dave Gillan  
Riley G. Neatherlin  
Larry Gregory

Citizen  
Mesquite Services  
Gregory Rockhouse Ranch

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

**0:00:06**                    **1. and 2. Roll Call and Determination of Quorum**

**0:00:31**                    **3. Approval of Agenda**

The motion was made by Larry Sells and seconded by Larry Henderson to approve the February 21, 2013, Agenda of the Meeting of the Board of Water and Sewer Commissioners. The vote was as follows: Yes-Stephens, Henderson, Massey, and Sells; No-None; Absent-Perkowski. The Motion passed.

**0:01:11**                    **4. Approval of Minutes of Board of Water and Sewer Commissioners meeting held on January 17, 2013**

Larry Sells said he found an error in the minutes in item #3. He said he was not present for the meeting but the Minutes state he made the second to the motion. Larry Henderson said he seconded the motion so the correction should be changing the last name from Sells to Henderson.

The motion was made by Steve Massey and seconded by Larry Henderson to approve the Minutes of the Board of Water and Sewer Commissioners meeting of January 17, 2013, as corrected. The Vote was as follows: Yes-Stephens, Henderson, Massey, and Sells; No-None; Absent-Perkowski. The Motion passed.

**0:02:01**                    **5. Check Register and Bills**

Larry Sells questioned item number 19. Luis Camero responded that materials are purchased under that line item. Upon receipt of the materials, it is transferred to the other line item. Craig Stephens asked how often the sewer is tested. Art Sena said it is done every quarter. Mr. Stephens asked about the purchase of traffic meter lids. Mr. Camero said these are boxes are metered to the traffic load.

The motion was made by Larry Sells and seconded by Steve Massey to approve the Check Register and Bills. The Vote was as follows: Yes-Stephens, Henderson, Massey, and Sells; No-None; Absent-Perkowski. The Motion passed.

**0:05:35**                    **6. Operating Reports**

**a. Statistical Reports**

**b. Water and Sewer Monthly Reports**

Jon Tully said the reports are being moved into a new format for reporting. He said the reports will be consistent in the unit of measurements and in the unit of time. He said some data needs to be updated and the new format will be transitioned in by the next meeting. The acre feet of production will be one to one and the time frame will be consistent.

The motion was made by Steve Massey and seconded by Larry Sells to approve the Operating Reports. Yes-Stephens, Henderson, Massey, and Sells; No-None; Absent-Perkowski. The Motion passed.

**0:08:00**                    **7. Consider request from Kevin Kerst regarding Water Billing Issue at 2401 W. Utah Street**

**a. Motion to Reconsider**

The motion was made by Steve Massey and seconded by Larry Sells to reconsider the Request.

The Vote was as follows: Yes-Stephens, Henderson, Massey, and Sells; No-None; Absent-Perkowski. The Motion passed.

**b. Request from Kevin Kerst**

Mr. Kerst told the Commissioners that he moved to Carlsbad in August and purchased a home. He said since that time he has used between one and two thousand gallons of water per month. He said he has been billed for sixteen to eighteen thousand gallons of water per month on Sewage. He said he talked with the Water Department and he was told the City has an Ordinance pertaining to the method of calculation. He said he does not think it is fair that he is being charged from a rate based off of past months when he did not even live in Carlsbad at the time the rate was set. Monica Harris said all policies are set by Ordinance. The sewer is based on the average of the previous January and February usage. The sewer is just an estimate. It is not a perfect system. She said the City has to have enough revenue to support the infrastructure, operations and improvements. She said she offered to work with Mr. Kerst and was willing to bill him as actual service but Mr. Kerst requested he be seen by the Water Board. At that time, she rescinded the offer pending the determination of the Water Board. Mr. Kerst said he does not think the system is fair. Mr. Massey said it is not a perfect system but it is the best system for the majority of the Water customers. Mr. Kerst explained that he doesn't think the billing system gives enough time to pay before sending disconnect notices are sent out.

The motion was made by Larry Henderson and seconded by Larry Sells to retain the Ordinance as is. The Vote was as follows: Yes-Stephens, Henderson, Massey, and Sells; No-None; Absent-Perkowski. The Motion passed.

Craig Stephens asked Monica Harris to talk with Mr. Kerst about actual billing. Ms. Harris agreed.

**0:19:39**                    **8. Consider approval of request from Grant and McKenzie Mabrey for Water Service outside the City Limits (602 Weleka, Carlsbad, NM)**

Mr. Mabrey explained that he purchased 602 Weleka which is 2.5 acres. He asked for one meter and valve in the application but he would like to request two. He said he plans to subdivide the land and have it ready with a valve and meter for the new owner. Luis Camero said the request was for one acre. He said Mr. Mabrey should make an application for the other. Mr. Massey asked if the well would be used for domestic purposes. Mr. Camero said the original plan was to turn over the water rights to the City. Mr. Massey said the City would not have any use for a domestic well. Mr. Tully said that the Ordinance offers the option of offering the Water Rights to the City in lieu of payment of the fees. Mr. Massey asked if a second tap could be installed if the customer was willing to pay. Mr.

Massey told Mr. Mabrey that the rate would be at two and a half times the rate of City Customers. Mr. Mabrey said he understood.

The motion was made by Steve Massey and seconded by Larry Sells to approve the request for two water taps pending all applications and payments are completed. The Vote was as follows: Yes-Stephens, Henderson, Massey, and Sells; No-None; Absent-Perkowski. The Motion passed.

**0:24:13**                    **9.      Discuss and consider the Double Eagle Industrial Water Users Deposit Requirement as described in Resolution No. 2012-67**

Jon Tully explained that some of the Double Eagle Customers asked that the security deposit in Resolution No. 2012-67 be reconsidered. He said Resolution 2012-67 was adopted by City Council on November 13, 2012. He said the Board could make a recommendation to the City Council by the same process of Resolution. He said the security deposit has been set at three times the estimated monthly maximum for a number of years. He said there are Customers here to speak on the matter.

**0:26:15**            Mr. Larry Gregory spoke against the Resolution stating it was offensive. There was further discussion by Danny Masters, Debbie Masters, Clay Wilson, Scott Gregory, and Donny Gregory regarding the following:

- Suggestion of Long-term business discounts
- Request for explanation of the Deposit Rate
- City Losses due to non-payment
- Liens for non-payment
- Commercial Contracts vs. Rig Water Agreements
- Water Rates
- Costs to deliver water
- Conservation
- Industry support of community
- Double Eagle System future plans
- City Water Rights
- Transport of Water
- Potash Mine Water Rights
- Revenue source
- Multiple Tap Fees / Deposit
- Return of Deposit
- Alternatives to Cash Deposits, Letters of Credit, and Bonds
- Automatic Draft for Payments
- Billing System time frame
- Monitoring Businesses

**0:59:46**            Steve Massey said he made his decision based from information that the City was selling water at a lower price than anyone in the market. He said the Government's job is not to compete with the private sector at .75 cents per barrel. He said he was surprised that no one other than Eddie Rodriguez even attended the meetings to give their input. He said he is willing to reconsider if the information was wrong. He said he never intended to hurt businesses but to protect the City.

**1:01:47**            Larry Gregory said there may have been some misinformation to the Board. He suggested the Board meet with Industry leaders.

**1:14:37** Craig Stephens said he appreciated the comments and concerns from those attending the meeting. He said he feels a Special Meeting would be helpful.

**1:15:03** The motion was made by Steve Massey and seconded by Larry Sells to schedule a Special Meeting of the Water and Sewer Commission. The Vote was as follows: Yes-Stephens, Henderson, Massey, and Sells; No-None; Absent-Perkowski. The Motion passed.

**1:15:21** **10. Discuss and consider Double Eagle Policy 2013-01, regarding use of Boosters**

**1:16:15** Steve McCutcheon said the City has created a draft policy on the use of Boosters on the Double Eagle line. The goal is to get the Double Eagle line to the standards of a Municipal System. He said parts of the standards are to have an Air Gap between the water flow and the source. There was discussion regarding:

- Backflow preventers
- Set up location
- Contamination
- Low Water Pressure
- Results for Customers at the End of the Line
- Open Tanks
- Livestock Tanks affected by Boosters
- Location of Booster
- Vacuum Breakers

**1:26:09** Mr. Draper Brantley said it doesn't take many boosters to suck all the water dry. He said he feels the use of boosters needs to be stopped.

**1:26:55** Steve McCutcheon said with a booster, you don't get an air gap which is not at Municipal Standards. The only way to get this line to Municipal Standards is to flow the water out of there under the pressure that the line will give you to create an air gap and take it from there.

**1:28:50** Mr. Gregory said it is fair to say no boosters at the source but it is not fair to say no boosters a mile down the line like it says in the Policy.

**1:31:25** Mike Abell explained how boosters affect the City system. He said that the service line is right at the meter, the City does not consider the service line 14 miles down the line. He said the City considered looking at a specific distance but there are other factors to consider including the PSI. He said the City is trying to eliminate the problem with cross connection and back syphonage through our system and contamination, and we are trying to bring it to the City of Carlsbad water standards.

**1:36:38** Steve McCutcheon said the City runs their lines constantly. He said it is not the City's business to leave our right-of-way and running the customer's fasline. At some point when this is a Municipal System, there will be changes. He said all City customers are important. He said the right-of-ways were considered, but the cleanest way to do it is to take the pressure that the tank will give you, flow it into a frac tank and do what you want to afterwards.

**1:40:05** Larry Sells said the definition of service line needs to be re-worded on the policy.

**1:46:03** Steve McCutcheon said the reason this draft Policy is on the Agenda is to gain input from those in the Industry.

**1:47:44** The motion was made by Steve Massey and seconded by Larry Sells to table Double Eagle Policy No. 2013-01 regarding use of Boosters. The Vote was as follows: Yes-Stephens, Henderson, Massey, and Sells; No-None; Absent-Perkowski. The Motion passed.

**1:51:22 11. Presentation by Monica Harris regarding the new Double Eagle Service Application**

Monica Harris said the new Double Eagle Service Application is in lieu of Contracts, it is an easier process. Ms. Harris explained how to use the on-line application and talked about the expected time line for connections. Craig Stephens asked if Customers could access the application other than on – line. Ms. Harris said the Water Department can print them out upon request.

Mr. Massey asked if the deposits for established accounts would be replaced. Mr. McCutcheon said eventually all will be replaced. Ms. Harris said there are many customers who are currently working with expired contracts. Mike Abell said those customers are paying their monthly bills but the deposit has not been revised. Ms. Harris said within twelve to eighteen months, the current contracts will expire.

**2:25:15** Johnny Marrs said they are trying to help the Board.

**2:27:07** Larry Sells asked if in the future, DE water would be sold. Mr. McCutcheon said Water Board would be making those decisions and recommendations. Mr. Sells said he is very concerned about the Effluent project.

**2:28:53 12. Adjourn**

The motion was made by Steve Massey and seconded by Larry Sells to Adjourn. The Vote was as follows: Yes-Stephens, Henderson, Massey, and Sells; No-None; Absent-Perkowski. The Motion passed.

ATTEST:

  
City Clerk

Acting   
Chairman