



A special meeting of the Minden Town Board was held at 8:00 a.m. on Tuesday, July 19, 2011, at 1602 Esmeralda Avenue, Minden, Nevada.

Board members present: Matt Bernard, Charles Condron, Roxanne Stangle, John Stephans, and Steve Thaler.

Staff members present: George Keele, Trish Koepnick, Tim Russell, and Roger Van Alyne.

I. PRELIMINARY MATTERS

Meeting was called to order at 8:00 a.m.

1. Pledge of Allegiance was led by Steve Thaler.
2. Stangle/Bernard moved for Approval of Agenda as published.
3. Public Comment: None

II. ADMINISTRATIVE AGENDA

1. For possible action. Discussion to approve, approve with conditions, continue, or deny Town of Minden Water Policy concerning water dedication and credits. Appearance by the Town Engineer.

Tim Russell said the historic practice was a four to one ratio, based on historic transfers with Bently. Larger blocks of water using a smaller ratio may make sense; there are better benefits to the Town for the future and may help potentially for use in the municipal water system and green belt.

Mr. Stephans noted our approach is critical to future development.

Mr. Condron asked if there is a limit to the amount of surface water rights that the Town should hold, if so maybe we need a sunset clause.

Tim said the surface water is all part of the Alpine decree; there is no risk of losing this water, and there is a potential to lease out to ranchers and downstream users. He does not believe that there is a limit on what we would want. Right now we have the equivalent of 7 acre feet. We could put them to use in the future in a municipal production well; what we have currently is not enough.

Mr. Thaler said surface water rights are seasonal, and we can only use during a block of time, but are beneficial for infiltration wells. Mr. Russell said an infiltration well is drilled near the river and acts as a draw on surface water instead of ground water as allowed by the state.

Mr. Keele asked if in times of drought the aquifer can be recharged from an infiltration well; Mr. Russell said this is unlikely but sometimes special arrangements can be made with the state.

Mr. Thaler said if we acquire a lot of surface rights, this could slow down development.

Mr. Russell said that the policy was framed to set a standard exchange rate for anything over 100 acre feet, leaving open for flexibility for smaller dedications. He favored 3.5 to 1 as the standard ratio.

Mr. Bernard wondered if there is a formula to use to establish a standard for the lease back rate, possibly based on the value of the water right. Mr. Russell said it would make sense that the lease is based on the availability of water, which is related to priority of the water right. Also, if someone can irrigate more there is a different value; one must also consider the use and the profit of the user.

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Establishing this can be quite complex, and there is a need to establish a standard so we can have a standard and not negotiate. There may be some industry standards that we can look at to get a base point.

Public Comment:

Mr. Keele noted (not speaking as counsel) that in this valley there are lots of leases made for nominal costs, and these would give false indicators if taken at face value.

Thaler/Condron moved to approve the water policy with 3.5 acre feet to 1 acre foot ratio of surface water for more than 100 acre foot increments; for more than 100 acre feet as we get more into the acquiring of surface water rights there may be amendments. Motion carried unanimously.

2. a. For possible action. Discussion to approve, approve with conditions, continue, or deny a request by C.O.D. Casino (Developer) to dedicate surface water rights for a water service connection fee credit.

b. For possible action. Discussion to approve, approve with conditions, continue, or deny a request by C.O.D. Casino (Developer) to amortize payment for water service connection fees.

c. For possible action. Discussion to approve, approve with conditions, continue, or deny a request by C.O.D. Casino (Developer) to consider a cost share agreement for construction of streetscape improvements.

Appearance by R. O. Anderson Engineering.

Mr. Keele advised the Board to read and discuss each item. Mr. Bernard noted that he will abstain from voting as he has a commitment in a private capacity to the interests of others through working for Mr. Anderson.

Mr. Anderson said that he appreciated the special meeting; he represented Comstock Investments.

2a. The applicant would like to provide the Town with 5.32 acres of water rights at a ratio of 4 acre feet of surface water rights for each acre foot of ground water in lieu of payment for the water right component of the water connection fee. Based on the motion from the previous item, it appears that they would need to revise this to a 3.5 to 1 ratio. It is the intention of the Hellwinkels to lease back and continue to use them for a nominal fee; if the Board chooses not to lease back they would still make the dedication.

Mr. Anderson believed that this arrangement would be beneficial to both parties; the Town would have ownership and control and the rights would be leased back to the Hellwinkels to use for a productive purpose. All operation in relation to the use would be the responsibility of the lessee.

Mr. Condron said it is obvious we need to do research to establish a rate in accordance with historical data; we would deal with this administratively and not as part of this motion.

Mr. Stephans would hate to see property dry up and he believes that it is a win-win to keep the property green.

Public Comment: None

Condron/ Stangle moved to approve the request by the C.O.D. Casino and developer to dedicate surface water rights for water service connection fee credit. Motion approved unanimously with Mr. Bernard abstaining.

2b. Mr. Anderson gave the background on how the current calculations for the water connection fees were arrived at. Mimi Moss from Douglas County Community Development's department has worked diligently and the building permit could be picked up this week; Mr. Tate is asking to amortize the water connection fee over a three year period with a 2% interest rate to make the project affordable and get it underway.

Mr. Thaler said he struggles with this because it is new ground; there would be some benefit to the Town, depending on interest. Not sure if we want to get into the banking business, and the biggest

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concern is opening a Pandora's box; where does it end with any major project asking for the same, and how can we not appear prejudicial? He asked if this is a deal breaker; if we say no to the amortization will the project die?

Mr. Anderson said this is a risk for every decision when it is the first time being asked. It would be beneficial in this economic climate to reach a mutual goal; the Board saying no would probably not tip it over, but saying yes would be very helpful. The partner requesting has a longstanding history that would be different than a new developer requesting this. In the interest of the community, the casino and bakery will employ local people and taxes alone will increase an estimated \$50,000 per year. The amortization is being requested mostly because of the very high costs for sewer and water fees.

Mr. Stephans questioned why only the Town as the water company was being asked for the amortization; why not MGSD also? and how can \$150,000 be a deal breaker. Mr. Anderson said that they were told that the sewer district would not consider it, but they were hoping that the Town Board might be more sensitive to the business community. \$150,000 will not stop the project but will change the course of the project to gain the cash flow; they would like to proceed and get the project rolling.

Mr. Condron asked if there is any way to define this application as being a one time decision and not be carried forward in the future.

Mr. Keele said that we have observed Douglas County over the past 2.5 years taking a reasonable approach, including phasing of subdivisions. The County has essentially recognized impossibility as a reason to make an adjustment. In the case of another casino in the area, we have made concessions that were not mandated. This is the non kiosk way of developing; this is why real live humans serve on the Board to exercise discretion. One must determine with appropriate discretion as well bear in mind the burden of precedent. To answer Mr. Condron, yes you may make findings and support each finding that supports this as a discreet one time circumstance that may or may not be repeated. August 2nd and the deadline of the federal government may be a reason alone because of the federal budget issue.

Mr. Russell said that only one time in the past has Douglas County allowed an amortization of sewer fees over a three year period; it is the only incident he knows of any local utility allowing this. Also, note that the C.O.D. does get a lower rate because of historical district rate.

Mr. Keele said recognizing that it is hard to get financing these days, it mitigates the burden of getting the financing at once. We don't have evidence that Mr. Tate cannot pay off the connection fee; that is a discretion issue. We do not want to discriminate against someone who can pay, but we need to maintain a level playing field during an economic crisis.

Mimi Moss said that the example of amortization given by Mr. Russell was in a redevelopment area. The County is grappling with these kinds of requests also, and trying to treat everyone fairly as some systems are better off than others. Based on what Mr. Keele said, if the Board was to support the request and use it as a finding for existing historic properties in downtown Minden, that would be appropriate in this case.

Mr. Anderson introduced Scott Tate, the developer of the C.O.D. Casino. Mr. Tate said that if the Board refuses the request it won't crush the deal, but we are talking about time issues; he is asking for support to move forward with the project now and get people working. He understands the Board's concern, but as a developer he found the water and sewer fees astounding as opposed to other areas.

Mr. Thaler questioned why they do not approach MGSD. Mr. Tate said they have asked and were told to not even try; they would be wasting their time. He believes the Town wants this to move forward and he is not begging anybody to do anything.

Mr. Thaler said Mr. Tate had mentioned twice that Minden is interested in this project going forward, but Douglas County is not, and he wondered what the obstacle with Douglas County is.

Mr. Tate said he will not bash Douglas County, but that he does not believe that they are motivated. Also, he was not able to get an idea on fees until plans were drawn, and the right to hookup is in excess of 15% of project.

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Mr. Stephans said the Town of Minden has shown that we are concerned about the project because of our action on water rights; we have demonstrated in last 20 minutes that we are backing this project, but there is a concern for the precedent set here, and it is hard to say this is just one time.

Mr. Anderson clarified that Mr. Tate's characterization of Douglas County is actually in respect to the sewer, not Douglas County, whose staff has been working diligently on this. They do recognize and appreciate what the Board did in regard to surface water rights; there has been a joint effort to look at costs and make the project more feasible.

Mr. Thaler said financially there is no reason why we can't do this, it is not a deal breaker for us either, but it becomes a policy issue for us; his biggest concern is prejudicial value and if it is best for the Town of Minden.

Mr. Keele said that Ms. Moss identified that in the Minden Plan for Prosperity, the preservation of the C.O.D. historic building is one of the elements. What he has heard Mr. Tate say is if they are granted this request they would have available cash flow to move forward immediately. This element distinguishes it from every other development in town and would be hard to replicate in the future.

Public comment:

Bill Souigny said that he has lived here 43 years and believes that the policy the Board is developing is critical. He supports facilitating a level playing field and assisting private development, not sponsoring an individual project. He supports allowing amortization and other considerations for a district rather than as an individual project; he believes this is allowed as special assessment district.

Thaler/Condron moved to approve request by the C.O.D. developer to amortize the payment for the water service connection, noting that it is in the best interest of the Town and the project, and although worried about other projects, it is our job is to assist business in a case by case basis. The biggest complaint that Mr. Thaler gets is the high cost of starting a business, and he wants it to go on the record that Minden supports business. With the preservation of the historic C.O.D. building this approval would assist in the achievement of the Minden ordinance known as the Plan for Prosperity.

Mr. Stephans recapped the motion: we will amortize the connection fee, there will be a 25% down payment, 2% interest on anything that has not been paid, adjustable based on any change to the current commercial customer connection fee charges of the Town; this action is intended to aid the preservation of a historical building. Motion carried with Stangle voting in favor, Stephans voting against and Bernard abstaining.

2c. Mr. Anderson said that this is a sensitive subject; he truly appreciates the expenditure by the Town along Esmeralda. It is a condition for development that Mr. Tate does improvements on Esmeralda and along the frontage of the parking area on 2nd and 3rd Streets. The cost of the work is estimated at \$198,500. Historically, the Town has absorbed about 90% of the cost of these improvements in the past. Mr. Tate had agreed to the improvements but did not anticipate these costs, and they are asking that the Town consider accepting responsibility of the costs for reimbursement of approximately 50% of the total cost, for an amount of \$99,250. He felt that the Town should agree to this because it is very positive for the Town. In addition to getting the building complete and the great length they have gone to save the building, there will be a completed downtown core. The Town would benefit from the employment, property taxes, licenses and sales tax paid annually.

Mr. Condron said that he could support the concept but it goes back to budget balancing. It would be fiscally irresponsible with the water lines and maintenance facility commitments. It is not an appropriate time to make this decision outside of the budget process.

Mr. Thaler did not see how they would not have known these costs when they committed to them originally. Mr. Anderson said it was significantly more than anticipated, and although they did commit to it he felt that it is inequitable to ask them to pay 100% when the Town previously paid 90% of the cost for the other businesses on Esmeralda. The work would most likely be in 2012 and payback could be favorably considered in 2013.

Ms. Stangle said for the record that all the same cost-share agreement was offered to the C.O.D.

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property at the time of the original improvements, and the property owner declined at that time.

Mr. Van Alyne clarified that ten years ago the Town had offered a beautification project to all the downtown businesses; none were done as a condition to the development of a project.

Mr. Condron said that it would be appropriate to extend the opportunity, but that they should ask us this again in the spring to be part of the budget process.

Public comment: none

Condron/Thaler moved to deny the request by the C.O.D. Casino developer to consider the cost share agreement for the construction of the streetscape improvements. Motion carried unanimously with Bernard abstaining.

3a. For possible action. Discussion to approve, approve with conditions, continue or deny a request by The Ranch at Gardnerville, LLC, (Developer) to allow connection fee credits for dedication of surface water rights

Mr. Bernard excused himself as he has a commitment in a private capacity in the interest of others as he works for Mr. Anderson.

Mr. Anderson said that he is asking the Board to consider the unique nature of this request as related to the recently approved policy. This offers the Town 181 acres of surface ground to consider at a 3-1 ratio as opposed to the recent 3.5-1 ratio for credit towards water connection fees, with the basis for the request being that it is a large block as opposed to a small dedication of water rights. These rights have good priority value; they are out of the East Fork which has greater drainage and greater flows, and the lease back at \$1,000 per year would be used for agricultural purposes. The equivalent value at a 3-1 ratio would be about \$2100 per acre foot using the Town's connection fee rate for the water right component. This will allow the Ranch at Gardnerville to go forward and make connections for the purpose of building, offsetting the costs for connection fees. It is a win-win situation for both the Town and the developer.

Mr. Russell noted that the evaluation that was provided by Mr. Anderson is based on the 50% discount that the Town provides for the water right portion of the connection fees. Even considering that the actual value of the water rights themselves is double that, the 3.5 to 1 ratio is still a discount from the normal fees.

Mr. Condron said that with the recently adopted policy, we have the right to negotiate this rate if it is over 100 acre feet. Should the lease-back also be worth more because of the value of these rights? Mr. Anderson said that is a good question.

Mr. Thaler inquired how the lease-back of \$1,000 per year was arrived at. This is less than a dollar an acre foot. Mr. Anderson said the value is negotiable; from a farming standpoint it must make economic sense.

Mr. Thaler asked if there is a fair market value for this much water for lease-back purposes. Mr. Russell said that would have to be researched

Mr. Stephans noted the value of keeping the valley green and the willingness that the Town showed earlier to work with business. He felt that we can come up with the value of the lease-back later.

Mr. Anderson said that the lease amount will be the net of all fees with the lessee responsible to pay the water master fees.

No public comment.

Thaler/Stangle motioned to approve the Ranch At Gardnerville's request of surface water dedication in lieu of the water right portion of the connection fee pursuant to the Town water policy at a ratio of 3-1 and approve a lease-back of the surface water to the Ranch at Gardnerville at a rate to be determined at a later time. Motion carried unanimously with Bernard abstaining.

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3b. For possible action. Discussion to approve, approve with conditions, continue, or deny a request by The Ranch at Gardnerville, LLC, (Developer) to defer installation of the final pressure and flow control valves at the Town of Minden's connection to the Gardnerville Town Water Company's water system.

Mr. Bernard excused himself as he has a commitment in a private capacity in the interest of others as he works for Mr. Anderson.

Mr. Anderson said that the request by the applicant is to defer installation of the valve between the two Town systems and provide a temporary valve network so that the control valves and meters could be put in at a later date. This is an improvement that was otherwise required by Phase One. There is ample fire flow protection available; 56 units could be constructed before this improvement is implemented. Mr. Russell said that there is no emergency backup but there is no liability as we can always manually open the existing connection between Minden and Gardnerville.

No Board questions.

No public comment.

Condron/Thaler moved to defer the installation of the final pressure and flow control valves at the Town of Minden connection to Gardnerville Water Company system for the Ranch at Gardnerville LLC until Phase 2C. Motion carried unanimously with Bernard abstaining.

4. a. For possible action. Discussion to approve, approve with conditions, continue, or deny a request by Heartstrings Art Gallery to approve a street closure on First Street from 8:00 a.m. – 4:00 p.m. on July 30, 2011, for a "Thriving Artist" art show Discussion may also include allowing the First Street closure once a month for similar events through fall of 2011.

Lee Lewis spoke representing the Carson Valley Arts Council as a Board member and volunteer; she is not representing a private business. Mr. Keele said that upon determining that Ms. Lewis is representing the Arts Council and not a private business, this item can be approved for the Arts Council under her name, and she would sign the documents as applicant.

Ms. Lewis said that this is an art show that gives space to local artists; all profits are given to the Arts Council. She will not be materially affected and she has nothing to gain; she is not showing her own work.

It was noted that a request by the Arts Council to close the street had been formerly approved; the approval of the residents in the vicinity is needed for this event.

Stangle/Thaler moved to approve the request by Heartstrings Art Gallery to approve a street closure on First Street from 8:00 a.m. – 4:00 p.m. on July 30, 2011, for a "Thriving Artist" art show, as well as a once a month closure through the fall depending on weather with the proper permits. Motion carried unanimously.

b. For possible action Discussion to approve, approve with conditions, continue, or deny a request by Heartstrings Art Gallery to waive the street closure fee for the closure of First Street from 8:00 a.m. – 4:00 p.m. on July 30, 2011, for a "Thriving Artist" art show. Discussion may also include waiving the street closure fees for similar events once a month through fall of 2011.

Appearance by Lee Lewis.

Mr. Keele clarified that Ms. Lewis is requesting the waiver on behalf of the Carson Valley Arts Council. Ms. Lewis said that this will allow them to make the booth fee affordable, with all of the booth fees will going to the Arts Council.

No public comment.

Thaler/Condron moved to approve the request by Heartstrings vis a vis Carson Valley Arts Council for the waiver of the street closure fee for the closure of First Street from 8:00 a.m.-4:00 p.m. on July, August, September, and October 2011 for a Thriving Artist art show, being sponsored by Carson valley Arts Council. Motion carried unanimously.

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5. For possible action. Discussion on acceptance of the resignation letter of Minden Town Manager Roger Van Alyne, and authorizing severance pay in the amount of \$8000.

Mr. Condrón said that he would be abstaining from this vote as he felt he had not been given access to information that led to this action. He would not comment on what information he was referring to.

Mr. Thaler said that it is clear what is before them and he was perplexed by Mr. Condrón's comment.

Mr. Keele advised that as the agenda item is in the conjunctive; both must be acted on at one time. If there is a majority vote against the \$8000, this matter could die; Mr. Van Alyne is an agent unto himself, and unless there is a contract to enforce, inaction not to approve would leave Mr. Van Alyne to his own council. This item could be re-noticed separately and appropriately and heard at the next Board meeting.

Under instruction from Douglas County, Mr. Keele said he has refrained from speaking to Mr. Van Alyne about this and has no substantive information about this item.

Mr. Thaler said this issue should probably been split up and this bootstraps us; we could continue to a future time and act on it separately then.

Public comment:

Bill Souigny urged the Board to approve this item and saw no advantage in delaying a personnel item that needs to be addressed, and felt the \$8,000 was reasonable.

Thaler motioned to continue this item until the August meeting and divide into two motions: 1) to accept the resignation and 2) a decision on the severance pay. Mr. Van Alyne would have to pack up and go back to work and probably Mr. Condrón could get his questions answered.

Mr. Stephans noted that in that case the gag order would still be in place and affect any fact gathering.

Ms. Stangle said that she did not believe that is this fair to ask Mr. van Alyne to stay on another two weeks since he has tendered his resignation.

Mr. Bernard said he had hoped to take care of this today; this is a conundrum to have the two items tied together and possibly with Mr. Thaler's approach, Mr. Condrón's concerns can be answered. Mr. Bernard has received phone calls concerning the severance pay and would like to discuss and vote separately.

Mr. Thaler suggested the option of putting Mr. Van Alyne on Administrative leave and deciding this separately at the next Board meeting.

A break was held while Mr. Keele conferred with Mr. Stephans and Mr. Van Alyne privately.

Upon returning, Mr. Van Alyne said that it has been his privilege to be the first Town Manager of Minden, and he would appreciate the courtesy of acting on this item today.

Mr. Keele noted that the Board could act on the motion as it sits, or entertain another motion. Thaler's motion died for lack of a second.

Putting his motion back on the table, Thaler moved to continue this item until the August meeting to be looked at separately, and look at the possibility of putting Mr. Van Alyne on paid administrative leave until that meeting with the hope that Charlie's concerns could be answered.

Mr. Condrón rescinded his abstention from voting, and Mr. Thaler rescinded his motion.

Condrón/Bernard motioned to accept the resignation letter of Minden Town Manager Roger Van Alyne and authorize severance pay of \$8,000. Mr. Keele advised that this is a majority vote. Motion passed with Stangle voting in favor and Thaler/Stephans voting against.

III. ADJOURNMENT

Condrón/Stangle moved to adjourn the meeting at 10:44 a.m. Motion carried unanimously.