

**SOUTH TRUCKEE MEADOWS GENERAL IMPROVEMENT DISTRICT
WASHOE COUNTY, NEVADA
SPECIAL MEETING**

TUESDAY

3:00 P.M.

APRIL 18, 2006

PRESENT:

Bob Larkin, Chairman
Bonnie Weber, Vice Chairman
Jim Galloway, Commissioner
David Humke, Commissioner

Amy Harvey, County Clerk
Katy Singlaub, County Manager
John B. Rhodes, Legal Counsel
Paul Orphan, Engineering Manager

ABSENT:

Pete Sferrazza, Commissioner

The Board met for a special meeting in the Commission Chambers of the Washoe County Administration Complex, 1001 East Ninth Street, Reno, Nevada, and conducted the following business:

06-09STM AGENDA

In accordance with the Open Meeting Law, on motion by Commissioner Humke, seconded by Commissioner Weber, which motion duly carried with Commissioner Sferrazza absent, Chairman Larkin ordered that the agenda for the special meeting of April 18, 2006 be approved.

06-10STM DOMESTIC WELL MITIGATION – RICHARD AND TERRI SHANNON – APN 150-260-35

Paul Orphan, Engineering Manager, explained at the Local Managing Board (LMB) meeting on April 17, 2006 the recommendation was for the District to reimburse Richard and Terri Shannon, Reno residents, for the water connection fee and the well abandonment in an amount not to exceed \$12,658.80.

Ms. Shannon presented and reviewed an extensive packet of documentation concerning their well. She stated they had been without water at their home since December 5, 2005. She explained water existed in their well since the 1960's, and there were no signs of impact from drought for over 35 years. Ms. Shannon said the well remained consistent until draw down from STMGID No. 6 that occurred over the last five years. She discussed the Well Mitigation Board's findings. She stated the Well Mitigation Board used data provided by staff and the State Engineer to come to

their conclusions, and she did not dispute the findings. Ms. Shannon remarked it seemed clear that the Well Mitigation Board found that STMGID had impacted their property; however, that came into question when they read the staff recommendation.

Ms. Shannon explained the costs they had encountered and said they were shocked and dismayed at the behavior that created the situation. She said it was uncommon to request consideration for actual damages for driving them completely dry, but everyone involved in this water business knew they were going dry. She referenced letters in the packet supporting that. Ms. Shannon asked why it took months for staff to realize they had to put this out to bid again. She noted a list of their actual expenses and referenced where the copies of receipts were located in the packet. She urged the Board to make whole what was damaged, to direct staff to turn on the water, and to change the system so this would not happen to anyone again.

Steve Cohen, LMB Chairman, explained the Well Mitigation Board ruled that 67 percent of the blame rested on STMGID in this case. He said the LMB took into account what the Well Mitigation Board ruled, and the LMB felt there were other circumstances that called for additional monies to be paid to Mr. and Mrs. Shannon. He confirmed the LMB agreed to pay 100 percent but not admit 100 percent fault. Mr. Cohen stated the LMB chose to pay for well abandonment, and that was unusual. He added the LMB looked for a way to provide the Shannons extra funds because of the trouble and miscommunications that went on over the past few years. He noted this was the first time this case came before the LMB in his history.

Commissioner Galloway and Mr. Cohen discussed how the LMB reached the decision on the payment amount to the Shannons. Commissioner Galloway said he was concerned the decision would set a precedent, and he asked what the special circumstances were in this case that would not apply to other homes in that area. Mr. Cohen stated the LMB was not setting a precedent, as every case was looked at individually. He explained there were communication problems, and the hook up could have occurred earlier. He acknowledged part of the decision was emotionally based because some of the factors were not fair in the opinion of the LMB.

In response to Commissioner Humke, Ms. Shannon noted a well owner was not to abandon a well until such time that they had water. She verified they had a legal contract with Bruce MacKay, Pump & Well Service, Inc., and the prep work had been completed. She said the cement would be poured down the well as soon as the water was connected. She confirmed the receipt for Mr. MacKay's work was already given to the County. In terms of the hook up fee, she declared she could not pay the fee and be reimbursed.

Mr. Orphan commented STMGID would pay the hook up fee to the County because it was a County facility. He acknowledged it would be a journal entry and not a reimbursement. Commissioner Humke inquired if this Board could direct STMGID to move forward on what they voted to do at the LMB meeting on April 17, 2006, and Mr. Orphan concurred.

Chairman Larkin asked how soon the water could be turned on, and Mr. Orphan confirmed the water could be turned on tomorrow.

Commissioner Weber stated the recommendation and the vote of the LMB should be followed, and the Shannons should get their water immediately.

Commissioner Galloway remarked the recommendation of the LMB was subject to the conditions of reimbursement that required the well owner to sign a hold harmless agreement releasing the District against any future claims by the owner. He asked if Mr. and Mrs. Shannon were prepared to sign that agreement.

Ms. Shannon stated the hold harmless agreement would be signed if the motion included the facts regarding the well abandonment and the hook up fee. She expressed concern that the agreement could prevent her from sharing information with her neighbors, and she wanted to be able to do that.

John Rhodes, Legal Counsel, clarified the agreement was a release of all claims based on municipal pumping for full and final settlement.

Commissioner Galloway said he could not support a motion that did not put every issue to rest before this credit was given. He asked if there would be a problem if the payment went directly to the contractor for the well abandonment, and Ms. Shannon was agreeable to that.

Commissioner Humke commented on the "Policy for the Reimbursement of Costs for Deepening Domestic Wells" and Nevada Administrative Code (NAC) 534.315 that were found in the staff report dated March 17, 2006. He asked if it was the policy of Washoe County and the State of Nevada that, if municipal water was available, the homeowner should hook on even if they had a well. Mr. Orphan responded the STMGID policy said they had to follow the NAC. He explained the State Engineer was given the information, and he would not issue the well deepening or a new well permit if he believed it was in close proximity. Commissioner Humke pointed out, seeing the pipe come closer to their property, the Shannons did forego asking the State Engineer for the permission to deepen their well. He said they anticipated this was County policy, and he remarked it was a responsible act to seek to hook up to a municipal water system.

Commissioner Galloway inquired if it was ever said or implied by anyone that people would be allowed to hook up for free because pipes were coming into the area. Mr. Orphan said he did not believe so. Commissioner Galloway asked that the motion be contingent on STMGID absorbing the hook up fee, the well abandonment fee being paid directly to the contractor up to the specified amount, and the Shannons signing the hold harmless agreement.

Gary Schmidt, Washoe County resident, commented most often government could not solve the problem because it was the problem. He said it was

about time this County government starting doing things for the people instead of to the people.

Commissioner Humke moved that the Board ratify the action of the Local Managing Board of STMGID on April 17, 2006 to grant the mitigation requested by Richard and Terri Shannon to include the hook up fee of \$8,352.80, to hook up to Washoe County water service, and the \$4,306.00 fee for well abandonment. He further moved that STMGID specifically absorb the cost of the hook up fee, that the abandonment fee be paid directly by STMGID to the well professional, and that the Shannons be obligated to sign the hold harmless agreement in compliance with the terms discussed here today. He further moved that when those steps are completed, Washoe County Water Resources and/or STMGID would begin to deliver water to the Shannons as soon as possible. Commissioner Galloway seconded the motion.

Commissioner Galloway stated this action would not imply that the utility was responsible for more than 67 percent of the draw down. He noted the additional money was being granted for other reasons that related to communication and delays.

Commissioner Humke remarked the process of using the Well Mitigation Board was fairly new. He thanked the members for their dedicated service and said they provided a tremendous service for Washoe County. He noted the fact that the LMB chose to exceed the awarded mitigation did not reflect upon the work product that was based in sound science.

Commissioner Weber commented Mr. and Mrs. Shannon went about asking for help in the most effective method, and she thanked staff and the LMB for working through this matter.

On call for the question, the motion passed on a 4-0 vote, with Commissioner Sferrazza absent.

4:05 p.m. The Board recessed.

4:32 p.m. The Board reconvened.

PUBLIC COMMENTS

There was no response to the call for public comments.

BOARD, LOCAL MANAGING BOARD, AND STAFF COMMENTS

Commissioner Galloway questioned if the well mitigation policy should be clarified. He requested staff report to him first and advise him if they saw anything worth bringing before the Board as a whole. He commented some of the worries that confronted the Board with this recent decision could possibly be resolved by a revision of the policy.

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There being no further business to come before the Board, the meeting adjourned.

ROBERT M. LARKIN, Chairman
South Truckee Meadows General
Improvement District

ATTEST:

AMY HARVEY, County Clerk and
Ex-Officio Secretary, South Truckee
Meadows General Improvement District

*Minutes Prepared by:
Lori Rowe, Deputy County Clerk*