

DIAMONDHEAD WATER AND SEWER DISTRICT
REGULAR MEETING MINUTES
June 10, 2021 – 6:00pm
City Hall Council Chambers, Diamondhead, MS 39525

1. **Present Board Members:** Chairman John Kirschenbaum, Vice-Chairman David Boan, Secretary/Treasurer Ben Taylor, and Commissioner Bryon Griffith.

Absent: None.

The presence of a quorum was noted and the meeting was called to order at 6:00pm. The public was duly notified in compliance with the District's open meeting policy.

2. **Approve Agenda.**

Motion by Commissioner Griffith, second by Commissioner Boan to approve the agenda. Motion carried unanimously.

3. **Public Comments.** None.

4. **Minutes.**

Agenda Items numbered 4.1 – 4.4 have been placed on the Consent Agenda, same appearing to be routine, non-controversial matters on which all commissioners are likely to agree.

Motion by Commissioner Boan, second by Commissioner Taylor to approve Items numbered 4.1. – 4.4. Motion carried unanimously.

4.1. Motion to approve the minutes for the Regular Meeting held on May 13, 2021.(Attachment A).

4.2. Motion to approve the minutes for the Special Meeting held on May 20, 2021.(Attachment B).

4.3. Motion to approve the minutes for the Recessed Meeting held on May 25, 2021.(Attachment C).

4.4. Motion to approve the minutes for the Special Meeting held on May 28, 2021.(Attachment D).

5. **General Manager's Report.**

- 5.1. **Update of Recent Events.**

5.1.A. The District has installed 9 new water & sewer connections thus far in the month of June.

5.1.B. The District Staff would like to say thank you to all Board members for their efforts and support throughout the referendum process.

5.1.C. Flood waters on Koula Street at the #16 Hole on the Pines Course on June 6, 2021 were storm waters and not sewer as erroneously stated by others in multiple other forums. The District has confirmed that there was no official reports of sewer overflows in the area. Commissioner Griffith requested that administration compare the photo posted to social media of the alleged sewer flooding to the District's sewer model in order to determine the base calculation of volume and flow to confirm that the flooding was storm water related.

6. Construction / Engineering Projects.

6.1. Water Main Improvements-Phase I Project (Southeast Water Improvements-Hilo).

6.1.A. Motion by Commissioner Taylor, second by Commissioner Boan to acknowledge receipt of all bids and to authorize the opening and announcement of each bid received by Seymour Engineering. Motion carried unanimously.

Bids were opened by Mark Seymour with Seymour Engineering as follows: (1) CB Developers \$1,192,777.00; (2) DNA Underground \$1,050,705.00; (3) Hudson Contracting \$1,371,235.00; (4) JJJ Construction \$791,470.00; and (5) JLB Contractors \$1,299,995.00.

Motion by Commissioner Taylor, second by Commissioner Boan to take all of the bids under advisement and have them reviewed by Seymour Engineering and report back to the Board of Commissioners. Motion carried unanimously.

6.2. Sanitary Sewer Model Project.

6.2.A. Motion by Commissioner Griffith, second by Commissioner Boan to approve Seymour Engineering Invoice# 8116 in the amount of \$46,000.00 for the time period of May 7, 2021 through May 31, 2021, leaving a remaining balance of \$161,000.00 on this contract. Motion carried unanimously. (Attachment E).

6.3. Water System Rehab-Phase I Project (New Water Tower).

6.3.A. Motion by Commissioner Taylor, second by Commissioner Boan to approve Digital Engineering Invoice# 728-1312-02 in the amount of \$31,140.00 for the time period of May 2, 2021 through May 29, 2021, leaving a remaining balance of \$224,820.00 on this contract. Motion carried unanimously. (Attachment F).

6.3.B. Motion by Commissioner Boan, second by Commissioner Griffith to approve Seymour Engineering Invoice# 8115 in the amount of \$3,800.00 for the new water tank topographic survey, completing Task Order #8. Motion carried unanimously. (Attachment G).

6.4. Miscellaneous Engineering Projects.

6.4.A. Motion by Commissioner Taylor, second by Commissioner Griffith to approve Digital Engineering Invoice# 728-1310-49 in the amount of \$1,360.00 for The Preserve Ph.1 and Beehive Assisted Living Facility Plan Reviews, leaving a remaining balance of \$18,466.25 on the Master Services Agreement. Motion carried unanimously. (Attachment H).

7. Financial.

7.1. Docket of Claims & Financial Reports.

7.1.A. Motion by Commissioner Taylor, second by Commissioner Boan to approve the Docket of Claims in the amount of \$221,669.54. Motion carried unanimously. (Attachment I).

7.1.B. Unapproved Docket of Claims. (Attachment J).

7.1.C. Treasurer's Report – 5/31/2021 (Attachment K).

7.1.D. Revenue & Expense Report – 5/31/2021 (Attachment L).

8. Old Business.

8.1. Motion by Commissioner Boan, second by Commissioner Taylor to spread upon the minutes the DNA Underground close-out change order for LS#17B Project approved by the Board on May 13, 2021. Motion carried with Commissioner Griffith abstaining from the vote. (Attachment M).

9. New Business/Discussion Items.

9.1. Motion by Commissioner Taylor, second by Commissioner Boan to approve the Kolo Court emergency sewer crossing drainage ditch improvements performed by DNA Underground in the amount of \$4,212.50, in accordance with the State of MS Purchase Law §31-7-1(f), Page 14-15, Section K. Motion carried with Commissioner Griffith abstaining from the vote. (Attachment N).

9.2. Motion by Commissioner Griffith, second by Commissioner Taylor to ratify the approval of attendance to the 2021 MS Rural Water Association Management & Technical Conference on June 1-3, 2021 in Biloxi for David Carden, Joe Higginbotham, Jarvis Bracknell, and Jody Ivy to receive Water & Wastewater Operator training hours at a cost of \$250.00 per person. Motion carried unanimously. (Attachment O).

9.3. Discussion and possible action regarding perceived interference into the statutory rights and powers of the Board of Commissioners with regard to the operations of the District.

The Commission entertained discussion regarding interference by elected officials and administration of the City of Diamondhead into the statutory rights and powers of the Board of Commissioners with regard to the operations of the District.

Vice-Chairman Boan stated that he is of the opinion that a few elected officials and personnel have overstepped his/her authority and have actively interfered with the District's right to oversee its business operations. He further stated his belief that the City actively sought to sway voters in the referenda process in favor of consolidation even though the City has publicly stated that it would remain neutral. The Vice-Chairman stated that the District's new bond issue is separate from the referendum and that in his opinion, the City as well as the public, have made the decision not to interfere in the issuance of the bonds. Commissioner Boan concluded his comments by expressing his belief that the City officials who, without authority, undertook acts which have caused harm and delay to the District and its ratepayers, should be held accountable. Commissioner Boan suggested that financial recourse for such losses should be discussed at the next Board meeting.

Commissioner Griffith concurred with Vice-Chairman Boan's suggestion to discuss potential claims for financial reparation or other available remedies at the next meeting. Commissioner Griffith expressed a need for a complete record detailing the transgressions taken by certain officials in order to accurately reflect the degree to which said officials have overstepped his/her authority. Commissioner Griffith stated that he was of the opinion that no one person or group of persons has the right to infringe upon any other governmental entity especially when those acts inflict harm on the entity being

interfered with. In an attempt to resolve the issue quickly and mitigate further damages, Commissioner Griffith requested a special meeting be called in order for the District to determine what actions, if any, should be taken.

Legal counsel advised that after research into the matter, the proper venue for a complaint into abuse of power by City officials would be with the Mississippi Ethics Commission. Counsel recommended that the proper recourse for the District, if wanting to proceed with a complaint, would be to file a complaint with said Commission for transgressions/abuses of power with regard to interference into the District's new revenue bond issue thereby causing potential financial harm to the District and its ratepayers.

Chairman Kirschenbaum agreed that further delay would be harmful to the District. The Chairman asked counsel if the draft complaint could be finalized in order to have a special meeting within a week. Counsel advised the complaint could be finalized and sent to the Commission for review prior to a special called meeting.

- 9.3. **Motion by Commissioner Griffith, second by Commissioner Boan authorizing the District's legal counsel to draft a complaint for submission to the Mississippi Ethics Commission against Nancy Depreo, Mayor of the City of Diamondhead, and Jeannie Klein, Diamondhead City Clerk, regarding interference (abuse of power) by both in the canvassing/certification process of a residential petition submitted to the Diamondhead Water & Sewer District with regard to the District's issuance of \$12,500,000 Water and Sewer Revenue Bonds; and to hold a Special Meeting of the District's Board of Commissioners on Thursday, June 17, 2021 to finalize such matters. Motion carried unanimously.**
10. **Motion by Commissioner Griffith, second by Commissioner Taylor to adjourn at 6:56pm. Motion carried unanimously.**

The next meeting of the Board of Commissioners is scheduled for July 8, 2021 at 6:00 p.m. at Diamondhead City Hall Council Chambers, 5000 Diamondhead Circle, Diamondhead, MS.



John Kirschenbaum
Chairman

7-8-21
Date