

November 22, 2022

TO: Board of Directors of the County Water District of Billings Heights  
CC: Duke Nieskens and Peyton Brookshire  
FROM: Ming Cabrera, Laura Drager, Pam Ellis, David Graves  
RE: Notice of Special Board Meeting  
County Water Board of Billings Heights  
November 29, 2021 2:00 pm Board Room

In 1957, the Montana Legislature passed the "County Water District Act," sections 16-4501 to 16-4534, R.C.M. 1947, which permits the residents of an area such as Billings Heights to create a district for the purpose of building, operating, and maintaining their own central water supply and distribution system. Pursuant to the provisions of the afore-mentioned Act, the Water District was established. Title 7, Chapter 13, Section 2203 of the Montana Code Annotated ("MCA") authorizes the formation and incorporation of county sewer and water districts pursuant to the requirements of the remainder of Parts 22 and 23 of the same Title and Chapter. The County Water District of Billings Heights ("District") was formed by mail ballot election-voted by the residents and landowners within the designated boundaries of the District located in Billings, Montana and duly conducted in accordance with MCA §7-13-2208(2) on August 26, 1958. A Certificate of Incorporation for the District was thereafter issued by the Montana Secretary of State on August 29, 1958.

Bylaws written in 1956 have no relevance to the current board. Given that the board has not adopted bylaws in 63 years, we are governed by Montana statute. MCA 7-13-2232. Composition of board of directors specifies that CWDBH has seven board members.

MCA 7-13-2274. Conduct of business, subsection (2) A majority of the board constitutes a quorum for the transaction of business. Four of our seven board members may develop an agenda for a meeting, notice the meeting, and conduct business.

We hereby give notice of our intention to notice a public meeting and conduct business. The staff is directed to post notice of the meeting on the website. Minutes will be kept and items supported by the majority of the board will constitute a legal board decision.

The General Manager and Assistant Manager are directed to attend the meeting.



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# COUNTY WATER DISTRICT OF BILLINGS HEIGHTS

## Board of Directors Special Meeting Agenda

Supporting Documents maybe downloaded

<https://www.dropbox.com/sh/aa2ga2rwiwupgn8/AABRtJLYP8Z7raLRjXj8wYbOa?dl=0>

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Location: Board Room, County Water District of Billings Heights 1540 Popelka Dr.

Date: November 29, 2021 (REVISED)

Time: 2:00 p.m.

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**CALL MEETING TO ORDER:**

**WELCOME AND INTRODUCTIONS**

**REMARKS:**

During the course of the meeting the Public may be heard before a vote is cast by the Board. The Chair will acknowledge the Public once the motion has been made and discussed by Board for their input.

**I. PUBLIC COMMENT on “NON-PUBLIC HEARING” Agenda Items**

1. Any member of the Public may be heard on any subject that is not on the Agenda.
2. The board will not take action on these items at this time but may choose to add an item to the next meeting’s Agenda for discussion.
3. Correspondence Received by Board

**II. REMOVAL OF PRESIDENT AND VICE PRESIDENT**

1. Recommended motion: Having conducted a public hearing, considered written and spoken public testimony, I move to remove Dennis Cook as President of the County Water Board of Billings Heights. I nominate Ming Cabrera as President of the County Water Board of Billings Heights.
2. Recommended motion: Having conducted a public hearing, considered written and spoken public testimony, I move to remove Brandon Hurst as Vice-President of the County Water Board of Billings Heights. I nominate David Graves as Vice President of the County Water Board of Billings Heights.

**III. INVITED GUESTS**

1. Mark Noennig HENDRICKSON LAW FIRM, P.C. 208 North Broadway, Suite 324 Billings, Montana <http://hendricksonlawmt.com/attorneys/mark-e-noennig/>

- The board may discuss the November 17, 2021 Board meeting (see notes from the meeting (2a)
- The board will interview Mark Noennig
- Recommended motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approving Resolution 006-21 to Authorize Engagement of Mark Noennig, HENDRICKSON LAW FIRM, P.C.208 NORTH BROADWAY, SUITE 324 P.O. BOX 2502 BILLINGS, MT 59103-2502 as Counsel for meeting protocol and bylaws, settlement of pending litigation with the City of Billings, and preparation of contracts for general and interim managers. (1c) (pp 8-13)
- Recommended motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approving Resolution 007-21 to Direct Mark Noennig, Counsel for meeting protocol and bylaws, settlement of pending litigation with the City of Billings, and preparation of contracts for general and interim managers, to prepare a settlement agreement in cooperation with representatives from the City of Billings to settle the fee dispute for the amount due for unbilled water provided to the District TOTAL: \$2,970,599.35 with no additional late fees or penalties, pending a review of the court records and discussion with prior counsel. The settlement agreement will include an agreement to renegotiate the contract in 2022 when the new General Manager has been hired and may include resolution of the right-of-way issues and other issues identified by either party.1d) (p14)
- Recommended motion: Having conducted a public hearing, considered written and spoken public testimony, I move to appoint \_\_\_\_\_ and \_\_\_\_\_ to meet with the District counsel and Board President in settlement discussions with the City of Billings.
- Liaison Report – Jeff Engel (p 15)

**IV. CONSENT AGENDA** (# supporting documents available at the dropbox link above)

1. Minutes of the October 20, 2021 Meeting (2)
2. October Prepaid bills for approval (3)
3. October Bills for Approval (4)
4. October Bank Statements: First Interstate Bank (5) & 5a) Summary from accounting
5. Stifel Statement October provided by Stifel (NOT RECEIVED)
6. Profit and Loss Statement – Oct 2020 and Oct 2021 (7)
7. Approve the resignation of Jeff Weldon (8) and Consent to Withdraw Counsel (8a)

**II. MANAGER'S REPORT** Duke Nieskens NO REPORT RECEIVED

**III. ASSISTANT MANAGER'S REPORT:** Peyton Brookshire NO REPORT RECEIVED—ITEMS BELOW ARE FOLLOW-UP TO THE OCTOBER 20, 2020 MEETING

1. Pam Ellis said at the October 20, 2021 meeting that one of the things we are trying to do through a revised website is develop a list of ratepayers so we could get notices out to people through email. Peyton said it was possible to include in the manager's report for each month

from November 2020 will include information from the BDS account management page including: # emails, # phone numbers, # of ratepayers requesting bills be emailed.

2. DPHHS This program is slated to operate from October 1, 2021, through September 30, 2023. Households can apply to the Montana Department of Public Health and Human Services for assistance through a process coordinated with the Low-Income Energy Assistance (LIEAP) program. Funds will be sent from the State directly to the City to be credited to income-

Public Health In The 406  
Sponsored

Do you need help with water expenses? Funds are now available for qualifying applicants.

# LOW INCOME HOME WATER ASSISTANCE PROGRAM

MONTANA DPHHS  
Healthy People. Healthy Communities.  
Montana Department of Public Health and Human Services

AMERICAN RESCUE PLAN ACT 2021  
State of Montana

*Available now!*  
Help is available for qualifying water expenses.  
Apply now at [liheap.mt.gov](https://liheap.mt.gov).

DPHHS.MT.GOV/HCS/ENERGYASSISTANCE  
Apply today!  
We're here to help.

Learn More

eligible household customers to reduce arrearages, prevent shutoffs, and reduce monthly bills

- i. How many ratepayers have requested information about enrolling in the program?
  - ii. How will the district communicate to ratepayers so they know the program is available?
  - iii. The board may make a motion to post the link for the DPHHS program on our website
3. Consider applications for two additional servicemen to start in January or February. We have been short on servicemen for several years and it is time to get our staffing up. We have job descriptions that were contracted and written for us that are still current and relevant. See attached descriptions (serviceman, Prepared Date: 01/01/2020; have not been reviewed on approved by board) TABLED UNTIL NEW GENERAL MANAGER HAS BEEN HIRED
  4. Coal Endowment Trust (9a) ... the County Water District of Billings Heights has been selected for a Montana Coal Endowment Program (MCEP) Planning grant award in the amount of \$15,000 to complete a CIP. As a planning activity for a necessary water or wastewater infrastructure improvement, this grant is being funded with funding from the American Rescue Plan Act per HB 632.
  5. Petition for Annexation on behalf of Zackery D. Michalies, 1637 Sagebrush Rd, Billings, MT 59105 Homestead Subdivision, Submitted 10-19-2021. Fee paid \$13,002.71 (9b)

Recommended motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve petition for annexation of behalf of Zackery D. Michalies, 1637 Sagebrush Rd., Billings, MT 59105 Homestead Subdivision, Submitted 10-19-2021 and accept the fees paid of \$13,002.71.

#### IV. BOARD REPORTS

1. **President's Report:**

2. **Finance Committee:** Laura Drager (11)

- i. AZ Audit Discussion and Review
- ii. Budget work: Plan and Recommendation
- iii. Blue Cross/Blue shield This is the open enrollment. (11a)bs application for renewal; 1(1b) bcbs plan changes 2022; (11c) bcbs renewal pkg ; spreadsheet with 2022-BCBC Renewal Comparison (11d), Background pp 18-19

NOTE: The spreadsheet is printed separately for reference at the board meeting

The spreadsheet (11d) has 6 plan options for the health insurance for our staff. The plan highlighted in yellow is the current plan. If we do nothing, this plan is set to auto-renew effective Jan 1, 2022. After reviewing 35 plan options we were given by our plan provider, I have selected 6 plans for us to choose from.

The biggest change for the insured (staff & families) is being restricted to Billings Clinic providers to obtain maximum benefits from the insurance. They can still choose out of network providers (St V's) but they will be paying the cost for the services with a much lower insurance payment.

Please review . Each option is labeled separately for your convenience in providing feedback. While we have less expensive options to choose from, be aware that health insurance benefit will be a major factor when applicants are looking at our open GM position so now is not the time to make a drastic change to our benefit package.

Recommended motion: Having conducted a public hearing, considered written and spoken public testimony, I move the District approve a BCBS plan change from the Blue Preferred PPO Network plan to the Blue Focus POS (point of sale) Network plan and provide coverage at the platinum level. The proposed change will save the District \$50,846.28 in costs for 2022.

3. **Safety Committee:** Jeff Engel

4. **By-laws & Governance Committee** (Pam Ellis and committee members

- i. **By-laws update** )(13) Printed separately

Recommended motion: Having conducted a public hearing, considered written and spoken public testimony, I move to adopt the By-Laws of the County Water District of Billings Heights dated November 19, 2021.

ii. **Job Descriptions for General Manager (14a) and Recruiting for General Manager( 14b)**

Recommended motion: Having conducted a public hearing, considered written and spoken public testimony, I move to adopt the Job Description for General Manager of the County Water District of Billings Heights and the Listing for Recruiting (pp 18-23)

The board may make a motion clarifying Board member responsibility for working with Job Service and advertising the position.

iii. **TRUSTEE AND MANAGER POLICIES Rules and Procedures for Meetings of the CWDBH Board (15) pp 17-21**

Recommended motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve the TRUSTEE AND MANAGER POLICIES Rules and Procedures for Meetings of the CWDBH Board. (pp 24-28 )

iv. **Policy Records Access and Procedure (16) pp 29-31**

The board may move to approve the approve the policy which was approved by the By-laws and Governance Committee.

Recommended motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve the Policy Records Access and Procedure.

v. **Uniform Complaint Procedure (17) pp 32-36**

Recommended motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve the Uniform Complaint Procedure.

vi. **Website RFQ and committee recommendation (18) Pp 37-40**

Recommended motion: Having conducted a public hearing, considered written and spoken public testimony, I move to approve Resolution 008-21, the contract from Municode for hosting a Standard Design Website and Board Management Software for a total of \$8250 for year 1; year 2 and beyond \$4500 per year.

V. OLD BUSINESS:

1. **Comprehensive review of all Rates and Fees, Capital Improvement Plan by Interstate Engineering (18)** tabled until Raftelis Report has been received in writing by the board and the board decides how to proceed

2. Peyton Brookshire will report to the Board when Andrew Rheem will be in the area and available to meet with the board.

Recommended motion: Having conducted a public hearing, considered written and spoken public testimony, I move to direct Raftelis to stop further work on the proposed City of Billings wholesale water rate increase of 30.6%, scheduled to begin July 1, 2022. The General Manager may review the work completed by Raftelis with the Board and make a recommendation to the Board at a later date.

3) Other motions may be made.

**BACKGROUND: Amount remaining on the Raftelis contract (10/15/2021) \$39,667.50**

Interstate Engineering	10/18/2021	\$2,771.00	Project support to Raftelis for Rate Study & NW Transmission Modeling
Interstate Engineering	9/23/2021	\$2,440.50	Project support to Raftelis for Rate Study & NW Transmission Modeling
Raftelis	10/11/2021	\$10,332.50	Billings to date
	<b>TOTAL</b>	<b>\$15,544.00</b>	

**SUPPORT DOCUMENTS:** emailed to Duke Nieskens, Peyton Brookshire and Pam Ellis by Jennifer Duray, November 19, 2021 Digital copies should be available from the district

- 2\_Water System Overview Final Draft
- 3\_Water Demand Forecasting Final Draft
- 4\_Water System Evaluation Criteria Final Draft
- 05\_Hydraulic Water Model Final Draft
- 06\_Operation Analysis\_Final Final Draft
- 08\_Storage Analysis Final Draft
- 09\_Distribution System Expansion Final Final Draft
- 10\_Water System Resiliency Final Draft
- Water Map
- WTP to Distribution
- Pages from 06\_Operation Analysis\_Final Final Draft
- WO1942 WEWTP Preconstruction Contract (executed)
- WO1912 WERWP Pre-Construction Contract, COP (executed)

**VI. NEW BUSINESS**

1. Consider the purchase a television and wall mount, as well as a camera for Zoom meetings of the Board. (TABLED)
2. Planning and Development: Strategic Plan (3 years): TABLED Dennis Cook Measurement of Success for Success/ Dennis wants keep these items on the agenda because if the day ever comes where we have things in order and operating normally, the planning is going to be important.





**Resolution 006-21 to Authorize**  
**Attorney-Client Fee Contract with Mark Noennig, HENDRICKSON LAW FIRM, P.C. 208**  
**NORTH BROADWAY, SUITE 324**  
**P.O. BOX 2502**  
**BILLINGS, MT 59103-2502**  
**General Counsel for the Water District of Billings Heights Board**

WHEREAS, the County Water District of Billings Height Board has interviewed Mark Noennig and reviewed his the Attorney-Client Fee Contract during a public board meeting November 29 , 2021;

That the District Board engages Mark Noennig as Counsel for meeting protocol and bylaws, settlement of pending litigation with the City of Billings, and preparation of contracts for general and interim managers.

That, the President of the County Water District of Billings Heights, sign the attached engagement letter, on behalf of the Board.

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Attested: \_\_\_\_\_

**HENDRICKSON LAW FIRM, P.C.**  
**208 NORTH BROADWAY, SUITE 324**  
**P.O. BOX 2502**



Date: \_\_\_\_\_, 2021

**ATTORNEY-CLIENT FEE CONTRACT**

This ATTORNEY-CLIENT FEE CONTRACT ("Contract") is entered into by and between **County Water District of Billings Heights** ("Client" or "You"), and Hendrickson Law Firm, P.C., ("Attorney" or "We").

**1. CONDITIONS.** This agreement will not take effect, and we will have no obligation to provide legal services, until you return a signed copy of this agreement and pay the initial deposit called for under Paragraph 4.

**2. SCOPE OF SERVICES.** You are hiring us as your attorneys, to represent you in the matter described on the attached Rate Schedule. We will provide those legal services reasonably required to represent you. We will take reasonable steps to keep you informed of progress and to respond to your inquiries. If a court action is filed, we will represent you through trial and post-trial motions. After judgment we will not represent you on appeal or in execution proceedings. Unless you and we make a different agreement in writing, this agreement will govern all future services we may perform. If an appeal is needed, an additional contract will be required.

**3. CLIENT'S DUTIES.** You agree to be truthful with us, to cooperate, to keep us informed of developments, to abide by this Contract, to pay our bills on time and to keep us advised of your address, telephone number and whereabouts.

**4. INITIAL DEPOSIT.** You agree to pay us an initial deposit of **\$ N/A** upon execution of this agreement. Our hourly charges will be credited against the initial deposit. The initial deposit, as well as any future deposit, will be held in a trust account. You authorize us to use that fund to pay the fees and other charges you incur.

Whenever your deposit is exhausted, we reserve the right to demand further deposits, each up to the sum of \$\_ (as reasonably requested) \_. Once a trial or arbitration date is set, we may require you to pay all sums then owing to us and to deposit the attorneys' fees we estimate will be incurred in

preparing for and completing the trial or arbitration, as well as the jury fees or arbitration fees likely to be assessed.

You agree to pay all deposits after the initial deposit within twenty-one (21) days of our demand. **Any unused deposit at the conclusion of our services will be refunded.**

**5. LEGAL FEES AND BILLING PRACTICES.** You agree to pay by the hour at our prevailing rates for time spent on your matter by our legal personnel. Our current hourly rates for legal personnel (and other billing rates) are set forth on the attached Rate Schedule. The Rate Schedule also provides for periodic increases.

We will charge you for the time we spend on telephone calls relating to your matter, including calls with you, opposing counsel or court personnel. The legal personnel assigned to your matter will confer among themselves about the matter, as required. When they do confer, each person will charge for the time expended. Likewise, if more than one of our legal personnel attends a meeting, court hearing or other proceeding, each will charge for the time spent. We will charge for waiting time in court and elsewhere and for travel time, both local and out of town.

**6. COSTS AND OTHER CHARGES.**

(a) In General. We will incur various costs and expenses in performing legal services under this Contract. You agree to pay for those costs and expenses in addition to the hourly fees. The costs and expenses commonly include process servers' fees, fees fixed by law or assessed by courts and other agencies, court reporters' fees, long distance telephone calls, messenger and other delivery fees, postage, parking and other local travel expenses, photocopying and other reproduction costs, clerical staff overtime, word processing charges, charges for computer time and other similar items. Except for the items listed on the Rate Schedule, all costs and expenses will be charged at our cost.

(b) Out of Town Travel. You agree to pay transportation, meals, lodging and all other costs of any necessary out-of-town travel by our personnel. You will also be charged the hourly rates for the time legal personnel spend traveling.

(c) Experts, Consultants and Investigators. To aid in the preparation or presentation of your case, it may become necessary to hire expert witnesses, consultants or investigators. We will not hire such persons unless you agree to pay their fees and charges. We will select any expert witnesses, consultants or investigators to be hired.

**7. BILLING STATEMENTS/COLLECTION.** We will send you periodic statements for fees and costs incurred. Each statement will be due in fifteen (15) days of its date. You may request a statement at intervals of no less than 30 days. If you do, we will provide one within 10 days.

You will be charged a **finance charge** at the rate of 1% per month on all amounts unpaid for more than 30 days after the date of the statement. That amount will be added to the principal balance owing. If you fail to pay the amount owed, you agree to pay us for collection costs and reasonable attorney's fees.

**8. LIEN.** You hereby grant us lien on any and all claims or causes of action that are the subject of our representation under this Contract. Our lien will be for any sums owing to us at the conclusion of our services. The lien will attach to any recovery you may obtain, whether by arbitration award, judgment,

settlement or otherwise. The lien created by this provision is supplemental to the lien created by Section 37-61-420, Montana Code Annotated.

**9. DISCHARGE AND WITHDRAWAL.** You may discharge us at any time. We may withdraw with your consent or for good cause. Good cause includes your breach of the agreement, your refusal to cooperate with us or to follow our advice on a material matter or any fact or circumstances that would render our continuing representation unlawful or unethical.

When our services conclude, all unpaid charges will immediately become due and payable. After services conclude, we will, upon request, deliver your file or a copy thereof to you, along with any funds or property of yours in our possession.

**10. DISCLAIMER OF GUARANTEE.** Nothing in this contract and nothing in our statements to you will be construed as a promise or guarantee about the outcome of your matter. We make no such promises or guarantees. Our comments about the outcome of your matter are expressions of opinion only.

**11. EFFECTIVE DATE.** This agreement will take effect when you have performed the conditions stated in Paragraph 1, but its effective date will be retroactive to the date we first performed services. The date at the beginning of this Contract is for reference only. Even if this agreement does not take effect, you will be obligated to pay us the reasonable value of any services we may have performed for you.

HENDRICKSON LAW FIRM, P.C.

By: \_\_\_\_\_

MARK E. NOENNIG

I/We have read and understood the foregoing terms and agree to them, as of the date Hendrickson Law Firm, P.C. first provided services. If more than one party signs below, we each agree to be liable, jointly and severally, for all obligations under this Contract.

Client: County Water District of Billings Heights

By: \_\_\_\_\_

Its: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

## RATE SCHEDULE

### A. Identification:

Matter: Counsel for meeting protocol and bylaws, settlement of pending litigation with the City of Billings, and preparation of contracts for general and interim managers.

### B. Hourly rates for legal personnel:

- Mark E. Noennig \$275.00/hour
- Kelly J. Varnes \$225.00/hour
- Jeff Turner \$250.00/hour
- Daniel O.C. Ball \$225.00/hour
- Desi Seal \$185.00/hour
- Cody Atkins \$185.00/hour
- Justin Stark \$185.00/hour
- Paralegal \$130.00/hour
- Investigator \$70.00/hour

### C. Standard charges:

We charge for our time in minimum units of .10 hours.

### D. Costs and expenses:

In-office photocopying 20¢/page black & white

\$1.00/page color

Mileage 55¢/mile

Clerical staff overtime will be charged at 1.5 times the base hourly rate or at the rates required by applicable law, whichever is greater.

E. Subject to Change:

The rates on this schedule are subject to change on 30 days' written notice. If you decline to pay any increased rates, we will have the right to withdraw as your lawyers.



Resolution 007-21  
to Settle the Fee Dispute with the City of Billings  
filed in

MONTANA THIRTEENTH JUDICIAL DISTRICT COURT, YELLOWSTONE COUNTY Cause No. DV 20-1653  
FILED by Randall G. Nelson, 7th day of January, 2021.

WHEREAS, the County Water District of Billings Height Board has discussed the fee dispute with the City of Billings on November 29 , 2021;

That the District Board directs Mark Noennig, Counsel for meeting protocol and bylaws, and settlement of pending litigation with the City of Billings to prepare a settlement agreement in cooperation with representatives from the City of Billings to settle the fee dispute for the amount due for unbilled water provided to the District TOTAL: \$2,970,599.35 with no additional late fees or penalties, pending a review of the court records and discussion with prior counsel. The settlement letter will include an agreement to renegotiate the contract in 2022 when the new General Manager has been hired and may include resolution of the right-of-way issues and other issues identified by either party.

That, the President of the County Water District of Billings Heights, sign the resolution , on behalf of the District.

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Attested: \_\_\_\_\_

## Legal Liaison Report

Prepared by Jeff Engel

November 2021

The legal committee has conducted 2 informal meetings with City officials to negotiate a settlement for the lawsuit with the City. No attorneys were present. The first meeting was essentially a meet and greet; the atmosphere was good and the meeting was productive in that both parties were able to determine the basics of each other's position. The second meeting was more productive in that the subject matter became more specific related to demands; the meeting became less productive in that there was obvious disagreement as to which issues are included in the lawsuit and which issues are not,

The City has agreed to separate the contract negotiations from the lawsuit settlement. Other issues, and whether they should be included as a part of the lawsuit, are still on the table and are being rigorously debated. The committee is currently waiting for the City to provide some additional information to better clarify at least one issue.

There is some disagreement amongst some Board members and the legal committee as to how information regarding the lawsuit is being handled; apparently some Board members feel the need to know what is going on in detail; understandable but legal counsel has advised the legal committee to not share discussions that take place behind closed doors in order to avoid compromising the negotiations. Legal advice indicates there is a fine line between closed door negotiations and the public's right to know; negotiations being very difficult to conduct when information is being dispersed and received from multiple sources outside the negotiating team.

Knowing the full Board will be voting on any proposed settlement, a recommendation will be arrived at by the legal committee and shared with the full Board at the appropriate time; the public's right to know will be addressed at the same time.

The legal committee is following Board guidelines regarding committee structure as there are a lot of other issues the Board of Directors are addressing currently. The committee structure enables smaller working groups to dissect specific topics thoroughly without involving everyone on the Board of Directors. All committees are responsible to the Board to make recommendations based on good quality research and intent. If the Board would like to reconsider the legal advice it is receiving and approach the lawsuit negotiations in a different manner, it can direct the legal committee accordingly. It is advisable that counsel be apprised ahead of time of any proposed changes to the legal committee's approach to the City lawsuit.

PREPARATION OF AGENDA ITEMS

BOARD POLICY NO.

**MEETING DATE:** November 17, 2021

**AGENDA ITEM:** Finance Report, Blue Cross-Blue Shield

**PREPARED BY:** Laura Drager, Finance Committee Chair

**BACKGROUND:**

July 13, 2016 The Board talked about the fact that the employees received “family” insurance coverage which is a pre-tax benefit. The family insurance coverage was approved by the Board December 2015. The District will hopefully have the 2017 insurance rates in November or December.

November 9, 2016 Insurance went up from 11% to 12.52%.. Jon Muessig made a motion to make no change to the \$1400 cap per employee for insurance; and give a raise of 3% to each employee effective January 1, 2017. Bud Dunham seconded. Motion passed 5-0.

November 8, 2017 Duke handed out the Wage and Salary proposal; as well as the Blue Cross Blue Shield information. BCBS discontinued our current plan. Duke provided several options for insurance coverage. Because we are a small employer, we are pooled with other similar size companies to get better rates. The Board asked for a breakdown of the current insurance amounts for each employee. A decision for the insurance has to be made at the December board meeting because we have to provide the agent with any changes/updates by December 13. Regarding the wages: Duke provided AWWA comparable salaries for the same size system as the District’s. Item tabled until the December meeting

December 13, 2017 Donna Dinsmore did some research regarding insurance. She gave the board members a handout and discussed factors like Cost of Living and the information Duke handed out from AWWA for medium size systems...the Board agreed to give each employee a 3% wage increase. The Board would provide health insurance (Platinum Plan P910PFR) and will pay 100% of the premium for the employees with a \$1400 allowance to pay for the dependent and spouses, which will help everyone.

January 10, 2018 The employees were very pleased with the insurance coverage and wage increase the board of directors decided on.

November 14, 2018 Duke received the Blue Cross Blue Shield (major medical) insurance renewal for 2019. The change was .79% which was for the same plan as the District had for 2018. The Guardian bill (dental and vision) went up 3%.

November 13, 2019 Duke handed out the Wage and Salary proposal. Information from AWWA showing the average wages across the United States for systems of similar size to our District. Duke also had the insurance increases. Blue Cross Blue Shield will increase 8.8%, (\$1,318.76/month) which is significantly lower than the 15 to 20% increase



other companies are seeing. Guardian (eye and dental) will increase about \$85/month. Duke would like to take the \$1,400 allowance for spouses/family members, and pool that money. Because the \$1400 is budgeted whether it is used or not, pooling the \$1400 would be a cost savings of \$8343 to the District. Roger Ostermiller made a motion move the \$1400 allotment per employee to a pool. Donna Dinsmore seconded. Motion carried 5-0. Duke would like a motion on accepting the 2020 insurance rates so he can send the renewals back. Donna Dinsmore made a motion to approve the 2020 insurance with Blue Cross Blue Shield and Guardian. Brandon Hurst seconded. Motion carried 5-0.

**SUPPORT DOCUMENTS:**

- Blue Cross-Blue Shield Plan Changes
- Blue Cross-Blue Shield Renewal Package
- Blue Cross-Blue Shield Application for renewal
- 2020-BCBC-Renewal-Comparison

PREPARATION OF AGENDA ITEMS

BOARD POLICY NO.

**MEETING DATE:** November 17, 2021

**AGENDA ITEM:** Hiring a General Manager

**PREPARED BY:** Pam Ellis and Bylaws and Governance Committee members in attendance at the committee meeting on November 8, 2021: Ming Cabrera,

Laura Drager, David Graves

**RECOMMENDATION:** The committee recommends approval of the process to post the position and advertise in the Yellowstone County News, Montana Rural Water Systems (<https://mrws.org/>), American Water Works Association (<https://www.awwa.org/>), <https://www.indeed.com/> and <https://www.ziprecruiter.com/>, Linked in <https://www.linkedin.com/>

**BACKGROUND:** Duke Nieskens retired effective December 10, 2021

**FINANCIAL IMPACT:** varies depending upon final contract offered

**SUPPORT DOCUMENTS:**

- Job Description for General Manager
- Proposed job posting

**GENERAL MANAGER DUTIES AND EVALUATION  
BOARD POLICY NO.**

<b>Job Title:</b>	General Manager
<b>Reports To:</b>	Board of Directors
<b>FLSA Status:</b>	Exempt
<b>Prepared by:</b>	District Board
<b>Prepared date:</b>	

### Primary Objective

This General Manager serves as the chief executive officer of the District under the direction of the District Board of Directors. The General Manager is responsible for all aspects of the efficient and cost-effective operations and administration of the District.

In accordance with the policy guidelines of the Board of Directors and consistent with Federal and State regulations, the General Manager plans, implements, and directs the operations of the District's water system in a manner that insures service to customers, ongoing maintenance of systems and equipment, and sound development for the future. Quality decision making and judgment are expected and required.

### Essential Skills Required

- Possess the ability to analyze, evaluate, write, and understand budgets and rate structures.
- Be able to monitor construction projects, as well as the maintenance and operation of water facilities.
- Possess the ability to handle accounting and payroll functions in accordance with government accounting guidelines.
- Be available for 24-hour on-call for emergencies except when previous arrangements are made with other district employees.
- Submits to random alcohol and drug testing per District regulations.
- Ability to work with mathematical concepts such as probability and statistical inference, and fundamentals of plane and solid geometry and trigonometry. Ability to calculate figures and amounts such as proportions, percentages, area, circumference, and volume. Ability to apply concepts such as fractions, percentages, ratios, and proportions to practical situations.
- Ability to solve practical problems and deal with a variety of concrete variables in situations where only limited standardization exists. Ability to interpret a variety of instructions furnished in written, oral, diagram, or schedule form.
- Physical requirements include the ability to reach, twist, stand, balance, bend, stoop, crouch, crawl, walk, or climb in a variety of indoor and outdoor environments and weather conditions, and lift weights up to 50 lbs. (greater with assistance), and manual dexterity to perform computer and cell phone tasks. Sensory abilities include smelling, hearing, close vision, distance vision, color vision, peripheral vision, depth perception, and the ability to adjust focus. Reasonable accommodations may be made to enable individuals with disabilities to perform essential functions.

## Areas of Accountability and Performance:

Following directions from the Board of Directors the General Manager will:

- Develop rate structures as required by Montana law.
- Develop projections for current and future needs in the areas of staff, capital improvement projects and finances for 2 years, 5 years and 10 years.
- Monitor construction projects, as well as the maintenance and operation of water facilities.
- Maintain accounting and payroll functions in accordance with government accounting guidelines.
- Administer, supervise, plan, direct, and coordinate the water systems and office, delegating tasks as needed.
- Maintain familiarity with the rules and regulations of the District in order to enforce them and to answer questions from customers or developers.
- Meet and work with consultants and/or engineers to further the goals and needs of the District and its projects.
- Demonstrate the ability to read and interpret plans and specifications, and to locate lines for construction purposes.
- Work closely with Montana Rural Water and other agencies, attending related onsite and off-site meetings, seminars and training as often as possible in order maintain certifications and to be current on regulations and legislation at the state and federal levels in the water and wastewater fields.
- Is responsible for the timely filing of any necessary District reports to County, State and Federal agencies.
- Assists in preparation of the agenda and resolutions for the monthly Board meetings in compliance with board policy. Attends every board meeting and is prepared to discuss in detail the implications on District operations of any agenda item.
- Initiates, plans, develops, and implements records and reports for the Board of Directors
- Organizes and prepares financial reports, minutes, correspondence and other documents for board action, and performs other duties as assigned by the Board of Directors
- Is responsible for all facilities, property, and equipment of value.
- Provides thought-out and sound advice and counsel to the Board of Directors in relation to projects, developments, and improving District functions.
- Recommends priorities for short- and long-range projects, and coordinates implementation as required.
- Is responsible for developing, preparing, and recommending a comprehensive budget and rate structure with supporting data for the District.
- Serves as a liaison and advisor for the District with consulting engineers, government agencies, developers, and any others as need arises.
- Recommends purchases of new and replacement equipment as the result of continuous appraisal of the working and functionality of District facilities and equipment.
- Establishes and maintains effective communication and working relationships with employees, customers, suppliers, units of government, and the Board of Directors.
- Is responsible for timely and accurate meter reading, accounting and payroll tasks for the District as well as the billing and collection of accounts.
- Is responsible for establishing a high level of customer service and maintaining quality contacts with the public, District customers and the Board
- Build and maintain strong, positive working relationships with the Board, District staff, community agencies, consultants, District customers, and the public. Responds to customer complaints and inquiries and is able to utilize the proper tact and diplomacy when dealing with District business.
- Complete ongoing and continuing educations as it relates to water and sewer systems, safety, regulation compliances, interlocal contracts, and various “good of the District” management issues

## Supervision-Responsibility for Work of Others

### The General Manager

- Administers all personnel matters of the District including supervision and direction, orienting, training, discipline, evaluation of performance and related matters, delegating tasks as needed. (Exception: The Board Secretary reports directly to the Board of Directors) • Prepares written job descriptions for each employee and an annual employee evaluation
- Develops and maintains job descriptions for all district personnel
- Assigns employee tasks to assure effective use of personnel, equipment, and facilities.
- Is responsible for using and instructing others in the proper use of safety equipment and procedures to prevent injury.
- Helps maintain a professional atmosphere and positive morale among employees.
- Cross-trains with other employees to maintain staffing requirements during periods of transition, vacations, or other absences.
- Periodically reviews logs and journals completed by other personnel.
- Is responsible for employee hiring, evaluations, additional training, advancement, promotions, wage increases, and terminations.
- Is responsible for preliminary review and management of all employee related plans and insurance programs, which are a part of the employee compensation package.
- Assesses and suggests changes to the rate and structure of employee pay scales and compensation.
- Is responsible for ensuring employees obtain certification in the water field, and continue and maintain their education as required for their certifications.

### **Education, Training and Experience Requirements:**

#### The General Manager possesses

- Any combination of education and experience equivalent to high school graduation and some college training in the areas of business administration. A degree in engineering is preferred.
- At least five years of progressively responsible experience involving the management of materials, personnel, budgets, rates, and purchasing in a water system.
- Valid Montana Water Operator Certifications appropriate for the District's classifications (certified within 180 days of position acceptance)
- Technical proficiency with computers and software
- Must possess a valid state of Montana driver's license with an insurable record

## Evaluation of the General Manager

At least annually, at or near the employment anniversary date of the General Manager, the Board will meet in executive session for the purpose of evaluating the performance of the General Manager.

The Board will summarize the results of their individual evaluations and arrive at a consensus as to the overall performance of the General Manager. The results of the evaluation will be communicated to the General Manager.

The Board President shall ensure that the provisions of this policy are followed.

Adopted: \_\_\_\_\_ Attest: /s/ \_\_\_\_\_

Revised: \_\_\_\_\_ Board President

Reference: CWBDH Policy

Review Date: \_\_\_\_\_ Attest: /s/ \_\_\_\_\_

Secretary

# General Manager

## County Water and Sewer District of Billings Heights

The County Water District of Billings Heights is seeking a General Manager to lead, motivate, manage, supervise and coordinate the District. This General Manager serves as the chief executive officer of the District under the direction of the District Board of Directors. The General Manager is responsible for all aspects of the efficient and cost-effective operations and administration of the District.

In accordance with the policy guidelines of the Board of Directors and consistent with Federal and State regulations, the General Manager plans, implements, and directs the operations of the District's water system in a manner that insures service to customers, ongoing maintenance of systems and equipment, and sound development for the future. Quality decision making and judgment are expected and required.

Essential duties and responsibilities include but are not limited to: assume safety responsibility for personnel and the safety of water delivery; select, train, motivate and evaluate personnel; plan, direct, coordinate and review work plan for District. The General Manager is provides thought-out and sound advice and counsel to the Board of Directors in relation to projects, developments, and improving District functions, is responsible for developing, preparing, and recommending a comprehensive budget and rate structure with supporting data for the District and Serves as a liaison and advisor for the District with consulting engineers, government agencies, developers, and any others as need arises.

**Salary range:** \$78,000 - \$121,775 negotiable depending on education and experience

Excellent benefits including full medical and dental coverage, paid vacation and sick leave, and participation in Montana Public Employee Retirement System. Relocation expenses and mileage or work vehicle negotiable.

### **Desired Qualifications and Skills:**

- A professional engineering license with a minimum of five (5) years or project or personnel management experience in water resource management
- At least five years of progressively responsible experience involving the management of materials, personnel, budgets, rates, and purchasing in a water system.
- Possession of, or ability to obtain within 180 days a valid Montana Water Operator Certification appropriate for the District's classifications
- Technical proficiency with computers and software
- Must possess a valid state of Montana driver's license with an insurable record

### **Required Materials:**

- Cover letter
- Resume including education, special skills, licenses or certificates, employment history including contact information of employers and salary
- Send cover letter and resume to: John Rife, Job Service Billings 2121 Rosebud Drive #B Billings MT 59102  
[jrife@mt.gov](mailto:jrife@mt.gov) 406) 655-6075

### **The successful applicant**

The successful applicant will be required to provide verification of educational certifications and and official education transcripts, pass medical exam including a drug and alcohol screen, and a complete background check prior to beginning work.

## TRUSTEE AND MANAGER POLICIES

### Rules and Procedures for Meetings of the District Board

#### BOARD POLICY NO.

#### PART I. General Provisions

**Section 1.01 Purpose.** The purpose of this policy is to establish the rules of procedure for the conduct of meetings and the transaction of business by the County Water District of Billings Heights. These rules of procedure are intended to assure that the Board can accomplish its work efficiently, in full view of the public and with reasonable opportunity for the public to participate in the deliberations and decisions of its county government.

**Section 1.02 Authority.** These rules of procedure are pursuant to Montana statutory and regulatory law.

#### PART II. Public Participation

**Section 2.01 Policy.** It is the policy of County Water District of Billings Heights Board that the public shall be afforded reasonable opportunity to participate in the operation of Board prior to the final decision of the Board concerning any matter of significant interest to the public. A matter of significant interest to the public includes but is not limited to any matter:

3. Requiring a public hearing;
4. Adopting, Implementing, interpreting, prescribing or altering a rate, rule or policy of the District;
3. Relating to the budgetary and financial affairs of the District.

**Section 2.02 Open Meetings.** A meeting of District Board of Directors is convened whenever a quorum of Board members hear, discuss or act upon any matter over which they have jurisdiction. All meetings of the District Board shall be open to the public. However the presiding officer of the Board may close any meeting during the time the discussion relates to a matter of individual privacy and then if an only if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and in that event, the meeting must be open as it relates to that individual.

**Section 2.03 Notice.** The District Board shall give timely notice of any public hearing or any meeting to discuss or act upon any matter of significant interest to the public, as prescribed by law. Additionally, the agenda of all scheduled meetings of the District Board shall be posted on the website not later than 48 hours prior to the meeting.

**Section 2.03 Public Posting Board.** The Board of the County Water District of Billings Heights designates as its official posting place the website for the District.



## PART II. Procedures.

**Section 3.01 Meetings** The Board of Directors shall meet on a regular basis and may hold special meetings to conduct the affairs of the District. Committees of the Board may meet on a regular basis and may hold special meetings. All meetings of the Board shall be open to the public and subject to the public participation and notification requirements of Montana law except as otherwise provided in law. Appropriate notice of all meetings shall be provided to the public.

A meeting of the Board is defined as the convening of a quorum of the Board either in person or by means of electronic equipment to hear, discuss, or act upon a matter over which the Board has supervision, control, jurisdiction, or advisory power. A quorum is represented by a majority of the total members of the Board or committee in attendance.

Special meetings of the Board of Directors may be called by the President, or in his absence the Vice President, or by a quorum of the members of the board.

Official action at Board meetings can only occur with a quorum of Directors present. Minutes of all meetings required by statute Montana law to be open, fully reflective of all business transacted at the meeting, shall be kept and shall be available for inspection by the public.

**Section 3.02 Agenda Preparation.** Proposed resolutions, reports, recommendations, contracts and all other matters requiring consideration, discussion or decision by the Board shall be submitted to the President of the Board and to the Recording Secretary of the Board by 12:00 noon on the Friday immediately preceding the next regularly scheduled meeting of the Board. The President or his/her designated representative shall arrange the matters requiring discussion or action into an agenda according to the order of business specified herein. Copies of the agenda shall be provided to each member of the Board not later than 48 hours prior to the scheduled meeting. Copies of the agenda shall be readily available to the press and to the public at large and one copy shall be posted on the designated public posting board not later than 48 hours prior to the scheduled meeting.

**Section 3.03 Order of Business.** The presiding officer shall prepare the agenda in substantially the following form which may be altered by consent of the Board:

1. Call the Meeting to Order
2. Welcome and Introduction of guests
3. President's Remarks
4. Public Comment on anything not on the agenda but within the jurisdiction of the Board.
5. Consent Agenda

*\*\* **Consent Items** are those upon which the presiding officer anticipates no discussion should be necessary. However, at the beginning of each meeting any Board member may request one or more items to be removed from the consent agenda for the purpose of discussion prior to a separate vote on the item(s). The presiding officer shall schedule such discussion and vote immediately following adoption of the consent agenda.*

6. Manager's Report
7. Assistant Manager's Report
8. Committee Reports
9. Old Business
10. New Business

## 11. Items to be Scheduled for Future Board Meeting:

*\*\*An item that is not scheduled on the agenda for the current meeting may be discussed during the session at the discretion of the Board. However, the purpose of such discussion shall be to decide whether or not to schedule the item for discussion and/or vote on a subsequent agenda. As a general rule no matter of significant interest to the public should be decided upon without prior notice to the public as a scheduled Board agenda item.*

## 12. Adjournment

### **PART IV. Rules of Board Participation.**

**Section 4.01 Policy.** To provide for the effective participation by all members of the District Board and to protect the right of participation by members of the public appearing before the Board.

**Section 4.02 Rules.** Board debate shall proceed in accordance with the following rules:

1. A Board Member desiring to speak shall address the presiding officer, and upon recognition, shall confine him or herself to the question under debate, avoiding abusive and indecorous language.
2. A Board Member once recognized, shall not be interrupted when speaking unless it is to call him or her to order, or as herein otherwise provided. If a Board Member while speaking is called to order, he or she shall cease speaking until the question of order is determined, and, if in order, he or she shall be permitted to proceed.
3. Order of rotation in matters of debate or discussion shall be at the discretion of the presiding officer.
4. A motion may be made by any member of the Board but must be seconded prior to discussion and vote. If the motion is not seconded it shall be declared failed for lack of a second by the presiding officer.
5. A motion to reconsider any action taken by the Board may be made only on the day such action was taken. It may be made either immediately during the same session, or at a recessed and reconvened session thereof. Such a motion may only be made by a Board Member of the prevailing side, but may be seconded by any Board Member and it shall be debatable.
6. Nothing herein shall be construed to prevent any member of the Board from making or remaking the same or any other proper motion at a subsequent meeting of the Board but the matter must be a scheduled agenda item.

**Section 4.03 Suspension of the Rules of Debate.** The rules of debate may be suspended temporarily by the unanimous vote of the entire Board.

**Section 4.04 Majority of Whole Board Required.** The affirmative vote of majority of Board Members present is required to adopt any measure unless a greater number of votes may be required by law.

**Section 4.05 Duty to Vote.** It shall be the duty of each Board Member to vote in the affirmative or negative on each motion duly placed before the Board by the presiding officer. A Board Member may make a brief explanation of the reason why she or he voted in a particular way.

**Section 4.06 Proxy Voting.** A Board Member who is not present in the meeting at the time a motion is put to a vote cannot vote. Board Member shall not be permitted to vote by a proxy vote or by written vote.

**Section 4.07 Conflict of Interest.** Any member of the Board who has a private interest, as defined by law or as so advised by the County Attorney, in any matter pending before the District shall not participate in the debate nor vote

in that matter nor seek to influence the vote of members of the Board, except as otherwise provided by Montana law. If the presiding officer has a private interest in a matter pending before the Board he or she shall yield the chair to the Vice President during the course of debate and decision concerning the matter in which she or he has a private interest.

## **PART V. Presentation to the Board.**

**Section 5.01 Procedures.** The general procedure by which items are handled by the

Board Members at *other than public hearings* shall be as follows:

1. The item is presented to the Board along with a brief summary of the matter for discussion, with or without the presiding officer's recommendation.
2. For the purpose of clarification and after recognition by the presiding officer, Board Members may direct questions about the item to the presenter, the presiding officer or staff member.
3. Comments from the presiding officer, staff or Board members will then be heard by the Board. The Board may invite individuals invited to speak to the motion.
4. After recognition from the presiding officer the Board may direct questions.
5. The presiding officer will then invite members of the audience to present or submit testimony beginning with those in favor of the proposal, followed by those who oppose the proposal and concluding with those who neither favor nor oppose the proposal.
6. All testimony shall be directed to the presiding officer.
7. The Board may, upon a proper motion and second, vote on the matter or table the matter until a date certain.

## **PART VI. Public Hearings**

**Section 6.01 Procedures.** The Board shall conduct public hearings as required by law. Public testimony will be presented to the Board in the same format as described in PART V above, except that witnesses may be required to testify under oath as provided by law in which case the Board shall not be bound by the strict rules of evidence, but may exclude irrelevant, immaterial, incompetent, or unduly repetitious testimony or evidence. The presiding officer shall, with advice as needed from legal counsel, rule on all questions relating to the admissibility of testimony or evidence. The ruling of the presiding officer may be overruled by a majority vote of the Board. Additionally, the following rules of procedure shall apply:

1. The proponents or opponents, their agent or attorney, may submit petitions and letters prior to the closing of the hearing and the same shall be entered by reference into the minutes and considered as other testimony received at the hearing.
2. Following the presentation of all testimony and evidence, the Board may: (1) Continue the hearing to a date certain to allow additional information to be submitted to the Board; (2) Close the public hearing and proceed to Board debate of the matter; or (3) Continue the Board debate and vote to a date certain.
3. A public hearing which has been formally closed may not be reopened. If additional information is required before a decision can be made, the Board, upon motion duly made, seconded and passed, may call for an additional public hearing which hearing shall be duly noticed as required by law and this policy.

## **PART VII. Guide for Public Participation**

**Section 7.01 Guidelines for Public Participation.** The following guidelines shall serve to assure reasonable and fair public participation in the decisions of the DISTRICTBoard.

1. The public shall be invited to speak on any item under consideration by the Board after and only after recognition by the presiding officer.
2. The speaker should step to the front of the room, and for the record, give his or her name and address and, if applicable, the person, or organization he or she represents.
3. Prepared statements are welcomed and should be given to the presiding officer and noted in the minutes of the meeting. Prepared statements that are also read, however, shall be deemed unduly repetitious. All prepared statements shall become a part of the permanent record.
4. While the Board is in session, members of public must preserve order and decorum. No person shall delay or interrupt the proceedings or the peace of the Board nor disturb any member of the public or of the Board while speaking or refuse to obey the orders of the presiding officer of the Board.
5. Any person who while testifying shall use indecorous or abusive language or who shall become boisterous or disruptive shall be barred from further presentation to the Board by the presiding officer, unless permission to continue be granted by a majority vote of the Board.

**PART VII. Resolutions**

**Section 8.02 Resolutions.** Except as provided by law, proposed resolutions may be introduced at any time by a member of the Board and if adopted shall be effective on the date specified therein.

**Section 8.03 Right of Initiative.** The people retain the right to present resolutions for adoption by the initiative process, as prescribed by law.

Adopted:		Attest: /s/ _____
Revised:		Board President
Reference:	CWBDH Policy	
Review Date:		Attest: /s/ _____
		Secretary

# County Water District of Billings Heights

1540 Popelka Avenue Billings, Montana 59105

## Records Access Policy & Procedure

### Purpose

This policy establishes guidelines to ensure compliance with the Montana Public Records Act, and for providing public examination of, and access to, Open Records at the County Water District of Billings Heights

### District Policy

All requests for the inspection or copies of District open records must be presented in writing to the District's General Manager or President of the Board of Directors. A Public Information Request form shall reside on the District's website, and requesters of public information should complete the form, and submit the form to the District's GM or President of the Board of Directors, either via email [CWDBHBoard@gmail.com](mailto:CWDBHBoard@gmail.com) or [GeneralManagerCWDBH@gmail.com](mailto:GeneralManagerCWDBH@gmail.com) or via US mail (1540 Popelka Drive, Billings, Mt 59105). Such requests will be specific as to documents or information requested. Original files are to be handled and copied by District personnel only. Persons requesting copies of open records shall reimburse the District for the cost of reproduction, printing and mailing, as well as legal and/or staff time, prior to copies being turned over. The District shall not permit the removal of original copies of its public records from the files of the Board of Directors, General Manager, Secretary or Treasurer, or other District staff member.

### Fees

Applicable fees for the processing of information requests under this Policy shall generally be set at actual cost, or as otherwise established below:

Copy fees:	\$.15 per page for District prepared copies (black&white)
Computer disk:	Actual cost
Other forms:	Actual cost
Postage/courier fees:	Actual cost
Legal Review	Actual cost
Staff Time	First hour no charge; \$50/hour after first hour

The Board President shall ensure that the provisions of this policy are followed.

Adopted: \_\_\_\_\_ Attest: /s/ \_\_\_\_\_

Revised: \_\_\_\_\_ Board President

Reference: CWDBH Policy

Review Date: \_\_\_\_\_ Attest: /s/ \_\_\_\_\_

Secretary

**PUBLIC INFORMATION REQUEST**  
County Water District of Billings Heights  
1540 Popelka Dr. Billings, MT 59105

[CWDBHBoard@gmail.com](mailto:CWDBHBoard@gmail.com) or [GeneralManagerCWDBH@gmail.com](mailto:GeneralManagerCWDBH@gmail.com)

**SECTION A – REQUESTER INFORMATION**

Name: \_\_\_\_\_

Representing: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

**SECTION B – RECORDS REQUESTED**

Describe the record you are requesting. Please be as specific as possible and include enough detail to assist staff in locating the record(s). If you need additional space, please attach additional pages

## UNIFORM COMPLAINT PROCEDURE

### BOARD POLICY NO.

#### Primary Objective

The Board establishes this Uniform Complaint Procedure as a means to address certain complaints that arise within the County Water District of Billings Heights. The Uniform Complaint Procedure is an avenue for complaints concerning violations of Board policy or District procedures. The District will endeavor to respond to and resolve all complaints without resorting to a formal complaint procedure and, when any complaint is filed, to address the complaint promptly and equitably. The right of a person to prompt and equitable resolution of a complaint will not be impaired by a person's pursuit of other remedies. Use of a District complaint procedure is not a prerequisite to the pursuit of other remedies and does not extend any filing deadline related to the pursuit of other remedies.

#### A. Addressing Complaints within the District

1. Initial Level Resolution of Complaints The Board expects that most issues will be addressed routinely when they arise. A person with a complaint is encouraged first to discuss the issue with the appropriate individual with the objective of resolving the matter promptly and informally. An important exception is that complaints of sexual harassment should be discussed directly with the Board President and referred to the attorney representing the district given that neither are involved in the alleged harassment and who will initiate District anti-harassment procedures. The Uniform Complaint Procedure is not an appropriate venue for making complaints concerning the job performance of most District employees. If a complaint concerns an employee's job performance and cannot be resolved informally at the administrative level, the complainant may have further review through the Complaint Procedure.
2. Areas of Concern. This Uniform Complaint Procedure may be used to address concerns (except job performance issues) in those rare circumstances when an issue is not resolved at the individual level.
3. Board's Authority Limited. Ratepayers should be aware that the Board's authority and role in the District's complaint procedures are limited in certain circumstances and not all issues arising within the District can or should be directly addressed by the Board. For example, the Board will not consider employee discipline issues unless and until the General Manager or attorney brings the issue before the Board pursuant to Montana law.

#### B. Written Complaint Procedure for Violation of District Policy

1. Standing. If a person with standing believes that a District policy has been violated, then that person may use this Uniform Complaint Procedure to address the concern. A person has standing to bring a complaint



under this Uniform Complaint Procedure if the person is a resident of the District and directly affected by and has personal and direct knowledge of the matters asserted.

2. Written Complaint. When a complaint has not been resolved informally, a person with standing may file a written complaint under this policy to the Board. The written complaint must be signed and dated, stating (a) the nature of the complaint, (b) a description of the event or incident giving rise to the complaint, including the date of the event or incident and any individual involved, (c) the remedy or resolution requested, and (d) a description of complainant's effort, if any, to resolve the issue informally, including whom within the District the complainant informally addressed the issue. Individuals filing written complaints must indicate which policies or procedures they think have been violated and must provide evidence of the nature of the violations and when they occurred.

The written complaint must be filed within thirty (30) calendar days from (a) the event or incident or (b) the date the complainant became aware of or could reasonably become aware of the event or incident. If the complainant attempted to resolve the issue informally, the informal resolution process will operate to extend the filing deadline, but the written complaint must nevertheless be filed within sixty (60) calendar days from (a) the event or incident or (b) the date the complainant became aware of or could reasonably become aware of the event or incident.

1. President's Review. The Board authorizes and directs the President or the President's designee(s) to evaluate and determine within twenty (20) business days of receipt of a written complaint the following issues: (a) the complainant's standing to bring the complaint, (b) the timeliness of the complaint, and (c) the governing policy implicated in the complaint. The President or designee(s) may consult with District legal counsel on these issues. Upon completion of this review, the President or designee(s) will (a) direct the complaint to the appropriate individual pursuant to applicable policy or (b) dismiss the complaint.
2. Board's Authority to Dismiss a Complaint. The Board may dismiss any complaint if (a) the complainant lacks standing, (b) the complaint is time-barred, or (c) no District policy is implicated. The Board will notify the complainant in writing of the Board's decision to dismiss the complaint and the specific reason for the dismissal.
3. Review and Response. Upon receipt of a written complaint, the General Manager or Board President will investigate and attempt to resolve the complaint. In responding to the complaint, the investigator may, but is not required to, take any or all of the following steps:
  - a. meet with the parties involved with the complaint,
  - b. conduct a separate or supplementary investigation,
  - c. engage an outside investigator or other District employees to assist with the complaint, or
  - d. take other steps appropriate or helpful in addressing the complaint.

The investigator will respond in writing to the complainant within thirty (30) calendar days of the investigator's receipt of the complaint. The Board may grant additional time for review and response. If the Board grants the investigator additional time for review and response, the investigator will notify the complainant of the grant of additional time and the reason for the grant of additional time. The investigator will provide a copy of the response to the Board.

If the complainant believes the investigator's decision was in error, the complainant may request in writing that the Board review the decision. This request must specify the reasons for dissatisfaction and must be submitted to the Board within fifteen (15) calendar days of the investigator's decision. The Board may dismiss the request if the request is not submitted within fifteen (15) calendar days of the investigator's decision.

If the Board has jurisdiction over the substance of the original complaint and the complainant believes the investigator's decision was in error, the complainant may request in writing that the Board consider an appeal of the investigator's decision.

6. Board Review

- a. Board Jurisdiction. The Board’s powers and duties are outlined in Montana law. If the substance of the original complaint falls within the Board’s powers or duties, the Board has jurisdiction to consider an appeal of the investigator’s decision. For example: If the complainant seeks a change in District policy, the Board holds jurisdiction over the substance of the complaint; Conversely, if the complainant seeks to impose discipline on a staff member not directly reporting the Board, the Board lacks jurisdiction to do either absent the recommendation of the General Manager. If the complainant seeks to impose tort liability, the Board lacks jurisdiction over tort claims.
- b. Board Review. If the Board holds jurisdiction over the substance of the original complaint, the Board will consider upon written appeal the investigator’s decision. Upon receipt of a written request for appeal, the President will either (1) place the appeal on the agenda of a regular or special Board meeting or (2) appoint an appeals panel of not less than three Board members to hear the appeal and make a recommendation to the Board. If the President appoints a panel to consider the appeal, the panel shall meet to consider the appeal and then make a written recommendation to the full Board. The Board will report its decision on the appeal in writing to all parties within thirty (30) calendar days of the Board meeting at which the Board considered the appeal or the recommendation of the panel. A decision of the Board is final, unless Montana law specifically provides for an appeal and such an appeal is taken within the period provided by law.
- c. Complaints Against General Manager or Board Secretary. If a complaint is submitted alleging a violation of District policy by the General Manager or the Board Secretary, the Board holds jurisdiction over the complaint as the supervisor of the General Manager and the Board Secretary. The Board will respond to the complaint. In doing so, the Board may refer the matter to a panel of not less than three Board members to hear the complaint and make a recommendation to the Board. The Board or its panel may (a) meet with the parties involved with the complaint, (b) conduct a separate or supplementary investigation, (c) engage an outside investigator or other District employees to assist with the complaint, or (d) take other steps appropriate or helpful in addressing the complaint. The Board will respond in writing to the complainant within sixty (60) calendar days of the Board’s receipt of the complaint. The Board may extend its response deadline if conditions warrant additional time to respond. The Board’s response to a complaint against the General Manager or Board Secretary is final, unless Montana law specifically provides for an appeal and such an appeal is taken within the period provided by law.

The Board President shall ensure that the provisions of this policy are followed.

Adopted:

Attest: /s/

Revised:

Board President

Reference:

CWDBH Policy

Review Date:

Attest: /s/

Secretary

# County Water District of Billings Heights

1540 Popelka Avenue Billings, Montana 59105

## COMPLAINT FORM

The Board of the County Water District of Billings Heights established a Uniform Complaint Procedure as a means to address certain complaints that arise within CWDBH.

The Board expects that most complaints will be addressed informally. A person with a complaint is encouraged first to discuss the issue with the individual, with the objective of resolving the matter promptly and informally. This complaint procedure may be used when an issue cannot be resolved informally.

The District endeavors to respond to and resolve complaints promptly and equitably. The right of a person to prompt and equitable resolution of a complaint will not be impaired by the person's pursuit of other remedies. Use of this Complaint Procedure is not a prerequisite to the pursuit of other remedies and does not extend any filing deadline related to the pursuit of other remedies.

I wish to have the District address:

The services of: \_\_\_\_\_  
(name of individual and title)

This program: \_\_\_\_\_  
(name of program)

This incident: \_\_\_\_\_

Date of incident: \_\_\_\_\_ (This written complaint must be filed within thirty (30) calendar days of the incident or from the date an individual could reasonably become aware of such event or incident. If there has been an attempt to resolve this issue informally, the complaint must be filed within sixty (60) calendar days.

Please attach a separate sheet if necessary.

Nature of complaint:

Description of incident:

Personnel involved (if any):

**PREPARATION OF AGENDA ITEMS**

**BOARD POLICY NO.**

**MEETING DATE:** November 17, 2021

**AGENDA ITEM:** Review proposals for website development and agenda and minute preparation. The committee may make a motion to proceed to check references and review software in preparation for making a recommendation to the full board.

**PREPARED BY:** Pam Ellis

**RECOMMENDATION:** The committee recommends purchasing the website development and Meeting and Agenda Management Software. Committee member Ming Cabrera spoke with Municode agent Chris Rogers on changing software on three points, cost, efficiency and references to who uses the system. They were prompt and answered the questions in regards to ease of use in converting Word and Excel directly to the system. I verified the cost as well. Please take a look at the upcoming agenda package for Wednesday.

I did cross reference with Laurel, Great Falls and Livingston administrators and what they thought of Municode. All three cities highly recommended their products.

**BACKGROUND:** Jeff Weldon recommended on August 19, 2021 that we upgrade our website to include much more information including not only current but past agendas, supporting documents, resolutions, etc. All board members, Duke Nieskens, Peyton Brookshire, and Suzie McKethen were invited to participate in a series of on-line meetings with representatives from Diligent (icompass), NCIS, Civics Plus, and Municode. An RFQ was published for two consecutive weeks in the Yellowstone County News and was sent directly by committee members to companies that may be interested in submitting a proposal. A summary of the proposals received was included in the agenda of the October 20, 2021 meeting.

The district received the most complete response to the RFQ from Municode. They have indicated they could meet all the requirements outlined. The next step is for the by-laws and governance committee to follow up with contacts to cities in Montana and regionally that use the software and website platform in the western United States. The board consensus at the September meeting is that we should review all components of the software and contact references provided. the Municode Meetings would also qualify for the 50% discount on year one.

Here are some examples of western region sites from Municode:

Feel free to hit the refresh buttons on these sites as the image files sometimes change randomly by visitor.

Standard Design:

- <https://www.hoopercity.com>
- <https://www.livingstonmontana.org>
- <https://morgancityut.org>
- <https://www.newmeadowsidaho.us>

Custom Designs:

- <https://ketchumidaho.org>
- <https://www.kenai.city>
- <https://www.greatfallsmt.net>
- <https://www.cityofsaxman.com>
- <https://www.northogdencity.com/>
- <https://www.cityofredlodge.net>
- <https://www.millswy.gov/>

Montana Cities using Municode Board Management Software

Chris Rogers Account Executive – Web Sales 850.510.6405 | [crogers@municode.com](mailto:crogers@municode.com)

- Great Falls Montana Population: 58,505 Krista Artis, Assistant to the City Administrator (406) 455-8450 [kartis@greatfallsmt.net](mailto:kartis@greatfallsmt.net)
- Laurel Montana Population: 6,718 Brittney Moorman, Secretary 406-628-8456 x 5503 [bmoorman@laurel.mt.gov](mailto:bmoorman@laurel.mt.gov)
- Livingston Montana Population: 7,044 Faith Kinnick, Administrative Assistant (406) 823-6002 [fkinnick@livingstonmontana.org](mailto:fkinnick@livingstonmontana.org)
- Stevensville Montana Population: 1,809 Brandon Dewey, Mayor (406) 777-5271 x 108 [brandon@townofstevensville.com](mailto:brandon@townofstevensville.com)
- Sidney Montana Population: 5,191 Jessie Chamberlin, City Clerk/City Treasurer 406-433-2809 [clerktreasurer@cityofsidneymt.com](mailto:clerktreasurer@cityofsidneymt.com)

FINANCIAL IMPACT:

**PROJECT COSTS**

**Design, Development, and Implementation Phase**

**\$4,800**

- Fully functional Municode CMS with all base features
- Responsive mobile-friendly website with **standard** design
- Content migration; up to 100 pages; 5 years meetings migration
- Training: web teleconference, video, user guides

**Annual Hosting, Maintenance, and Customer Support**

**\$2,100 / year**

- 80GB disk space and up to 1 terabyte data transfer per month
- 99.95% up-time guarantee, telephone support 8AM-8PM Eastern
- Email support with one-hour response time during working hours
- Emergency 24x7 support
- Up to 3 hours' webinar refresher trainings per year
- **CivicPlus/Municode 50% Provision for First Year MunicodeWEB Hosting / Support (if signed by 12/31/2021)**

**\$1,050 / Year One**

**Total Year 1 Costs**

**\$5,850**

**Total Year 2 +**

**\$2,100 / year**

**Select Additional Website Options**

Meeting and Agenda Management (Municode Meetings)

\$2,400 per year

TOTAL YEAR 1 \$5850 + \$2400= \$8250

Year 2 and beyond: \$4500 per year



Resolution 008-21 to Authorize Contract

CivicPlus/Municode

WHEREAS, the County Water District of Billings Height Board reviewed Meeting and Agenda Management (Municode Meetings) and contacted Montana cities using the software and web design services.

The Board authorized a contract with CivicPlus/Municode during a public board meeting November 29 , 2021: Web Design Services Year 1 = \$5850; Meeting and Agenda Management (Municode Meetings) \$2400 per year. TOTAL YEAR 1: \$8250; Year 2 and beyond: \$4500

That, the President of the County Water District of Billings Heights, sign a contract on behalf of the board.

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Attested: \_\_\_\_\_



# RE: City of Billings FY 2022 and FY 2023 Water Rate Study Report Review - Data and Clarification Questions

Duray, Jennifer

Fri, Nov 19, 4:32 PM  
(2 days ago)

to Andrew, duke@heightswaterdistrict.com, peyton@heightswaterdistrict.com, Harold, me

Andrew,

The following are the responses to your request for information.

1. The water master plan is not complete yet; however, it is fairly close and I have attached all of the chapters that are finished. A map of the water system is also attached.
2. Water production for 2016-2020 is attached.
3. The west end project provides both redundancy in the system and growth. During the winter, we will be able to take the old plant offline and serve the entire community (approximately 90% existing and 10% growth). During the summer, we are almost exceeding capacity already as we saw this summer. Thus, during the summer months when we have both plants running, a portion of the west end project is needed to service existing customers (approximately 10%) and the remaining is for growth. This is only taking into consideration actual new plant capacity. The plant, reservoirs, intake, and pipeline also provides redundancy for existing and future customers. The West End plant will feed Zone 2 which is the same pressure zone that the Heights Water District is fed from. Large Pipelines (42" and 36") connect the West End WTP and existing WTP and Walter Pump Station, which is location of the connection to the Heights Water District. A bypass will be installed in the "HSPS Improvements Project" in FY23 allowing connection between Zone 2 and Zone 2E at the existing WTP. Effectively Zone 2E and Zone 2 will become one pressure zone which can be fed by either the existing WTP or the West End WTP. A schematic of the process flow is shown on the attached (black arrows) indicating how this will work (Pages from 06\_Operational Analysis Final Draft). Both plants are capable of serving the entire City.
4.
  - a. See FY22-26 CIP at <https://ci.billings.mt.us/2662/Capital-Improvement-Plan-CIP>.
  - b. We changed the order of construction to construct the plant first because a reservoir without a plant to be able to use that water did not make sense. The plant will be able to function along with the intake/pump station/pipeline before the reservoir is constructed.
  - c. See #3 above.
  - d. The following is the current schedule for construction completion:
    - Pipeline March 2023
    - Intake & PS May 2023
    - WTP June 2023
    - Reservoir June 2024
  - e. Contracts are attached.
  - f. We book assets when they are substantially complete/in-use. Thus, if the schedule changes from above, we would revise the FY23 rates for the HWD. We are currently value engineering the project in an attempt to reduce costs because our estimates are much higher than budgeted with the inflationary #s that we are seeing. Thus, it is quite possible that the schedule changes. We will have an updated schedule in the next 2-3 months.
5. We applied for several ARPA grants. The District already has that list so I will not repeat it. We received \$2M for the west end plant. We also applied for a \$50M BRIC grant and were not

successful. We are in the process of applying for the BRIC grant again and will not know whether or not we are successful until July 2022.

6. The peaking factors are based on recent historical maximums. A peak hour value of 2.6 times average day was recorded for both 2014 and 2015, and a peak hour value of 3.83 time the average day was recorded for 2011.

Please let me know if you have additional questions.

- [Emails to Duke Nieskens from Jennifer Duray](#)
  - 4/01/2021 Attached is the rate study report that recommends rates for fiscal years 22 and 23. My plan is to go to City Council on 4/19 to present the results of both water and wastewater studies and then to have the adoption of the rates at the 5/24 meeting. Please let me know if you would like to meet with the City and our rate consultant to go over this report and the rates.
  - 5/05/2021 Attachments: Billings FY22-FY23 Water Rate Study - Final.pdf  
Duke, this is a reminder that rates will be at City Council for approval on May 24th. Please let me know if you have any questions.
  - 5/09/2021 In response to your first comment, we fill only Hilltop (2 MG) and Lanier (2 MG), but we monitor Oxbow (4 MG) as well because when the Heights Water District fills Oxbow, it greatly affects the City's pumps at High Service Pump Station and affects our operations. Thus, the plant monitors when the Heights Water districts fills Oxbow.

In response to your second comment, the contract specifies that the City will be responsible for cost of purchasing, installing, and operating the telemetry system. This is standard, and similar to the statement that the City will "... at all times furnish, operate, and maintain, at its own expenses, water transmission mains and pumping facilities capable of providing water at a pressure and quantity sufficient to meet the demands of the District...". It means the Heights Water District is not responsible for installing and maintaining the infrastructure necessary to get the water to it, but it doesn't mean the water will be delivered to it at no cost.

Section II of the water contract specifies that the District shall pay reasonable and just rates for water purchased and the City shall receive reasonable and just compensation for water sold to the District. The City's cost of service-based approach, utilized since 1998 and reviewed/revised in 2009 according to the MOU, fairly identifies the O&M and capital revenue requirements associated only with system components/operations that provide a benefit to Heights Water District. The telemetry system is critical to ensure the reliable delivery of water to the Heights. As a result, the portion of capital and O&M costs associated with the telemetry system that enables delivery of water to the District is a reasonable component of the water rate charged to the District.

Please let me know if you have additional questions or comments.

6/09/2021

Duke,

In response to your first comment, we fill only Hilltop (2 MG) and Lanier (2 MG), but we monitor Oxbow (4 MG) as well because when the Heights Water District fills Oxbow, it greatly affects the City's pumps at High Service Pump Station and affects our operations. Thus, the plant monitors when the Heights Water districts fills Oxbow.

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Please let me know if you have additional questions or comments.

- Emails to Jennifer Duray from Duke Nieskens
  - 4/01/2021 We will go to the Board 4/14 and to our consultant for review. Once our consultant reviews we will get back to you about meeting with the City and your consultant as soon as possible
  - 5/05/2021 Our consultant is reviewing and we are waiting for their comments.
  - 5/05/2021 Asked if I have questions concerning the rate study, I do have some questions and comments.

Under 3.1 Operations and Maintenance Costs, states the City manages the District's storage tanks, which have a total volume of 8MG. The total is not 8MG it is 4MG, the City only monitors our 4MG storage tank.

As per the Agreement under General Provisions, states the telemetering controls are necessary, it also states the City shall bear all costs and expenses as well in operating, repairing, maintaining, replacing, and enlarging all mains and pumping facilities owned by the City that provide service to the District. Repair, maintenance, and replacement of the telemetering facilities, transmitters, receivers, control stations, and associated equipment, shall also be the City's responsibility. These items stand out and I think our consultant will have some additional concerns. I would hope any concerns would be addressed prior to approval of the Resale Rate Increase.

- May 6, 2021

Jennifer,

Asked if I have questions concerning the rate study, I do have some questions and comments. Under 3.1 Operations and Maintenance Costs, states the City manages the District's storage tanks, which have a total volume of 8MG. The total is not 8MG it is 4MG, the City only monitors our 4MG storage tank. As per the Agreement under General Provisions, states the telemetering controls are necessary, it also states the City shall bear all costs and expenses as well in operating, repairing, maintaining, replacing, and enlarging all mains and pumping facilities owned by the City that provide service to the District. Repair, maintenance, and replacement of the telemetering facilities, transmitters, receivers, control stations, and associated equipment, shall also be the City's responsibility. These items stand out and I think our consultant will have some additional concerns. I would hope any concerns would be addressed prior to approval of the Resale Rate Increase.

- May 9, 2021 Last Communication between Jennifer Duray and CWDBH staff

In response to your first comment, we fill only Hilltop (2 MG) and Lanier (2 MG), but we monitor Oxbow (4 MG) as well because when the Heights Water District fills Oxbow, it greatly affects the City's pumps at High Service Pump Station and affects our operations. Thus, the plant monitors when the Heights Water districts fills Oxbow.

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Please let me know if you have additional questions or comments.

- WATER DISTRICT OF BILLINGS HEIGHTS BOARD OF DIRECTORS MEETING April 14, 2021  
[https://www.co.yellowstone.mt.gov/Boardminutes/CountyWaterSewer/2021/April\\_14\\_2021.pdf](https://www.co.yellowstone.mt.gov/Boardminutes/CountyWaterSewer/2021/April_14_2021.pdf)  
Received the Rate Study from the City of Billings for the resale rate on March 1, 2021. Duke forwarded the study to the FCS Group in Denver (Jason Mumm, Executive Consultant) to make sure the rate study is following the agreement the District has with the City.

- COUNTY WATER DISTRICT OF BILLINGS HEIGHTS BOARD OF DIRECTORS MEETING June 9, 2021

- Manager's Report – Peyton Brookshire (May and June)

City's rate study with FCS group. There was a conflict of interest because the City of Billings currently has a project with FCS group. The City's rate study has been forwarded to Raftelis. This study would need to be done before we can do the comprehensive review of all the districts rates and fees, and capital improvement plan which Interstate Engineering will do.

- Unfinished Business:

Raftelis: Peyton gave an overview of the rate study. The reason one needs done is to make sure the District's contract with the City is being followed. Peyton mentioned two glaring issues:

- a) the charge for the west end water plant which is not completed. The contract clearly states that the City can't charge the District until it is completed; and that the water plant has to directly serve the Heights;

- b) there is a charge of \$50,000 for maintenance of Oxbow reservoir. The city monitors the levels in the tank, but they do not maintain it.

- Emails to Jennifer Duray from Pam Ellis

- have had no communications with Raftelis, Peyton, or Duke regarding Raftelis's review of the rate study nor have any questions been submitted to me. I've attached the last communication I have had

with CWDBH staff regarding rates. This is an email between Duke and I and you would have received this email with your previous PRR. There has been no communication with CWDBH staff (and never with Raftelis) since this last May 9, 2021 email.

- Emails from Andrew Rheem, Raftelis
- UNDATED EMAIL FROM ANDREW RHEEM TO PEYTON BROOKSHIRE

Good morning Peyton,

Sorry for the delay in getting back to you. I likely missed the cutoff, but below are the next steps. The timeline is more difficult to estimate since the City will very likely take some time to respond and I don't have a good sense for how long that may be.

Raftelis has finalized questions and additional data requests for the City based on the District rates identified within the rate study report completed. The study included rate recommendations for rate effective July 1, 2021 and July 1, 2022. Below are the next steps:

1. Submit questions, clarification requests and additional data to the City in October 2021
2. Receive and review responses from the City
3. Determine next steps
  - a. Accept explanations and results of the City's rate study and proposed rates effective July 1, 2022
  - b. Complete further discussions with the City with the intention that it will result in a lower proposed rate increase than what is current proposed to be effective July 1, 2022
  - c. Invoke the arbitration clause of the contract with the City and pursue an arbitrated outcome

Regardless of the path chosen in "Step 3", it is prudent for the District to prepare for the rate to be effective July 1, 2022 as proposed if options 3B or 3C are chosen. Options 3B and 3C will likely result in the same rate or a lower rate than proposed.

Questions or to discuss, please let me know.

Thanks! Andrew

#### **FINANCIAL IMPACT:**

**SUPPORT DOCUMENTS:** emailed to Duke Nieskens, Peyton Brookshire and Pam Ellis by Jennifer Duray, November 19, 2021 Digital copies should be available from the district

- 2\_Water System Overview Final Draft
- 3\_Water Demand Forecasting Final Draft
- 4\_Water System Evaluation Criteria Final Draft
- 05\_Hydraulic Water Model Final Draft
- 06\_Operation Analysis\_Final Final Draft
- 08\_Storage Analysis Final Draft
- 09\_Distribution System Expansion Final Final Draft
- 10\_Water System Resiliency Final Draft
- Water Map

- WTP to Distribution
- Pages from 06\_Operation Analysis\_Final Final Draft
- WO1942 WEWTP Preconstruction Contract (executed)
- WO1912 WERWP Pre-Construction Contract, COP (executed)