

**MINUTES OF THE WASATCH COUNTY COUNCIL
ACTING AS
THE GOVERNING BOARD OF THE TWIN CREEKS
SPECIAL SERVICE DISTRICT
APRIL 3, 2019**

PRESENT: Board Vice Chair Jeff Wade
Board Member Steve Farrell
Board Member Spencer Park
Board Member Marilyn Crittenden

EXCUSED: Board Member Kendall Crittenden
Board Chair Mark Nelson
Board Member Danny Goode

OTHERS PRESENT: On list attached to a supplemental file

STAFF: Ron Phillips, General Manager
Max Covey, Assistant General Manager
Wade Webster, Treatment Plant Operator
Doug Scow, Water Rights Manager
Kierstan Smith, Financial Clerk
Eliza McGaha, Secretary
Dana Kohler, Accounting Clerk
Theresa Baronek, Treasurer
Rick Tatton, Taking Minutes

Board Chair Jeff Wade called the meeting to order at 4:50 p.m. and excused Board Member Kendall Crittenden, Board Member Danny Goode and indicated that Board Chair Mark Nelson will be a little late. Board Vice Chair Jeff Wade also indicated that for any matter to pass there has to be a unanimous vote on all of the board members present. Then welcomed those present and called the first agenda item.

REGULAR SESSION

APPROVAL OF THE MINUTES FOR MARCH 12, 2019

Board Member Marilyn Crittenden made a motion to approve the minutes of March 12, 2019 of the Twin Creeks Special Service as written. Board Member Steve Farrell seconded the motion and the motion carries with the following vote:

AYE: Board Chair Jeff Wade
AYE: Board Member Steve Farrell
AYE: Board Member Marilyn Crittenden
AYE: Board Member Spencer Park

NAY: None.

WARRANT LIST APPROVAL

Board Member Spencer Park made a motion to approve the warrants for the Twin Creeks Special Service District in the amount of \$73,225.65. Board Member Steve Farrell seconded the motion and the motion carries with the following vote:

AYE: Board Chair Jeff Wade
AYE: Board Member Marilyn Crittenden
AYE: Board Member Steve Farrell
AYE: Board Member Spencer Park

NAY: None.

ACTION ON REQUEST OF IDG TO RETURN WATER RIGHTS FOR LIGHTS AT LAKE CREEK

Ron Phillips, the General Manager, addressed the Governing Board of the Twin Creeks Special Service District and indicated that the Innovative Development Group, L.L.C., (IDG) has requested the return of water shares that were dedicated to the Twin Creeks Special Service District for the Lights at Lake Creek Development. The preliminary approval has lapsed and the development team has expressed their intent to not develop the property at this time. Also, the District's Water Share Dedication Policy, adopted in January 2019 generally does not allow for the return of shares once dedicated to the District. However, the policy authorizes the General Manager to make exceptions to the policy with the concurrence of the Board.

IDG has offered to execute a Water Share Return Agreement drafted by Twin Creeks Special Service District's legal counsel. In the Agreement, IDG acknowledges that approval for the Lights at Lake Creek has lapsed, and that any development of the property would have to go through the County land use approval process, including the Water Board. The Agreement also indemnifies the District, and provides for IDG to pay all the costs of the return of the shares. Ron Phillips also indicated that the irrigation company would also have to approve this transfer of water shares. The shares of water are being returned to the developer who owns the property. Ron Phillips also indicated that he understands there is an adjacent property owner, Robert Hicken, who has a concern about this.

Doug Scow, Water Rights Manager, addressed the Governing Board of the Twin Creeks Special Service District and indicated that the makeup of the shares that have been turned in the consideration to return are outlined in the Water Shares Return Agreement which are:

- (i) 20 Lake Creek Irrigation Company Class D M&I shares represented by Certificate 10075,
 - (ii) 17 Lake Creek Irrigation company Class D M&I shares represented by Certificate 10087,
 - (iii) 16 Lake Creek Irrigation company First Class shares represented by Certificate 669,
 - (iv) 1.11 Lake Creek Irrigation Company Primary shares represented by Certificate 1305, and
 - (v) 1.446 Lake Creek Irrigation Company Primary shares represented by Certificate 1371
- (collectively, the “Shares”) The Lake Creek primary shares are 2.556 shares and that represents the culinary component and the rest is the irrigation.

Adam Ford, from IDG Development Group, addressed the Governing Board of the Twin Creeks Special Service District and indicated that as a fundamental matter first IDG are entitled to those water shares back because they were pledged as part of this project and the project failed at this time. Also, there is no intention to put the payment of the assessment of these water shares on the Twin Creeks Special Service District. A paragraph could be put in the agreement stating that fact and would have no objection to that. Also, IDG would be happy to assume that financial responsibility to make those lease payments that go along with those shares of water that would be transferred back to IDG and this matter could be approved subject to that provision being added to the contract and work with Ron Phillips satisfaction to get that obligation binding in this agreement.

Rob Hughes, Attorney for the District, addressed the Governing Board of the Twin Creeks Special Service District and indicated that if these water shares are returned that someone else didn't come back later and say that those actually belong to me. Also, there is an affidavit from Mr. Rineholt saying yes, I did transfer them for the benefit of this development. Also, in the agreement there is a representation of warranty saying that there is no other adverse claims and an indemnity if someone does come back in and that protects the District and Mr. Rineholt or anyone claiming a right to those shares. These shares were dedicated to the Twin Creeks District for the specific development and the development fell through. This agreement protects the District and it is up to the Lake Creek Irrigation Company to protect its interest and the assessments for these shares need to be paid and that payment is between the owner of the shares and Lake Creek not between Twin Creeks.

There then was a discussion held discussing the different avenues that could be taken to solve the problem of these water shares being returned.

Robert Hicken, adjacent property owner, addressed the Governing Board of the Twin Creeks Special Service District and indicated that he is here representing Dick Rineholt and myself and he has interest in this property and there are also interests and agreements that Dick Rineholt and I have together. Also, Dick Rineholt didn't know anything about this agreement and asked me to indicate that IDG's request be denied. Also, if this water goes the water will never come back. My recommendation is that you don't return this water.

The record should indicate that Board Chair Mark Nelson joined the Governing Board of the Twin Creeks Special Service District.

Ron Phillips then asked that the Governing Board of the Twin Creeks Special Service District go into Closed Session to discuss the ramifications of litigation.

Board Member Steve Farrell made a motion that we leave our regular session and go into Closed Session for the matter of potential litigation. Board Member Spencer Park seconded the motion and the motion carries with the following vote:

AYE: Board Chair Mark Nelson

AYE: Board Member Spencer Park

AYE: Board Member Steve Farrell

AYE: Board Member Marilyn Crittenden

AYE: Board Member Jeff Wade

NAY: None.

Board Member Marilyn Crittenden made a motion to come out of Closed Session and go back into our regular Twin Creek Special Service District regular meeting. Board Member Mark Nelson seconded the motion and the motion carries with the following vote:

**AYE: Board Chair Mark Nelson
AYE: Board Member Spencer Park
AYE: Board Member Steve Farrell
AYE: Board Member Marilyn Crittenden
AYE: Board Member Jeff Wade**

NAY: None.

The record should reflect that Board Member Marilyn Crittenden left for another meeting appointment.

REGULAR SESSION

Board Chair Mark Nelson indicated that the Governing Board of the Twin Creeks Special Service District is meeting again in regular session to discuss Item No. 3 on the agenda which is a request of IDG to return water rights for the Lights at Lake Creek.

Board Member Steve Farrell made a motion that we transfer the 16 Lake Creek First Class shares represented by Certificate No. 669, and 1.11 Lake Creek Irrigation Company Primary shares represented by Certificate 1305, and the 1.446 Lake Creek Irrigation Company Primary shares represented by Certificate 1371 and we transfer that back to the developer IDG. On the 20 Lake Creek Class D Shares and the 17 Lake Creek Class M&I Shares Certificate No. 10087 and the Class D Certificate 110075 that we require an approval from the Lake Creek Irrigation Company. And Ron Phillips, the General Manager, will take that to the Lake Creek Irrigation meeting on Thursday. And if they are willing to transfer the contract to IDG and hold the Twin Creeks Special Service District harmless in this transaction, Ron you go ahead and approve it as presented. Board Member Mark Nelson seconded the motion and the motion carries with the following vote:

**AYE: Board Chair Mark Nelson
AYE: Board Member Spencer Park
AYE: Board Member Steve Farrell
AYE: Board Member Jeff Wade**

NAY: None.

The record should reflect that Board Member Kendall Crittenden just joined the Governing Board of the Twin Creeks Special Service District.

SECONDARY METERING PROGRAM-DISCUSSION ALSO SET PUBLIC HEARING FOR COST OF SECONDARY METERS FOR TUESDAY MAY 14, 2019 AT 6:00 P.M.

Max Covey, the Assistant General Manager, addressed the Governing Board of the Twin Creeks Special Service District and indicated that the staff has been planning a program to install secondary meters on the 90 remaining connections in Twin Creeks special Service District that are not metered. The district installed 135 secondary meters last year in Lake Creek Farms and these 90 connections that will have meters installed this year will complete the secondary water metering project for Twin Creeks Special Service District. Max Covey also indicated that a public involvement consultant has been asked to come in to help the District with this matter. Also, we will not charge them the tier grade in 2019 and charge them just the base rates and give them time to adjust their watering practices and strategies this summer so they won't be hit all at once with this change. Also, the new meter basis the tower system and programmed to where the customers will have an online portal where they can log in to see what their water usage is and their trends. Max Covey also indicated that \$50,000.00 has been budgeted this year to help pay for this new process and also have looked into getting a water smart bond. Also trying to make the playing field fair for everyone and have some open houses throughout the summer explaining what is taking place and give the public a chance to ask questions.

Max Covey also indicated as was done for the Lake Creek Farms customers, the staff plans to offer two options to the customers to cover the cost of the meter installation. (1) Pay the total cost of \$850-\$900 at the time of installation, or (2) Make payments of an additional \$15/month with no interest on their water bill until the amount is paid in full.

In order to have this additional cost applied to the bill, it is necessary for the Governing Board to set a date and to hold a public hearing to increase the cost just as was done last year for the Lake Creek Farms meter project.

Board Member Farrell indicated that if you start metering the subdivisions under Twin Creek Special Service District's control and have a subdivision right new door that is under Lake Creek Irrigation that is not metered and people will watch the different water usages there could be a problem there. Also, it would be best if everybody was on the metering system.

Board Member Kendall Crittenden made a motion that we set the public hearing for consideration of setting the additional cost of the secondary water meter project for 6:00 p.m. on May 14, 2019. Board Member Spencer Park seconded the motion and the motion carries with the following vote:

**AYE: Board Chair Mark Nelson
AYE: Board Member Spencer Park
AYE: Board Member Steve Farrell
AYE: Board Member Kendall Crittenden
AYE: Board Member Jeff Wade**

NAY: None.

OTHER BUSINESS

Ron Phillips, the General Manager, addressed the Governing Board of the Twin Creeks Special Service District and indicated that he has nothing further.

ADJOURNMENT

Board Member Spencer Park made a motion to adjourn. Board Member Mark Nelson seconded the motion and the motion carries with the following vote:

**AYE: Board Chair Mark Nelson
AYE: Board Member Jeff Wade
AYE: Board Member Kendall Crittenden
AYE: Board Member Steve Farrell
AYE: Board Member Spencer Park**

NAY: None.

Meeting adjourned at 5:55 p.m.

MARK NELSON. //BOARD CHAIR