



Perry Park Water and Sanitation District
5676 West Red Rock Drive
Larkspur, Colorado 80118
www.ppwsd.org

Regular Meeting – July 18, 2018

Board Members Present

Judy LaCrosse
Jim Matchett
Gary Peterson

Visitors

Excused Absence

Jim Maras
Andy Morris

Staff / Consultants in Attendance

Diana Miller – District Manager
Adam Monchak – TST Infrastructure, LLC
Will Parker – Semacor, Inc.
Kathryn Winn – Collins Cockrel & Cole

1.0 Call To Order

The Regular Meeting was called to order at 16:30.

A motion was made and seconded; (RESOLUTION 18-057) TO ENTER EXECUTIVE SESSION FOR A CONFERENCE WITH THE DISTRICT'S ATTORNEY FOR RECEIVING LEGAL ADVICE ON QUESTIONS RELATED TO THE PROPOSED APACHE COURT DEVELOPMENT AS AUTHORIZED BY §24-6-402(4)(b) C.R.S. The motion passed unanimously.

The Regular Meeting resumed at 16:55.

The Board discussed a draft letter from Director Peterson on behalf of the Perry Park Water and Sanitation District Board of Directors, reviewed by the District's legal counsel, engineering firm, operations and staff to Mr. Phil Hayward regarding the District's position on Apache Court.

At the conclusion of discussion the Board authorized the District Manager to send Mr. Hayward the letter.

The letter is attached to these meeting minutes.

2.0 New Business and Open Items

- 2.1 Meeting Minutes – A motion was made and seconded; (RESOLUTION 18-058) TO APPROVE THE MINUTES OF THE JUNE 20, 2018 REGULAR BOARD MEETING OF THE PERRY PARK WATER AND SANITATION DISTRICT AS AMENDED. The motion passed unanimously.

In reference to Section 2.4 paragraph 4, Director Matchett noted that the text *wastewater treatments plants* should be *wastewater treatment plants*.

- 2.4 Disbursements – A motion was made and seconded; (RESOLUTION 18-059) TO RATIFY ELECTRONIC PAYMENTS DATED JULY 9, 2018 IN THE AMOUNT OF \$17,686.06 WHICH WERE PREVIOUSLY DISBURSED FROM 1ST BANK. The motion passed unanimously.

A motion was made and seconded; (RESOLUTION 18-060) TO APPROVE CHECKS 11966 THRU 11984 IN THE AMOUNT OF \$136,707.75 TO BE DISBURSED FROM 1ST BANK. The motion passed unanimously.

In reference to check 11970, issued to Fischer Enterprises, Inc., Director Matchett requested clarification on the Description Sewer Scope. The District Manager offered that the video that had been provided by the Customer's plumber was not clear enough to determine issues with the joint sewer tap. The District Manager added that before the District could get an accurate estimate, a better video of the joint sewer tap was required.

A motion was made and seconded; (RESOLUTION 18-061) TO APPROVE CHECKS 11985 THRU 11986 IN THE AMOUNT OF \$131,248.66 TO BE DISBURSED FROM 1ST BANK. The motion passed unanimously.

A motion was made and seconded; (RESOLUTION 18-062) TO RATIFY CONSENT AGENDA ITEMS DATED JUNE 29, 2018 IN THE AMOUNT OF \$6,839.92 AND CONSENT AGENDA ITEMS DATED JULY 13, 2018 IN THE AMOUNT OF \$6,394.02 WHICH WERE PREVIOUSLY DISBURSED FROM WELLS FARGO BANK. The motion passed unanimously.

- 2.5 Fox Circle Proposed Septic System – Request for Board Consideration – The Board reviewed a letter and information packet from a Customer in the District, requesting that the Board allow a septic system on an undeveloped lot on Fox Circle that is 1.05 acres. The Customer's basis being the cost of installing a sewer main for the single lot which could be in excess of \$176,000. Ms. Kathryn Winn and Mr. Adam Monchak were still in attendance and provided their insight. Ms. Winn advised the Board to consider the standalone merits of this request and future requests that deviate from the master plan. Mr. Monchak confirmed that the sewer main proposed in the February 21, 2018 Feasibility Study would serve this one lot only. Mr. Monchak advised the Board that if a septic system were allowed it would not adversely impact water and sewer flow projections in the master plan. Mr. Monchak also noted that the estimate provided by the Customer contained a significant dollar amount for the sewer main being installed in the street and suggested that the cost of the sewer main would be much less expensive if installed in the right of way. The District Manager noted that the Board had approved a similar request for Ute Court a few years ago. The District Manager added that the Ute Court requestor entered into an agreement with the District to complete construction within a specific time

frame and that they would hook into centralized sewer in the future if it became available. The District Manager confirmed that the lot had received water service when the District completed the Fox Circle loop in 2011. The Board directed the District Manager to get additional information from the Customer so that they can make a fully informed decision. The discussion on this topic will continue at the August 15, 2018 Regular Board Meeting.

3.0 Operational Status

- 3.1 Perry Park Water and Sanitation District Systems Report – The members of the Board reviewed the monthly operations report which was presented by Mr. Parker.

Mr. Parker advised the Board of the two recent water main breaks, the first on Red Rock Drive and the second on Perry Park Blvd. Mr. Parker offered that the District was pushing a great deal of water through the west side system. Mr. Parker advised the Board that the water main on Red Rock Drive was installed on rock without bedding. Mr. Parker noted that the District is discouraging the use of construction water on the west side of the system to reduce demand. The District Manager advised the Board that there was water damage associated with both water main breaks and that remediation is underway.

- 3.2 Monthly Staff Report – The members of the Board reviewed the Monthly Staff Report that was presented by the District Manager.

4.0 Old Business/Immediate Issues

Director Matchett advised the Board that he had been contacted by Mr. Dale Hamilton who had questions about a piece of property in the area. The Board directed the District Manager to contact Mr. Hamilton to answer any questions that he might have.

- 5.0 Audience Participation** – There was none.

- 6.0 Adjournment** - A motion was made and seconded; (RESOLUTION 18-063) TO ADJOURN THE REGULAR MEETING. The motion passed unanimously. The meeting adjourned at 17:49.

Secretary, Judy LaCrosse



Perry Park Water and Sanitation District
5676 West Red Rock Drive
Larkspur, Colorado 80118
303.681.2050
www.ppwsd.org

July 19, 2018

Mr. Phil Hayward

Re: Request for Will Serve Letter – Perry Park Filing 7, Block 3, Lots 1 thru 5 and Tract G, Perry Park Filing 2

Dear Mr. Hayward,

This letter is the response from the Board of Directors of the Perry Park Water and Sanitation District to your emails, letters and telephone calls regarding your request for a Will Serve letter for your undeveloped properties on Apache Court.

First, we wish to address your false belief that information has been censored or kept from the Board in this matter, which is simply untrue. The Board is aware of your numerous correspondences with District staff, the District's engineers, and the District's attorney and is aware of your interpretation of how the District Rules and Regulations ("Rules") should be applied to your properties on Apache Court. All of the Board Members are also familiar with the Rules, as are the District staff and consultants.

You also erroneously claim that the District has acted in an "arbitrary or capricious manner", that the District has not followed the Rules, and that the District Manager and the District's engineering firm are making decisions based on their "dislike" of you. The history of this matter shows otherwise. The District, including its staff and consultants, have attempted to work with you on this matter for some time and significant District resources have been expended to educate you and the numerous consultants you have hired regarding the District's Rules. These include multiple offers for the District staff and engineers to meet with your own engineers. While a meeting finally occurred in March, it could have occurred much earlier had you not cancelled the meeting in December and refused for several months to reschedule.

The following is a bit of history on these properties. There is some older, but we will start with August 2004, fourteen years ago.

- In 2004, you initiated and paid for a feasibility study for the undeveloped lots to determine whether service was available to the then-proposed lot configuration on Apache Court (the "2004 Feasibility Study"). The 2004 Feasibility Study no longer reflects the configuration currently proposed for the Lots, as it did not include Tract G.
- The 2004 Feasibility Study was accepted by the Board contingent upon your extension of the main lines as defined in the feasibility study. The following is an excerpt from the 2004 Feasibility Study and refers to the 1998 Master Plan:

The study area was considered as part of the "Future Platted Growth" area in the preparation of the District's Master Plan. These five (5) lots complies with the District's Master Plan for provisions of sewer service but does not comply with the Master Plan regarding water service and fire protection. The District Board of Directors will need to approve an amendment to the Master Plan to provide water service and fire protection as proposed by the applicant.

The Board subsequently approved an amendment to the Master Plan on the condition that the landowner install the main lines. Because the main lines were never installed, the amendment to the Master Plan never became effective. For your reference, below is the text of the two resolutions:

- *8/17/2004 RESOLUTION 04-075 TO ACCEPT THE FEASIBILITY / IMPACT STUDY FOR L. 1-5, B. 3, PERRY PARK # 7 (APACHE COURT) AS PREPARED BY THE DISTRICT ENGINEER RICK PICKARD OF TEC. Passed unanimously.*
- *8/17/2004 RESOLUTION 04-076 TO APPROVE THE ALTERNATE TO THE MASTER PLAN FOR L. 1-5, B. 3, PERRY PARK # 7 (APACHE COURT) AS PRESENTED BY THE DISTRICT ENGINEER RICK PICKARD. AFTER THE MAIN LINES ARE INSTALLED IT WILL BECOME A PERMANENT CHANGE TO THE MASTER PLAN. Passed unanimously.*
- In 2007 and extending into 2008, you presented to the District a plan for utility access and the vacation of Apache Court. You attended multiple District meetings discussing the request and there was significant communication between you and the District on the matter. The District's Engineer, TEC, advised that your plan proposed an alternative means to provide sewer and water service and fire protection to the property that did not adhere to the Master Plan. The District provided you with a letter that the District did not object to the vacation of Apache Court at Block 3, Filing 7.
- In 2010, the 2004 Feasibility Study expired.
- In April 2016, the District adopted an updated Master Plan. The 2016 Master Plan shows the water and sewer main lines running past Apache Drive as a loop, not as a dead-end as you have suggested in your correspondence with the District.
- In Fall 2016, you reinitiated discussions with the District regarding your plans to request service from the District for your properties on Apache Court.
- In September 2017, David E Archer & Associates, Inc. submitted a letter on your behalf requesting a Will Serve letter for Lots 1-5, Block 3, of Perry Park Filing 7, and Tract G of Perry Park Filing 2. The request results from your application to Douglas County for approval to reconfigure Lots 1-5 and vacate Apache Courts.

As you have been previously advised, the following sections of the District's Rules and Regulations are applicable to providing service to your properties on Apache Court:

- Pursuant to Exhibit N of the District's Rules, a feasibility study is required when there is a request for service in undeveloped areas which requires a potential main-line extension. This policy is still in place today. The feasibility study ensures that any proposal will meet the standards of the District and identifies any infrastructure that is necessary to avoid negative impacts on the District's system and to adhere to the Master Plan. Among other

impacts, the feasibility study also investigates and recommends domestic pressures, and fire protection flow rates and pressures.

- Pursuant to both the Main Line Water/Sewer Extension Policy (adopted as Resolution 98-164 and incorporated as Exhibit J of the Rules and Section 4.8.1 of the Rules), the District may proceed with a requested extension of water or sewer main lines by a landowner only when "said construction will be in accordance with the District's Master Plan" and "line extensions proposed by land owner must be in consonance with the District's Master Plan". As such, the District Rules require that the landowner agree to extend the main lines across the frontage of the entire Lots along Apache Drive from corner to corner.

It appears we disagree on the interpretation and applicability of the District Rules. It seems you believe a new feasibility study is not necessary based on your reliance on the 2004 Feasibility Study and the 2004 conditional amendment of the District's Master Plan. However, your properties became subject to the changes in the 2016 Master Plan because your lots have remained undeveloped with no water and sewer service. You cannot rely on the 14-year-old 2004 Feasibility Study which was based on a prior version of the Master Plan, particularly when you now propose to change the configuration of the Lots. Similarly, you cannot rely on a conditional Master Plan amendment when the condition was never met and the Master Plan has since been replaced in its entirety. As you have been advised numerous times, the 2016 Master Plan shows the future location of water and sewer main lines running past Apache Drive as a loop, not as a dead-end. As such, pursuant to the District's Main Line Water/Sewer Extension Policy, the landowner must agree to extend the main across the frontage of the entire Lots along Apache Drive from corner to corner. Because you have not done so, and have not completed an updated feasibility study, the District will not grant a Will Serve letter at this time.

It is the District's position, including the Board's, that in order to reconsider your request for a Will Serve letter for the Lots, the following are necessary to meet the requirements of the District's Rules and Regulations:

1. A new feasibility study is required which addresses the 2016 Master Plan, and new configuration of the Lots to take into account Tract G.
2. The proposed design must provide for the minimum fire flow requirements of 1,000 gpm as required by Section 6 – Standards and Specifications of the District's Rules and Regulations, Division 200, Section 201 Minimum Design Standards for Water Distribution System, Part 2 – Design, 2.02, C.
3. The developer must agree to extend and construct the main lines across the frontage of the entire Lots, from one Lot corner to the other, pursuant to District's Main Line Water/Sewer Extension Policy.

The District has expended considerable resources answering your questions and educating you and your consultants on the District's Rules and Regulations. As a reminder, the District's Rules and Regulations apply to any landowner seeking service from the District. If you refuse to accept the requirements of the District's Rules and the applicability of the 2016 Master Plan, there is nothing further to discuss. The District will not continue to devote time and resources to reviewing and responding to your frequent emails and letters.

Your properties are within the District boundaries and eligible to receive service only once you have met the requirements of the District Rules and Regulations as set forth above. When you provide the required information, the District will reevaluate your request for a Will Serve letter for Lots 1-5, Perry Park Filing 7 and Tract G, Perry Park Filing 2. Until then, there is no need for continued discussion related to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Gary F. Peterson". The signature is fluid and cursive, with a large initial "G" and "P".

Gary F. Peterson
President of the Board of Directors
Perry Park Water and Sanitation District

cc: Jim Matchett, Vice President
Andy Morris, Treasurer
Judy LaCrosse, Secretary
Jim Maras, Director
Diana Miller, District Manager
Adam Monchak and William Goetz, TST Infrastructure, LLC
Kathryn Winn, Collins Cockrel & Cole, P.C.