

SEELEY LAKE SEWER DISTRICT
SPECIAL BOARD MEETING

August 13, 2018

Attendance:

Mike Boltz	President	ABSENT
Davy Good	Director	PRESENT
Juli Cole	Director	PRESENT
Beth Hutchinson	Director	PRESENT
Troy Spence	Director	PRESENT
Greg Robertson	Missoula Co	ABSENT
Felicity Derry	Secretary	PRESENT
Kim Myre	Missoula Co	ABSENT

OPENING:

7:25pm at The Senior Center, located at 707 Pine Drive.

Beth Hutchinson:meeting until an officer is selected. And is there anybody that wants to nominate somebody on the Board? **Troy Spence:** I'll put a motion to let Davy run it. **Beth Hutchinson:** I'll second that. **Davy Good:** All in favor? **Juli Cole:** Aye. **Beth Hutchinson:** Aye. **Davy Good:** Aye. So, I guess we'll call the meeting into progress then.

PUBLIC COMMENTS:

Davy Good: And first thing on the agenda is ah, it says none scheduled for public comments so, do we want to go directly into what Jon Beal and we discussed outside? **Beth Hutchinson:** Well, if anybody has comments it should be open... **Unidentified person:** If you have public comment can you guys speak up because we've got actually fans and air-conditioning here. **Davy Good:** Yeah, so I guess we'll, we'll start with public comments then.

Mike Lindemer: Mike Lindemer, one forty-five Beach Street. Umm, I was hoping that the new Board realizes how hard the old Board has worked to get to where we are today. And I'm hoping that ah, your decisions follow through with where we are for, for the future of my kids, for my grandkids and for the future of Seeley Lake. And I believe it's the nucleus to keeping Seeley Lake alive. And I'm just hoping you make the right decision. Thank you. Anyone else?

Davy Good: I'll speak up. Any, any more public comments? So the next thing on the agenda.....

Beth Hutchinson:public comments closed. **Davy Good:** Public comments closed.

NEW BUSINESS:

08/13/2018

Special Board Meeting

Seeley Lake – Missoula County Sewer District

Election of Officers

Davy Good: Ah, next thing on the agenda is election of officers. I, I think that we should really go through what we talked about out with Jon Beal outside first so everyone is up to speed on ah... **Juli Cole:** I agree. **Davy Good:** ...what was said out there. **Beth Hutchinson:** It's next. **Davy Good:** Okay, so we'll go directly to election of officers.

Troy Spence: I'd like to make a motion to elect Beth as president. **Davy Good:** First we have to remove Mike from presidency. **Troy Spence:** No, you don't. **Beth Hutchinson:** It's the state law so, it's not necessary to remove anybody. It's. This should be perceived as the organizational meeting, which should have taken place June eighteen, I think is the correct date. And therefore, nobody needs to be removed, it's state law. **Davy Good:** Well, I think we should have you talk a little bit about why you should be president. Then anybody else that wants to be president should talk about why they should be president. **Beth Hutchinson:** Great. **Juli Cole:** Okay.

Beth Hutchinson: Umm, as I stated before I'd like to be president chiefly because I am organized and I think that I can respect differences of opinion and bring some eternal peace to our meetings. The president is not umm, somebody with unlimited power. The power of the president according to state law is simply to sign things that the Board has told the president to sign. The Board can give the president some more powers. If I were elected president I'd like the power to appoint some committees and other things that come up that the Board feels from an administrative point of view would be useful to them. And that's why I would like to be president. One other thing that would be very beneficial as president is to keep the agenda organized and make sure that the different things that the Board members want to see on the agenda end up there. Was there a second? There really needs to be a second. **Davy Good:** No, no I would like to talk about why I would like to be president. **Beth Hutchinson:** But you've only been. You need to ask is there a second for me because... **Juli Cole:** I'd, I'd like to hear what you have to say. **Beth Hutchinson:** Davy needs to ask if there's a second... **Davy Good:** Is there a second? **Beth Hutchinson:** ...to my nomination because I shouldn't have been asked to speak so soon... **Davy Good:** Okay, is there a second for the nomination? **Juli Cole:** Can we hear what Davy has to say before we have a second? **Beth Hutchinson:** Umm, you have to clean up one motion at a time. **Juli Cole:** But how can you make a second if he hasn't had a chance to speak? **Beth Hutchinson:** Because. **Davy Good:** So clearly there isn't a second then. **Beth Hutchinson:** It's the way, it's the way it goes. **Davy Good:** There's not a second. Right? **Juli Cole:** Can we vote on this after you both speak? If there's not a second. **Beth Hutchinson:** Alright. What you would have to do is somebody needs to second my nomination. Then there has to be discussion on the Board about that, and then there has to be a vote. And if I did not get approved then somebody could nominate somebody else, and then that person would need a second and you keep going through this over and over.

Davy Good: We, we have our attorney here so I'd like to make sure that's correct. **Jon Beal:** I think that you can, people can move for multiple peoples to, multiple people to be officers. You can speak and then you can see if someone seconds that nomination. You can vote on who should be an officer. But I don't think that one nomination prohibits somebody from being nominated and speaking. **Juli Cole:** Okay. So that means you can speak, right? That means he can speak? **Jon Beal:** Yes. **Juli Cole:** Okay. **Davy Good:** So, I'd like to be president. I've been on the Sewer Board for a number of years and I, I feel like I'm more up to speed with where this project is headed. And I would also like to say that I haven't been, I haven't been on the Board and ever attacked

08/13/2018

Special Board Meeting

Seeley Lake – Missoula County Sewer District

somebody personally. And I feel like you've send some emails that personally attacked me. And that's, that's not a position, that's not the position that the president should be in. And even the meeting that you did chair you made everybody speak directly to you. And when some, we wanted to ask questions we had to go through you and I don't feel like that is the type of person we need as president. We need somebody that's open to the public and open to each other. And another thing I'd like to bring up is the conflict of interest. I don't feel like if there's a conflict of interest that could be brought to light here real soon, and has already been discussed in emails, that we should have someone that could be, in a conflict of interest be president of the Board. **Beth Hutchinson:** Do you want me to respond? **Davy Good:** No. **Juli Cole:** No. **Beth Hutchinson:** Oh. **Davy Good:** So, I'd, I guess we'd need someone to...**Tammy Lewis:** Question. Can there be any public comment during this time? No? I, I was just wondering if, if. **Davy Good:** I think we've moved past the public comment. **Tammy Lewis:** Yeah, I was just wondering for this part. If... **Davy Good:** As a Board we have to kind of decide this ourselves. **Beth Hutchinson:** The problem immediately is nobody seconded either of us. **Unidentified person:** Can we second it out here? **Beth Hutchinson:** This is inter-board. Inter-board. **Juli Cole:** I'll second Beth. What's next? **Davy Good:** So, we, I would have to ah, all in favor, aye, and I obviously wouldn't be in favor. **Juli Cole:** Right. **Davy Good:** But the majority of has elected her as president. **Juli Cole:** Do the vice president next? **Beth Hutchinson:** Well, we need to vote. **Juli Cole:** Right. All in favor? **Troy Spence:** Aye. **Davy Good:** All in favor, would be, and I'm not saying aye. So, I'm not agreeing to it. **Juli Cole:** Aye. **Beth Hutchinson:** Aye. **Troy Spence:** Aye.

Unidentified person: We can't hear you. We can't hear anything. That fan is too loud. **Davy Good:** Can we turn that fan off? **Unidentified person:** I don't know.

Davy Good: So if there's three that agreed to it, that's a majority of the Board. **Felicity Derry:** Did you say aye? **Beth Hutchinson:** I did say aye. Yes.

Juli Cole: We nominate vice president now? **Beth Hutchinson:** Umm hmm. **Juli Cole:** I'd like to nominate Davy as vice president. **Davy Good:** Is there a second? **Juli Cole:** No second. **Beth Hutchinson:** Actually, I should probably take over at this point. **Juli Cole:** Okay. **Beth Hutchinson:** Okay. **Juli Cole:** Yeah. **Beth Hutchinson:** Umm, is there a second for the nomination of Davy as vice president? **Unidentified person:** In the floor. **Beth Hutchinson:** Alright, there being no second the nomination evaporates, or whatever. Umm, is there a nomination for anybody else for vice president? **Juli Cole:** I'll nominate Troy. **Beth Hutchinson:** I'll second that. Alright, it's been moved and seconded that Troy become the vice president for the Sewer District. Is there discussion on the Board? **Juli Cole:** No. **Beth Hutchinson:** There being no discussion I'll call a vote. Felicity can you call names please? Would you call names please? **Felicity Derry:** Juli? **Juli Cole:** Aye. **Felicity Derry:** Davy? **Davy Good:** Ah, no. **Felicity Derry:** Beth? **Beth Hutchinson:** Aye. **Felicity Derry:** I don't think Troy's gonna vote. **Juli Cole:** No, he... **Beth Hutchinson:** Yes, yes. Troy? **Troy Spence:** Aye. **Felicity Derry:** All right. **Beth Hutchinson:** Okay, okay, Troy congratulations.

Beth Hutchinson: Umm, I look forward to working with Troy. Umm, a lot of people have felt that the three new people had some kind of bone about whether a sewer is a good thing or a bad thing. And we have expressed over and over again that we are not ready to kick the sewer. We are not ready to accept the currently proposed sewer. We want information. And I personally stand there. I believe that my colleagues stand there. Umm, it's been important to me to have people to talk to as

08/13/2018

Special Board Meeting

Seeley Lake – Missoula County Sewer District

the public has encouraged us to talk. We have been really, really careful not to have outside meetings, believe me. We have had lots of discussions. We haven't always agreed. Our agreements, our disagreements will be presented in public. Umm, public comment, not endless public comment from any single person or repeated public comment from the same people on the same subject will really be encouraged because this is an awfully serious decision. And I hope that you all can come to trust us as the representatives of the community. If you can't come to trust us, then you need to come talk to us and let us know what we need to find out. Because we're looking for objective documented information. Some people have really firm ideas about what needs to be going on. Others people feel like they never got enough information. We need to meet the majority, and beyond, needs of the people in the District. People are really torn up that a lot of the population is at loggerheads. People are torn up by the rumors that drift around. This has to stop. We need to work together. We talked about building consensus and we need to get there. We don't want winners and losers. We want to work together for the welfare of this community. Now, Davy has the next subject. He brought the attorney, Jon Beal, to the meeting and I'll let him introduce him and make a motion for whatever is needed on this subject.

Jon Beal

Davy Good: So, I'd like to introduce Jon Beal. He'll go over kind of what we talked about outside. And then any other legal questions that anyone might have. **Jon Beal:** Good evening everyone. My name is Jon Beal and my firm was originally hired to represent the District in their business matters when the bonding was approved to go forward. Subsequent to that point in time the District has been sued by Mr. Larson. And upon being notified by the Board that they'd been sued, I notified the insurance carriers that would potentially have coverage for this matter and there is currently a dispute between the insurance companies. But I've been retained by one insurance company to defend the Board. I provided the Board with a retainer agreement, which I need to have signed, which hasn't occurred yet.

Why I asked the Board to step out privately is I've never had an opportunity to speak with all the Board members together and tell them what I thought was some of the issues that faced them, and of their duties. The Board can do that, litigation strategy when you speak to your attorney, it's confidential, it's attorney client privileged information. And when you're sued, in this case they're being sued for damages, for attorney fees and costs, and for punitive damages, which aren't covered by insurance policies. And so, to minimize their risk of exposure and protect the attorney client privilege, which the Board holds, that's why I met with them in private in the parking lot. They authorized me to tell you the various issues that I discussed with the Board members that I think they're facing, and what their duties are in dealing with this situation with the community. So, that's kind of a background of what we have going here. I'll try to keep it in plain language as much as possible. Some, somethings I say will have legal speak just because that's the way it is. Feel free to ask me a question if I haven't explained it clearly enough.

The first thing that I looked at when I was made aware of this dispute. Oh, let me, let me clarify one more thing. I represent the Board and the duties of the Board. I don't represent an individual whether they're for the sept, the sewer system or against it. Umm, the Board has a duty to the community to put the greater good first and that must go before their personal opinion. And their, the Board has a resolution that's been approved, that confirmed their vote, to put in a sewer system. I

08/13/2018

Special Board Meeting

Seeley Lake – Missoula County Sewer District

know there's tremendous community dispute about the scope of that. About the assessments and that sort of thing, but as it stands right now, and I look at it, the Board has a duty to move forward on what they have the resolution, or if they don't, then I think that they would have to vote and change course entirely. The duty umm, of the Board, they've got to put the best interests of the public first. And that duty of loyalty exists to all the members of the public. And that means people that agree with the Board's position or disagree. They must listen to everyone. They have secured, there's been about a million two, and I'm gonna speak in round numbers, there's been about a million two spent on moving this project forward.

The Health Department has told me that there's untreated sewage in the drinking water. It varies by the area of the town. They have told me that if this problem doesn't get addressed by the community that likely the government will step in and they'll do an assessment for it. And you will lose control of how the project is run, and you will also lose the benefit of the funding that you currently have. The bond that's approved to be assessed against the residents is four point five million dollars approximately. You have approximately nine, nine point two million dollars in grants that have been approved. So, that's the cost of the infrastructure that's going to be paid for by other tax payers across the U.S. and Missoula County. And you have in kind services offered by Missoula County at approximately a hundred thousand dollars, and that's some of the documents that I looked at from about a year ago. So, I've also been told that the decision on the grants and the funding for the system, that it's made in the Bozeman office, it's made by the higher ups, not in the Missoula office, but their indication is that if this project stalls out and does not move out in some fashion that's substantially similar to what we have here, that those the grants are going to go away. So, whether that will come to fruition, and you know, well life is live forward and we'll learn backwards. We'll find out about that down the road, but that's a big gamble that I think has to weigh in everybody's mind.

The potential conflict of interest that was raised umm, when I got the documents, I did some research and I know that there's pro sewer system people and anti-sewer system people. Three of the new Board members I see were financed by somebody that also took out an ad umm, that was opposed to the sewer and is actually suing them for damages. So, I brought it to the Board's attention that you have people with competing interests in this, and that needs to make sure that those competing interests can't carry through to the decisions of the Board. The Board must look out for the public as a whole and the common good. From the documents that are available to me the decision on whether or not to do a sewer system, that horse is out of the barn and gone. It's the scope of the project, how it's funded, how big it is, the fairness to residents, trying to secure money for perhaps lower income families that can't afford it from other government grants. Ah, but the documents that exist, in my view, from my preliminary look at it, is that the sewer system, that's the will of the Board. And I know there's a difference of opinion on that. I told the, told the Board my opinion as to what the Board is bound by legally and ethically. Umm, they can accept my opinion, reject my opinion, or do something completely different. That's up to them, but I'm going to tell them what I think the Board's required to do by law for the greater good of the community.

Umm, I know the Board has troubles on communicating, and this isn't meant to attack anybody or take anybody's side. They have differences on, you know accepting and communicating differences of opinion. Commissioner Curtiss, who grew up in the area, she's offered to get a facilitator for the Board to help them communicate and move this forward. I've been told ah, by the County that was rejected. I would suggest that be umm, taken up. The goal is not a difference of opinion, it's the community. Umm, it's no different than you have to get along with your spouse. You have

08/13/2018

Special Board Meeting

Seeley Lake – Missoula County Sewer District

differences of opinion. It doesn't matter who's right or wrong, you need to look out for the common good of your marriage and your family and move it forward. And that's sometimes a hard ah, pill to swallow, but it's the way that societies, and countries, and nations are built and kept going. Umm, gridlock is not going to do anything for you, whatever side you're on. I think that the community knows that you have water quality issues. The water quality issues are not going to go away and resolve themselves. And you should decide as a community how you're going to address that. And the more control you take over your lives, in my view, the better off you are. I think that the community is better fitter and able to structure a resolution than the government is, and I think that the community would be more fastidious with your money and do a less expensive job. And again, I'm not attacking anybody, but there's real motivation when you're being assessed to use, be as efficient as you can with the costs. When you're the government doing it, there is no penalty for making a poor decision and over spending a couple of million dollars.

Umm, a little bit on the Larson complaint. We have what's scheduled, it's called a, there's been a temporary injunction issued, where the Board is prohibited from taking any action, spending any money and incurring any debt. So, right now the plaintiff has secured a court order, that's temporary, that prohibits anything from going forward at all. This is going to be here, heard by Judge Townsend tomorrow and they're trying to make that injunction permanent. And so, if that injunction goes forward umm, there's going to be a couple of facts. One the Board, in my view from what I've seen, is gonna be prohibited from doing anything with respect to the sewer. Good, bad or indifferent. So, that's whether it's pushing this plan forward or looking at alternatives or trying to find funding for low income family members to be able to pay the sewer assessment. The other thing that'll happen is that you have a pending complaint against the Board for compensatory damages, punitive damages, attorney fees and cost. Umm, I don't know, I assume that suit will continue on. So that's a risk and I don't know what will happen if the Board doesn't respond to the injunction, doesn't respond to the complaint, doesn't retain a lawyer. They can retain me, or anybody else, as long as the insurance company approves, since they're paying the bill right now. But inaction is not an option, I don't think legally, or under your insurance policy. And there's a couple of tenets, generally you have to cooperate with your insurer or the insurer can say that there's no insurance coverage. So, if you get into a car accident you have to report that accident right away. You don't do that then your insurer might not cover you. There's that same issue here. You have to cooperate and that's why I met with all the Board members that were here because I had not been able to do that prior to this date.

Umm, the judge will be faced with a hard decision tomorrow because there's very polarized views on what the duties of the Board are. What the status of the septic, the sewer system is. What the community duty is. But I've asked all the Board to attend if they can, and I would encourage any member of the public to attend. It's your home, your families. Ultimately, it will be your money, one way or the other, on the system and it's important to be part of the process, whatever side you're on. Umm, again I'd just like to stress that the Board's duty is to you as the public, both people that are pro and con of the system. But they take action by having a resolution, and the current resolution exists to move the system forward, as planned.

I've moved kind of fast. I've covered a lot of areas. Is there any questions that I can answer for anyone?

Jon Beal: Yes, sir. **Gary Miller:** Umm, so like tomorrow at this hearing is there representation for the Sewer District? **Beth Hutchinson:** Excuse me a second. Umm, could you please say your name

08/13/2018

Special Board Meeting

Seeley Lake – Missoula County Sewer District

for the record? **Gary Miller:** Gary Miller, I'm sorry, Gary Miller. So, what's, what's the procedure? **Jon Beal:** Well that's, that's a great question. So, the, I don't, I've not been, the Board has not not signed a retainer agreement with my firm and I'm ethically required to have a signed retainer agreement with the client. I have one for the Board's business work, but not for this litigation. The insurance company has hired me and agreed to pay the bill, but if the Board doesn't accept my representation, or get another lawyer, I guess I'm kind of like a fish out of water before the judge tomorrow. **Gary Miller:** So, in other words the Board hasn't done anything, knowing that there was an injunction, a court hearing tomorrow. **Jon Beal:** They, they have my retainer agreement. It's on the agenda. **Gary Miller:** On the agenda. **Beth Hutchinson:** That was something.... **Gary Miller:** I'm not done yet. **Beth Hutchinson:** Oh, sorry. **Gary Miller:** How long have we known this injection has been in place? **Jon Beal:** Three weeks or more. I'd have to look at the calendar. **Gary Miller:** Three weeks or more, okay. **Jon Beal:** Yeah. **Gary Miller:** So, you know where I come from is when you get on a board you've got to remember there's a liability to you and if your insurance company doesn't cover it, you're still liable. **Jon Beal:** There could be that issue sir, yes.

Beth Hutchinson: Umm, hold on a second. Gary there was one thing in there that I'd like to answer. We need, felt really strongly, it least I did, that all of these decisions needed to be made in public. And this was the first opportunity that we had timewise to add it to the special meeting that we had. To make sure that it's being presented to the public. Mike can you hear all right? Okay. So that's why no action has been taken to this point, by the Board.

Beth Hutchinson: Did you? You have a question Dennis? **Dennis Clark:** Yes, I do. **Dennis Clark:** Umm, Jon so, trying to put all of the chess pieces on the board here. Tomorrow there's a hearing regarding the preliminary injunction. The Board has no representation. Hence a strong possibility that the judge will make it permanent. If, if there's nobody there to speak for making it, for throwing it out, which is probably what could happen. Ah. **Jon Beal:** I've not been directed by the Board to object to the preliminary injunction with the request to make it permanent. **Dennis Clark:** So, so likely then umm, the injunction will become permanent. **Jon Beal:** Umm, I, the County is going to be, the County's being sued as well. They're going to oppose it, but if the County, if the Board doesn't oppose it, and the County's the only one opposing it, they're going to say we're not going to throw effort after foolishness because the Board has to get the system done. I mean that's the law. So, I would imagine that the County would walk away from the project. **Dennis Clark:** Right. So, so, strong likelihood that's what's going to happen tomorrow is that this whole thing is going to go down the tubes. **Jon Beal:** Well, it puts me in a tough ethical position and I mean here's my take on it. I'm the attorney and I have a signed agreement with the Board to do your the business work. Umm, I have been retained by the insurance company. So, I've got two legs of a stool. But I don't have a retainer agreement signed by the Board, or direction from them. My thought was, if I'm not retained by the Board, or there's a question on the direction I would at least go there for the benefit of the community. Tell the judge what I see as the duties of the Board, where this matter stands, where I'm caught in the middle of this, and let the judge make an informed decision on this. I, I don't think that the community should be put at risk because we've got these technical fights right now. I think that there's a better way to solve this problem. **Dennis Clark:** Okay, but circling back. One last thing and then I'll be done. Circling back to your initial point about conflict of interest. The person suing the Board and the County is the same person who was treasurer of the organization, the political action group, that put three of these people on the Board. Not likely that they're going to go against the person who funded them to sign and bring you on board. **Jon Beal:** That's a question that I've raised to the Board, yes. **Dennis Clark:** It doesn't seem likely to me.

08/13/2018

Special Board Meeting

Seeley Lake – Missoula County Sewer District

Troy Spence: I'd like to say something. **Juli Cole:** I would too. **Troy Spence:** The citizens put us on the Board. One person did not. You see what the vote count was. **Beth Hutchinson:** All right. **Troy Spence:** That tells you. The people spoke. **Beth Hutchinson:** All right. I want to make a point. The next thing on the agenda. I don't know how many of you have copies of the agenda. One. I'm sorry there are a few more up here. The next thing on the agenda is for us to make that decision, and once again some anxiety is forcing people to assume that we're going in one direction or another. Can we have the opportunity to get to that part on the agenda? It's really important, rather than to poison your minds again. Give us a chance to do our duty to the public. Juli. **Juli Cole:** Well, I just wanted to make a point on that. Umm, it was a paid advertisement that doesn't influence my decision one way or the other. Whether, you know, I'm for or against it has nothing to do with it. I've done my due diligence and done as much research as possible. And ultimately, it's up to the people who put us on here. And that's what I'm here for.

Beth Hutchinson: Bob. **Juli Cole:** So, I just. **Beth Hutchinson:** Oh, I'm sorry. **Juli Cole:** It's okay, go ahead, that's fine. **Bob Skiles:** Bob Skiles. Umm, so let me get this straight. We have an injunction against the Board to spend any money right now to do anything further to get a sewer, right? **Beth Hutchinson:** No, we don't, we don't. **Jon Beal:** Yes. **Bob Skiles:** So, my question is, how are you gonna vote to spend money on a lawyer to further the sewer when you have an injunction against you keeping you from doing it? Does that make sense? **Jon Beal:** Well, I think there's a two-part answer to that. Umm, the insurance company within the terms of the policy will pay for litigation costs. They aren't going to pay costs, business costs for. I think you have a, a hearing on Thursday for an assessment to move that forward. Umm, if you don't fight that injunction I think that that's probably prohibited too. Or you're going to have to go into court and get approval for it. And from what I've been told the delays will jeopardize the funding for the project. Whether that comes to fruition, we'll have to see what the USDA says.

Jon Beal: Sir, I know you had a question. **Beth Hutchinson:** Rachel. **Walt Hill:** I just, one question in following. The question I have, the injunction was filed when? **Jon Beal:** Do you have the. Oh, well the complaint was filed June twenty-sixth. And the injunction was just issued that day. **Walt Hill:** Okay, so the injunction took effect starting when? **Jon Beal:** June twenty-sixth. **Walt Hill:** And what are we doing here? **Jon Beal:** Well. **Walt Hill:** I, I mean seriously, if enjoined from taking part in any decisions, for anything that has to do with the sewer, this is an illegal meeting. **Jon Beal:** I don't think it's an illegal meeting. I think that if you want to take formal action ah, to spend money or make assessments, I think that's prohibited by the court unless you go there tomorrow and the judge does not make the injunction permanent. **Walt Hill:** How about voting for officers of the Sewer Board? **Jon Beal:** What's that? **Walt Hill:** How about voting for officers of the Sewer Board. Is that not enjoined? **Beth Hutchinson:** No. The Board. **Walt Hill:** I'm not going to listen to you. **Jon Beal:** Yeah. **Beth Hutchinson:** Excuse me. **Jon Beal:** That's, that's a very good question. **Beth Hutchinson:** Excuse me. **Jon Beal:** I mean that's a very good question. **Beth Hutchinson:** Excuse me. **Walt Hill:** I'm asking the lawyer a question and you have no right to interfere. Please. **Beth Hutchinson:** As the presiding officer I can keep order here. And I can. **Walt Hill:** I'd like to see that. **Beth Hutchinson:** Walt. I would hate it for you to be the first person that I asked to leave. So, could we, could I may say something to you and you can listen. **Walt Hill:** You're welcome to ask me. **Beth Hutchinson:** The injunction was given when it was filed. It would be up to one of the Board members to call a special meeting to act on it any sooner than that. We had called a special

08/13/2018

Special Board Meeting

Seeley Lake – Missoula County Sewer District

meeting. We also asked Mike, and I'm not entirely sure you factored in in terms of the attorney coming. But we asked Mike put this issue, as a courtesy, on our special meeting. Why nothing was done any sooner, I don't know.

Walt Hill: Well, my question still stands. **Jon Beal:** It's a valid question and I don't have an answer for you. You know, whether that falls within the purview of it. It certainly will if the injunction is made permanent as proposed. **Walt Hill:** I understand that. But the injunction if it was filed and it's in effect as of June twenty-sixth, or whatever, then we, we you know cannot hold a meeting with the sewer until such time as that injunction is either made permanent or the decision is made. This Board does not make a decision on the injunction. **Jon Beal:** That's... **Beth Hutchinson:** I am... **Jon Beal:** ...points on that. **Beth Hutchinson:** ...stepping in again as president. There was nothing what so ever in the complaint or in the injunction about allowing the Board to continue to function. This allows us to have hearings with the public on various things that do not include spending in the direction to facilitate the current sewer project. It doesn't prevent anything else. **Jon Beal:** I've got copies of the complaint if anybody would like them. So.

Beth Hutchinson: Bob. **Bob Skiles:** Bob Skiles. Listen, you didn't answer my question to satisfy me. **Jon Beal:** Okay. **Bob Skiles:** My question was if we have an injunction, the twenty-sixth of June, or whenever it was, to not spend any more money to further the sewer, then why are we going to vote to spend money to hire a lawyer to further the sewer? I don't, I mean I don't. Is that a? **Jon Beal:** No, it's not. It, it's, there's irreconcilable competing things here. So, if you don't respond to an injunction, if you don't show up, the judge will just make it permanent. Judge Townsend may dare you. The Board has a duty to look out for the common good of the District. And so, they must take some action. They've got to decide whether they're going to fight it or not fight it. And it will have somewhat of a rub with the request not to spend any money or take any action. One of the requests in the complaint is to not accept any money or any services from the County, at all. They want to stop the County from doing that. So, you're gonna have to go there and let the judge make decision. I think that's the prudent thing to do. And then whatever the decision is, whether you agree with it or disagree with it, the Board's gonna need to make a decision on how to proceed. I don't think it fulfills the duty to the community for the Board to say we can't do anything and this is gonna collapse. And I don't think that it's a good business decision or a good moral decision either. Whatever your position is you've spent one point two million dollars. You have over nine million dollars of funding available to you. I think that it's not in the community's best interest to let that go away. For better or worse. That's what I think. **Bob Skiles:** I agree a hundred percent. **Jon Beal:** Yep. Nope, it's a good question. **Bob Skiles:** I just wanted to clarify how we can spend the money. Okay? **Jon Beal:** No, the Board isn't spending money on me right now. They might me fire today. I don't know they might decide not to sign my retainer agreement, which puts me in an ethical quandary. It's the insurance who has agreed to pay bill temporarily under reservation of rights until they determine the coverage issue.

Beth Hutchinson: George. **George Hauser:** George Hauser. In your legal opinion, according to the charges that this individual has filed against the Board and the County, what laws have been violated? **Jon Beal:** There have. There are many laws that are claimed to be violated. They say that the public financing, the, the ah, laws have been violated with respect to campaign practices. They say that the Board's activities and moving the Sewer District forward, have been violated. There's six or seven counts. I have copies here. There's a whole potpourri of claims made. Umm, you know whether they have any merit or not I think you know we just need to look at it. But I think for right

08/13/2018

Special Board Meeting

Seeley Lake – Missoula County Sewer District

now, I think it should be opposed and shouldn't have the injunction stop you from moving this forward in any fashion whether you agree with it or not. I think you should focus on fashioning something that meets the greater good and gets the consensus of the most people. Understanding that you will never satisfy everybody and it'll never seem fair to everybody. But you know that it's not going to go away and you don't want your wife, your children, or your grandparents drinking untreated sewage in their water. **George Hauser:** Then you're saying that these charges are defensible. **Jon Beal:** From what I've seen right now, yes. You know there's a lot of facts to work. It's a seventeen-page complaint. And there's obviously very strong emotions on both sides of the fence. But in my view, it's not, it shouldn't be a personal fight. If somebody has made an error in the past on technicalities, whether it's intentional or unintentional, then let's bring that to light and address it with the community and say I don't think you did this right if that's the case and let's rectify it and move on. But I don't think that every mistake in life means that you should be an all or nothing, a zero sum gain. And that seems like where we are. And I'm not taking a side, but the Board just has a duty for the greater good. They need to decide what's the greater good of the community. Is it shutting this all down? Is it doing the existing system? Or is it doing something substantially similar that won't jeopardize the funding? And that's I think what the Board has to decide.

Beth Hutchinson: Nathan. **Nathan Bourne:** I'm, could you explain the, the. You called it a temporary injunction. But what the hearing tomorrow is whether to make it a preliminary injunction. Because a permanent injunction is he, if you go through this case and Larson wins he's asking for a permanent injunction to stop the District from, from moving forward. Is the... **Jon Beal:** Generally correct. **Nathan Bourne:** So, so when the judge issued that first one that actually became a temporary one until this hearing. And this hearing is for you to argue as to why you think that shouldn't be made preliminary until the end, until the end of the case. **Jon Beal:** Correct. It still could happen at the end of the case when all the facts are developed, but there's going to be a lot of time and money spent and I don't think that the community should be in limbo for the next year or two on a law suit and not make any headway. But that's for the Board to decide.

Beth Hutchinson: Rachel. **Rachelle Harman:** Rachelle Harman. Umm, Mr. Beal I just have one simple question about your ah, position with the Board as far as your contract. Is it dated up until the time that a new Board is elected? Is it a year to year function that needs to be renewed? Can you just give us a little information? **Jon Beal:** Our retainer agreement by law we're just supposed to set forth the terms of our representation and what the rate is. Umm, we update our rates every year, and we send notice of that. We don't redo our contract every year. If the Board wished to terminate me tonight, or next month, that's at their discretion. They're not required to continue our representation. **Rachelle Harman:** Okay. **Jon Beal:** It's not like a service contract that you're stuck with for a year. You don't... **Rachelle Harman:** I just wanted to have clarification to see if you were still onboard for a certain period of time or if it's because they knew they needed to renew again.... **Jon Beal:** Well the way it is, is each different matter that we represent a client on we have to explain the terms of the representation. So, representing the Board in litigation is completely different than my representation of the Board for the business matters. It has a whole, completely different area of law involved. You're being sued for damages now. You've got insurance coverage issues. You've got punitive damages claims that aren't covered by the policy. Much different than reviewing contracts and looking at things like that to move the project forward. And so, I'm ethically required to notify the Board of a different matter and have them sign a retainer agreement.

Gary Miller: Gary Miller. **Beth Hutchinson:** Gary. **Gary Miller:** Ah, you know these are

08/13/2018

Special Board Meeting

Seeley Lake – Missoula County Sewer District

situations that I've always learned in my personal life to stay out of. Umm, and my questions were to the attorney, cause when you come in here you've got to have an attorney's opinion on which way you're going. And you can't, you know you've got to be careful what you do, what you say. You're in a lawsuit. And ah, you have to defend yourself in that lawsuit because if you lose it can get scary. It can get real scary. And so, you've got to win, and you've got to go after it, and you've got to keep your insurance carrier paying for you. Because if the insurance company finds you did something illegal or under the board, or this and that, you have no coverage. And it's not a, it's not a nice place to be. And, and that's why I was just started to ask some questions. I want to learn which direction it's gonna go. How it's gonna go? What needs to be done? And when you have an attorney here, presently right now giving you free advice, is my understanding, take it. And you know take it honorably and take it religiously. **Beth Hutchinson:** Gary, I'd like to follow that up with the fact, I agree with you, and I think the Board agrees, that's one reason that we adamantly were not interacting as multiple people until the public meeting. **Gary Miller:** And I, and I sympathize with you guys right now being you know, new and being thrown in to this. Umm, it's, it can't be pleasant.

Beth Hutchinson: I have a couple of questions if nobody else has any. Gary, umm, Nathan. **Nathan Bourne:** Umm, on the order to, to show up on court on, it was actually dated August seventh. The first one got moved a week. **Jon Beal:** Yes. **Nathan Bourne:** To the fourteenth. Umm, that order is dated the twenty sixth of August, or of July. But earlier you said June. Was the, the original case was filed back in June? **Jon Beal:** June twenty-sixth. Yes. **Nathan Bourne:** June twenty-sixth. So, it actually took the judge a month to set the hearing for, for this preliminary. I was just confused on what, what order you're reading that, that's saying there's a temporary injunction in place right now. **Jon Beal:** So, it's the order signed by the judge on July twenty-sixth. And I'll just read it real quickly. This is what Judge Townsend says. "I haven't reviewed the Plaintiff's Complaint, motion requesting a preliminary injunction and brief in support of the preliminary injunction, the Court enters the following order: That the Plaintiff and the Defendant appear before the court on August seven two thousand eighteen at three PM. To show cause of why a preliminary injunction should not be issued preventing the defendants from engaging in any of the following conduct: Incurring any debt to the Seeley Lake Sewer District with respect to the Notice of Intent to Incur Debt approved by the Sewer Board. Accepting any funds or expending any funds from any group or agency for the purpose of continuing planning, designing, advertising, or providing public education regarding the sewer project, pending the outcome of these proceedings. Awarding any funds to the Seeley Lake Sewer District by Missoula County, any department or funding source for the purpose of continuing planning, design, advertising, or public education regarding the sewer project, pending the outcome of these proceedings. Taking any action to advance the sewer project as currently designed, presented, planned, pending the outcome of these proceedings." **Nathan Bourne:** But I don't see where it says temporary, that there's a temporary injunction in there. Cause it looks to me like it says that, that the. It says to show cause why a preliminary injunction should not be issued preventing the defendants from engaging in these things. It doesn't, I didn't read that as that they were prevented from doing that until this hearing. I read that, that after this hearing the judge would determine whether or not the, the District should be enjoined from those, the following list. **Jon Beal:** Well, we'll see what Judge Townsend says about it. I mean she's the one that controls it. So.

Beth Hutchinson: Are there other questions? Okay I think I have three. You mentioned the County. What is our relationship in this lawsuit with the County? **Jon Beal:** Well by statute, there's a lot of statutes that apply, you're a sewer district that has ah, the ability to receive assistance from them, to utilize ah, the public works director as your knowledge base. He's done, you know, I suppose tens

08/13/2018

Special Board Meeting

Seeley Lake – Missoula County Sewer District

if not hundreds of these kinds of systems over the years. Umm, you're a political subdivision that's subject to the duties of loyalty, ah, fiduciary duty, to look out for the common good. You have similar duties due to your relationship with the County, due to the statutory structure to assess properties. You're kind of like a pseudo government entity that's part of the County. Is the best way I could say it. **Beth Hutchinson:** Okay. I must not have asked my question well. Umm, in terms of the lawsuit itself, we have independent representation, etcetera. You did elude that if we didn't show up that would look bad and that they might not pay a lot of attention to the County's part. **Jon Beal:** I don't think any judge would think that people should not respond to their order. But, whether it's Judge Townsend or anybody else. **Beth Hutchinson:** But, does. Is it like two separate cases embedded in one? **Jon Beal:** It is one case. There are two defendants. There's different claims against the Board than are against the County. Umm, it would behoove the Board to work with the County cooperatively for several reasons. Ah, one Greg Robertson, the Board Manager, is a County employee, has tremendous knowledge of these umm, systems. Ah, the County is also trying to provide funding to the Board for the community. If you step on their toes, you're not going to see that funding. Maybe they'd even pull their assistance. I don't know. Ah, and I say that not from the standpoint of taking a side, but the only side we have right now is a resolution that said we're going to move the system forward. I mean that is the direction. That's the will of the world as it stands in my view, unless they change it.

Beth Hutchinson: Okay, umm, another question. What is the difference in terms of going along with the stipulation versus going to court? **Jon Beal:** Is that the stipulation that Attorney Dow, that the plaintiff's attorney sent us, today? **Beth Hutchinson:** Yes. **Jon Beal:** Okay. Well they're asking you to agree to some of the, ah things that they've asked for in their complaint. And so, if you made that decision you would take the decision out of the judge's hands umm, about what is appropriate, what's in the best interest of the community, and you'd relegate that to the plaintiff's lawyer's version of what is appropriate for the community. It would also remove the ability for the Board to have the right and the statute to ask that the judge require the plaintiff to post an undertaking or bond. When you ask for an injunction under Montana law you, the court can require the plaintiff to post a bond for the total damages that would be occurred if they don't prevail. And so, in this case it could be anywhere from fifteen million dollars or more. And that's kind of like an insurance policy to make sure if the plaintiff doesn't win and your funding isn't there anymore, that they pay for it and the community's not stuck with contaminated groundwater and no way to pay for it. So, it would be my advice not to stipulate, because I think it waives some of the community's rights and protections. The judge may rule against you anyways, but you've just done what the plaintiff has asked and taken it out of the judge's hands.

Beth Hutchinson: Thank you. Umm, now can you explain briefly how the hearing tomorrow is likely to go? Not in terms of outcome, but in terms of process. **Jon Beal:** Tough question to answer because in this situation typically I would have a client that would get back to me right away. We'd sit down, we'd develop the facts from them. We'd get documents from them. We'd prepare testimony. Umm, I'm not going to have any of that tomorrow because this has been my first meeting with most of the Board. So, ah, tomorrow we're going to go in there. Umm, the plaintiff is required to go first, but the judge could adjust that. They have to put on their case about why it's in, ah, why it's appropriate legally to stop any activity on this project. Why it's appropriate for the County not to give any money to the community. Umm, why it's appropriate for the Board not to take any action. And then the judge should allow both the attorney for the County and myself to cross examine the plaintiff and the witnesses that they put on. And then we would be allowed to put on witnesses on our end. I

08/13/2018

Special Board Meeting

Seeley Lake – Missoula County Sewer District

don't have any Board members prepared because this is the first time that I've spoken to many of them. So, it will be kind of trial by fire tomorrow, and the hearing is at three thirty, I believe. Two o'clock. **Beth Hutchinson:** Mike. **Mike Lindemer:** The hearing tomorrow got moved to two o'clock. **Beth Hutchinson:** It did, oh god. **Felicity Derry:** Three thirty, right? Three thirty. **Mike Lindemer:** Is it three thirty? **Felicity Derry:** Yes, it's three thirty. **Mike Lindemer:** Three thirty. **Beth Hutchinson:** It seems to me the attorneys ought to know. That they should have been notified properly. **Jon Beal:** Well, they could have sent an email out that hasn't come through our office yet. **Beth Hutchinson:** Where did you get that information Mike? **Mike Lindemer:** I'm trying to find it. **Jon Beal:** Latest order we have from the courts says three thirty on August fourteenth and that was signed back on August second. Let me see my phone to see if an order's been emailed by the judge since we left the office. The other thing I would say when you asked me about the hearing, you know in the future if we're the counsel for the Board on this matter we have to have a lot quicker action. We can't wait for public meetings on everything. Everything is not available to the public anyways. I can't sit here and say how we're going to defend a thing and try to stop that from getting punitive damages from the Board. If I tell that in a public meeting, surely somebody's going to go tell the plaintiff right? **Beth Hutchinson:** Right. **Jon Beal:** And then all of a sudden, we've got a problem so, I mean we, we would have to move much more quickly, otherwise the process just can't work.

Beth Hutchinson: Tammy. **Tammy Lewis:** Tammy Lewis. I guess I had a question for the Board in a sense, but because you guys didn't educate yourselves about this. This is why you have not met with your attorney as, because this is kind of, if you are part of a board this is known that you can meet with an attorney outside of a public meeting, and when we're representing the community, slash ourselves, slash yourselves, wouldn't it have been prudent do some research so that you could have met with him before the day before our meeting? **Beth Hutchinson:** All right, I'm going to take exception to the tilt of your information because. **Tammy Lewis:** Why?... **Beth Hutchinson:** Because I have information that you do not have. Okay? I think it's presumptuous to say that that we didn't make any effort to do anything. I, in particular wrote a few pointed questions because I was very concerned that if five of us participated in conference calls, it constituted an illegal meeting. And I did write those questions, they're on record, and I didn't receive any answers. So, I decided to err in the direction of safety. Okay? Because I know at least two of, three of us, have been doing research. We haven't cross commented with everybody. We have no idea what...(cough)...has discussed with the attorney or not. But there has been constant updating of information from the firm and questions have been sent in.

Beth Hutchinson: Dennis. **Dennis Clark:** Yes. Umm, Jon, assuming that the Board when we go to the next bullet item umm, choses to retain you. Would it be possible to request umm, a delay in tomorrow's hearing so that you've got some time to prepare? It seems to me that you. You said trial by fire, that seems pretty risky for the community ah, even if, like I say, the Board does in fact operate in the public interest and hire you. Umm, is there a way that you can get this postponed so that you, you and your team here can do some work? **Jon Beal:** If authorized by the Board I would request Judge Townsend, I would tell her why we're in this situation. It's not due to a lack of effort on my part. I've been trying to get in contact with the Board since we started. **Dennis Clark:** Right. **Jon Beal:** Ah, the plaintiff's attorney has refused to just, I asked the plaintiff's attorney to just waive this for a while and let's all sit down. Let's find out what Mr. Larson's concerns are. What they are factually. What they are legally. And try to address this in a more professional non-litigation sense. Umm, that has been rejected without signing either stipulation or consenting to the preliminary

08/13/2018

Special Board Meeting

Seeley Lake – Missoula County Sewer District

injunction. So, I could ask, if the Board would authorize me to, I would ask Judge Townsend. She may so no, but she may say yes, under the circumstances. **Dennis Clark:** Thank you.

Beth Hutchinson: Any more questions? Nathan. **Nathan Bourne:** Umm, just one. Ah, you said that the, that the, that this Board is a political subdivision. Is this Board actually a political subdivision of county government or of the state government? **Jon Beal:** Well, let me answer that. The, there's a lot of statutes on this area that are pretty complex, but they have the duties of a political official to look out for the public in general. Umm, I don't know whether, I haven't analyzed whether the statutes would say that they're a subsection of Missoula County or the state. Probably the county, but I haven't analyzed that.

Beth Hutchinson: Any other questions? All right I'm going to redirect the discussion to the Board to see if anybody on the Board has any questions left for Jon? **Unidentified person:** I have one more question here. **Beth Hutchinson:** Umm, I moved ahead, okay. **Unidentified person:** Okay.

Lawsuit & Beal Law Firm Retainer

Beth Hutchinson: Umm, okay, that leads us to the next issue, which is to decide on a retainer, and I had asked Troy to contact Mike Boltz to have this issue put on the agenda, as a courtesey, and Troy would you like to lead the discussion on this? **Troy Spence:** Inaudible comments... That wasn't me. **Beth Hutchinson:** No. **Troy Spence:** No, I didn't go down there. **Beth Hutchinson:** Well, didn't you contact Mike? **Troy Spence:** No. **Beth Hutchinson:** No. So... **Troy Spence:** I want to stay out of that. **Beth Hutchinson:** ...so, it got on there by mystery. Okay. Well, all right then I'll lead it. All right then. Umm, it, the next issue is whether the Board will retain Jon Beal's firm to represent the Board in this lawsuit. Umm, I would like to make a statement first, which is I really believe it is the obligation for every defendant to have appropriate legal representation. Umm, so, that's one thing. And I think it's really important for the Sewer Board to have legal representation. Representing the community of the Sewer District. And I'm just gonna ask everybody, starting with Davy. What's your position on legal representation for the Board? **Davy Good:** I absolutely think we should retain. **Beth Hutchinson:** Louder. **Davy Good:** I absolutely think we should retain Jon Beal. He's up to speed, the most out of any lawyer that's out there. Has been representing us. So, that's my stance. **Beth Hutchinson:** Juli? **Juli Cole:** I absolutely agree we should retain Mr. Beal as our, as our lawyer. We definitely need representation. Especially tomorrow. **Beth Hutchinson:** Troy? **Troy Spence:** I'm a hundred percent for him representing us and I'm moving forward tomorrow. **Beth Hutchinson:** Would somebody like to make a motion?

Juli Cole: I'll make.. **Davy Good:** Yes. **Juli Cole:** Go ahead. **Davy Good:** I make a motion that we ah, retain him to represent us tomorrow and further more through the hearing. **Juli Cole:** I'll second it. **Beth Hutchinson:** Any other comment. It's been moved and seconded to retain Jon Beal's firm to represent the Seeley Lake Sewer District in this lawsuit. And we'll do a roll call please. **Davy Good:** Felicity. **Felicity Derry:** What's that, sorry. **Davy Good:** Roll, roll call. **Felicity Derry:** Roll call. **Beth Hutchinson:** And she, you should shift where you start it. **Davy Good:** You mean ask you first? **Beth Hutchinson:** You go. **Davy Good:** Oh, ah... **Beth Hutchinson:** She did her first. You should rotate it. **Felicity Derry:** Davy? **Davy Good:** Yes. **Felicity Derry:** Troy? **Troy Spence:** Yes. **Felicity Derry:** Juli? **Juli Cole:** Yep. **Felicity Derry:** Okay. **Beth Hutchinson:** Yes. **Juli Cole:** Yes.

08/13/2018

Special Board Meeting

Seeley Lake – Missoula County Sewer District

Beth Hutchinson: Okay, well that concludes our agenda. **Jon Beal:** Can I ask for some direction on how to represent the Board. I guess I have several questions. **Beth Hutchinson:** Okay. **Jon Beal:** Do you want to sign the stipulation? Do you want me to request the judge that we continue the hearing since I've just been retained tonight? Do you want to oppose the TRO? Do you want to oppose the complaint... **Beth Hutchinson:** All right, would, would it be appropriate for us to go into executive session at this point? **Unidentified person:** No. **Jon Beal:** I probably, I'd, I'd prefer to know the general direction of where I am, given my duties to the Board. The Board's, my understanding, the Board's position right now is that we need to have a, a sewer system in place. And, and I need to know whether, and I have a duty to represent the community through the Board's actions. So, if that is not the Board's position I need to know that and I think the community has a right to know that. And then if we want to talk about the details on how to implement whatever I'm directed to, I think that would be appropriate for executive session. **Beth Hutchinson:** Okay, now we've got into something complicated in the sense that currently I don't know if we know the Board's feeling on that question. Umm, previous Board did do a resolution. This Board has had discussion about whether some of the obstacles could be addressed with the current sewer proposal. Umm, no one has expressed any opposition to the concept of a sewer. So, that leaves us with continuing a discussion on those issues to help you out.

Juli Cole: Can I ask you a question? **Beth Hutchinson:** Yeah. **Juli Cole:** Can we umm, talk about maybe postponing it so we have opportunity to meet with him and be prepared and.... **Beth Hutchinson:** That's... **Unidentified person:** That's what he just asked. **Beth Hutchinson:** All right. Well, given the main question... **Juli Cole:** I'm sorry did I... **Beth Hutchinson:** ...that Jon just asked. That's gonna delay him too far. **Jon Beal:** That isn't going to delay me. I mean it's, it's not me I'm concerned about. It's you folks. This is your life, your home, your family, your money. So, I think it's best to be prepared. The judge may not allow me, may not allow it to be continued. Might say, Jon you've know about this for a long time. Umm, if your clients didn't respond to you, I'm not going to worry about it. Or the judge might say, you know what I, I agree that's good cause, when can we get it scheduled? We'll probably have to work out some details. Cause we've got this hearing on Thursday ah, for another assessment and it's my understanding that the plaintiff doesn't want that. So, I would imagine the argument from Mr. Larson tomorrow is going to be, judge we need to stop this. And then if that happens we might have an avalanche effect on the funding. The grants are going to go away. We have, we have a huge problem facing the community and the Board. And I think that, you know from my perspective, the details of the project, I think that people should talk and work that out. But the position of the Board on the public record is that they have to have a sewer system. And they voted on that. That's the will of the Board, it's by resolution. If there's a motion to reconsider that, or something, I mean I haven't looked at the legality of that. If you can change it and what the ramifications are and what would happen in the lawsuit. I don't know. But, I mean if the Board is not going to follow that resolution then I need to know that because I need to tell that to the judge too. **Beth Hutchinson:** Right, well can you work with the fact that the Board may not have unanimous feelings about the current proposal? **Jon Beal:** I don't know of any requirement that they have to have unanimous. I don't, I think that they have by virtue of being on the Board, I think that your duty to the community is to follow through on what the Board's position is. That's the legal public, publicly documented position. If the Board wants, if you have numbers before but want to change that position, I think that that needs to be put out to the public and that needs to be vetted on how that's handled. I don't know that answer to it, but I don't think that the Board can ignore a resolution that they've spent one point two million dollars on, and over nine

08/13/2018

Special Board Meeting

Seeley Lake – Missoula County Sewer District

million dollars in free funding coming, and just the delay alone will make sure that, that money is lost. From what I've been told. So, if the Board is going to change positions I think they need to do whatever their notice procedures are. Get it out to the public. And umm, go from there and give me direction. **Beth Hutchinson:** Well, that precludes activity tomorrow in any sensible fashion, I think. **Jon Beal:** Well, I think at some point in time we can lawyer things to death but I think we've got a higher goal and duty, and that's to protect the community. And I just need some direction on that. And I'm willing to let Judge Townsend chew on me if that's the case, but I think we need to tell her, she's the judge, about what the Board's position is for the community, so she can make an informed decision. I mean, I, I just don't think we can spend all of our time on legal technicalities. We want to follow the law, we want to be ethical, but we have a greater umm, calling here to deal with. Whatever your position is I just need to know it.

Beth Hutchinson: Okay, umm the election would suggest that the greater calling was to get more information about the current proposal. Not to move forward until a lot of questions were answered. And I think I can probably go through the Board members. Have them comment on whether they feel at this moment they could individually support the current proposal, or if they feel that they cannot currently, immediately support the current proposal because more information is needed. Would that be helpful? **Jon Beal:** Can I get a little bit longer answer? **Beth Hutchinson:** Sure. **Jon Beal:** I would ah, be greatly pained to try to define the intent of the public for the election. And I think the best example would be the presidential election. Umm, all I know is that the Board currently has a resolution that says move the project forward. The Board's official acts are taken by vote and they're by resolution and that's the publically available documents. You're being sued and you're being sued for attorney's fees and punitive damages to stop that. If the Board is going to follow a different procedure I think that they need to follow, follow a different course of action. I think they need to follow the procedure they followed before and change it and make that publically available. I don't think that through delay or differences of opinion on the Board umm, that you cannot follow your own resolution. Something I'd have to research, but I think that's a decision the judge will have to make as well. And that. It, it puts, it's a very tough spot. You have a resolution that people have spent a million dollars on. Secured over ten million, or about ten million dollars in funding and you have a plaintiff that supported new Board members that is suing you for damages. And that has to be resolved somehow to the satisfaction of you and the public. I'm not picking sides, it's just, it's just a fact. And I don't think we can go on in just this never never land where we don't address that head on. And I'm not attacking anybody. It's just a fact. If, if I was on the other side in the community and I was getting sued I'd just want to know where we are. **Beth Hutchinson:** All right. Procedurally the soonest we could have another Board meeting, which would be a special Board meeting, would be forty-eight hours from now. If the four of us agreed to have it. And I would ask the Board to individually give you preference. What we're dealing with right now is can you in all good conscience say that at the moment you support the current proposal, or do we need to have a special meeting to go back and change the resolution regarding the sewer, so that it is clear that we support the idea of a sewer, for all or part of the town, but possibly not the current proposal because information is needed. What is your position on that? **Juli?** **Juli Cole:** I think we need to address what's happening tomorrow. What we're gonna tell him to do. Are we gonna postpone? Are we gonna go against? Are we gonna go for? I don't, I think that this is a little preemptive to say am I for the sewer or against. We need to talk about this lawsuit tomorrow. And that's what... **Beth Hutchinson:** That is what Jon is asking us to do though. **Jon Beal:** I mean that's, what I, I need need to know are you directing me to sign that stipulation to stop everything? Are you asking? You're not asking to do that. Are you asking me to go to court tomorrow and ask the judge to continue this

08/13/2018

Special Board Meeting

Seeley Lake – Missoula County Sewer District

until I can get some consensus from the Board on what they want done, and what's legally appropriate? If the judge won't allow me to continue it, do you want me to oppose the TRO? **Juli Cole:** I think we need to address that. **Jon Beal:** I think that's. I mean I need all those questions answered otherwise, I mean I'm just a rudderless ship in front of the court.

Gary Miller: Are you guys not locked into a resolution right now? **Unidentified person:** Yes. **Gary Miller:** You're like in a contract. If you break the contract while you're going to court every, will everything not blow up? **Jon Beal:** Well, I. That's what I said, the will of the Board through the process. That's, the public record is to move forward on the sewer system. That is the will of the Board. In my view, and I'd have to, you know I'd have to do some more work on it, but when you vote to go on the Board, the decision has already been made that the system is necessary and that you have a public health issue out there. And so, the only decision left under the existing resolution is how do you implement that. And there's been a lot of work done on that. That's my view of where the Board is, and their duty is to the community. I, I think that that's, you know the judge will ultimately decide that. They could file a declaratory judgement action. But if that's the case then a personal misgiving about the sewer project, you don't get to have that. It's like when you put on the black robe and you're a judge. You might have all kinds of personal beliefs about things, but you've just got to follow the law. And you've got to follow the law for the greater good. And that's your duty in my view. And I see your duty is really clear, as it stands. **Juli Cole:** We'd have to change the resolution in order to, to go do anything else different from what I'm hearing from our lawyer. **Jon Beal:**right now.... **Beth Hutchinson:** That's exactly what I was saying. **Jon Beal:** But you don't have the option, I don't think to do that now. **Juli Cole:** That's, that has nothing to do with tomorrow. So, I'm not gonna answer that question. Because I think we need to address what we're gonna do tomorrow. And we need to talk about it and make a vote on it, or something. Are we gonna postpone it? Are we gonna go with the stipulation? He's given us three options. **Jon Beal:** Not three. I need, I need questions answered in sequence with all the... **Juli Cole:** I'm sorry. **Jon Beal:** So, what I first would need to know, she's got a stipulation that she wants you to sign, which would stop any action by the Board. My personal view is, that would violate your resolution. Ah, if you want me to do that, I need to know. If you don't want me to do that, I need to know if I go to the hearing can I ask for a continuance so I can get some consensus and direction ah, from the Board. What's in the community's interest and what the requirements are in that resolution? And if not then if the hearing has to go forward, cause the judge controls the game, am I directed to oppose the restraining order so the Board can continue on with what's planned for next Thursday? And then readdress the bigger picture if that's what the Board is gonna do. But I think that's your legal duty. I think that's your ethical duty to the community. I don't think you can make a decision now to go back on what's been done without following a formal process and disclosing to the public. And letting people that are for your position and against your position state their piece.

Beth Hutchinson: Is there a motion? **Davy Good:** I make a motion that we do what Jon Beal is recommending. Go there and try to get it extended so we can ah, better prepare ourselves... **Juli Cole:** I'll second that. **Davy Good:** ...to make sure he doesn't shut us down. **Jon Beal:** Well, the two ah, the motion would have to include not signing the stipulation... **Davy Good:** Absolutely. **Jon Beal:** ..responding to the attorney. If the judge will not allow me to continue it, to do my best under these circumstances to fight the injunction, to give you the full range of options for the Board and the community to decide what to do. I mean, literally if the injunction goes through I think it's probably the death nail. Your, your dissension amongst yourselves will just stop everything and you'll start over at whatever cost. And I don't think that's good for anybody. **Juli Cole:** I'll second that. **Davy**

08/13/2018

Special Board Meeting

Seeley Lake – Missoula County Sewer District

Good: I, I, yeah. I'll sec. I'll. Well, first we have to make a motion... **Jon Beal:** So, your motion... **Juli Cole:** The motion is, right. **Jon Beal:** ...is not sign the stipulation. **Davy Good:** Yes. **Jon Beal:** Go to court tomorrow, attempt to get the hearing continued. If the judge will not allow me to continue it, to oppose it so that the, the injunction is not entered by the court and the Board has the full range of options to decide whatever they want to do, in the best interest of the community. The judge will, what will happen on that, they'll postpone it for a certain amount of time, they're not just going to give you a bunch of leeway. It could be a week, it could be a month. I would try to get more than a month because there's a lot of issues that I think have to be addressed to do your job well. **Davy Good:** Right, right. **Jon Beal:** That's how I would amend your motion. If you want to do that? **Davy Good:** Yeah, I, I recommend we do what our lawyer rec. Make a motion to do exactly what he said. **Juli Cole:** I second that. **Beth Hutchinson:** All right, you. You've got to put that in actual words for Felicity to write down. **Davy Good:** I'll make a motion that you go there and you, that we don't sign the stipulation and you go there and fight it... **Jon Beal:** Try to get it extended. **Davy Good:** ...try to get it extended for as long so, we can come together and prepare ourselves for the next hearing or whatever the extension date is. **Jon Beal:** And if not, if they won't allow us to extend it, to oppose the.... **Davy Good:** Yeah, absolutely, absolutely oppose it so we, it'll give us the full range to fight it. **Jon Beal:** That gives me sufficient direction. **Davy Good:** Okay. **Juli Cole:** And I will second that. **Beth Hutchinson:** Okay. It's been moved and seconded to retain Jon Beal and his firm to not sign the stipulation, to ask for a continuance so that he can further organize to represent the Board and if that is not acceptable to the judge to defend our position as he can. Keeping open a full range of options for the Board. Felicity would you roll call? **Felicity Derry:** Troy? **Troy Spence:** Yes. **Felicity Derry:** Juli? **Juli Cole:** Yes. **Felicity Derry:** Davy? **Davy Good:** Yes. **Felicity Derry:** Beth. **Beth Hutchinson:** Beth, yes. You're the president, you don't vote. **Beth Hutchinson:** One day yes. One day no. **Felicity Derry:** Okay.

Beth Hutchinson: Okay, the motion has been passed. Jon Beal has been hired. It is as clear as can be what he is going to do for the District. **Jon Beal:** All your communications just be like ...inaudible... they just go to everybody... **Beth Hutchinson:** Okay. **Jon Beal:** ...It goes out to everybody else. So.

Beth Hutchinson: Now do you have any desire to speak to us any more tonight? **Jon Beal:** I'd like to. I need you to sign our retainer and then I'd like to talk to you for a few minutes. **Beth Hutchinson:** Okay, in that case we're going to recess for a slightly undetermined amount of time to go to executive session. Umm, we will open up the meeting again when we're finished and if those of you who would like to come back, or stay, want to leave a phone number or something, we'll give you a call.

Unidentified person: What time is the hearing then? Did you decide? **Beth Hutchinson:** Oh, Mike. Did you find anything out about the hearing? **Juli Cole:** It's at three thirty.

Moved into executive session at 8:42pm

The executive session concluded at 9:28pm

NEXT SCHEDULED MEETING:

The next Board meeting was scheduled for August 16, 2018.

ADJOURNMENT:

Attest:

Beth Hutchinson, President

-And-

| SEAL |

Felicity Derry, Secretary