**Skyline Mountain Special Services District**

**2201 Skyline Mountain Resort**

**Fairview, UT 84629**

**Minutes of the Water Rate Hearing held May 9th, 2012 at Skyline Mountain Resort Clubhouse at 7 p.m.**

I’m Ed Collins, chairman of the Special Services District Board of Trustees. We are appointed by the Sanpete County Commission. Mont Pugmire represents the lower area; Dawayne Coombs is the at large member; Layne Lundstrom represents Birch Creek; I represent the upper mountain area 2; Everett Taylor is the joint board member.

Minutes of the April 17th, 2012 meeting were presented for approval. Motion to accept was by Dawayne Coombs with second by Everett Taylor. Minutes accepted as presented with a 5-0 vote in favor.

This is the time and place set aside for this public hearing. Ed read the public notice notifying the members of the District of this hearing. Our purpose here tonight is to take public comment on the proposed issuance of bonds for the purpose of financing the needed improvements of the Skyline Special Services District public water system. Copies of the bond resolution were made available. Mont stated that no one had made such a request. Layne will post them on the website for any to see. There is a 30 day protest period as spelled out in the notice.

The chairman pointed out that in addition to taking public comment in the last two hearings, “we have gone the extra mile to allow additional questions to be asked to help clarify any aspect of the proposed project. It is our intention to add that extra layer to this hearing. We plowed a lot of ground last time and unless it is someone’s desire to have us go over all of that data again, we will simply begin to take comment or questions now. Is there anyone here tonight that was not present at the last hearing? (Seeing one, we will begin with comments or questions.) “

Mont commented for the record “that few of the nearly 89% of the members of the District who voted in favor of the proposed project in the “straw vote” that was taken by Skyline Mountain Resort in February of this year are present tonight. They have cast their support and did so again at the public open house held in Orem early this year and do not seem to feel it necessary to keep repeating the same support as in the past. In fact those present have already been identified in previous meetings as being opposed to the proposed project.”

Mr. Guckenberg, A51, asked for a brief overview of the background and reasons for the proposed project and the deficiencies that need correcting.

Ed explained that the District owns the water rights and the system as presently constituted. We have contracted with the Skyline Mountain Resort to bill for and collect the water bills. This is seen as a great convenience to the members who then can more easily manage both their water bill and their monthly dues. The Resort Board has contracted also to operate the system for the District. In an audit by the Division of Drinking Water, a number of deficiencies were re-identified but this time there came a letter requiring immediate correction on some of the issues. No more deficiency “points”. This time a “fix” was mandated. We have since entered into a corrective action plan with the DDW to address these required improvements. None of the deficiencies were new to the Board. They have been known for some time but the Board lacked the funds to initiate major repairs.

When the notice of deficiency was received, the Board decided it was time to attempt to think more “globally” and began the process of applying for low interest funding to help us correct the problems. We were moved to #3 on the priority list and on January 18th, the Division of Drinking Water Board voted to approve the necessary loan funds to fix all of our deficiencies at the same time, which seemed, by far, the least costly approach. We have had numerous open houses, meetings and hearings to inform the members of the District of the nature of and seriousness of our water page 2…..system’s problems. There was a ballot sent out by the Skyline Board to try to measure support for such a project. Every lot owner in area 1 (the lower area) was provided a ballot. Some 60% returned their ballot. Of those 89% voted in favor; 8% voted for some other option and about 3% sent their ballot but did not express a choice. Next we held an open house in Orem so that owners could come and learn the details of the project. Some 75% of those attendees expressed support for such a project. As required by statute, the District has held open houses and public hearings on March 24th of this year and again on April 17th, 2012. After extensive review and consideration of all views offered by the members of the District, the Board has concluded that by far, the 2 ½% low interest loan with a 30 year repayment schedule, is the best alternative to proceed with obtaining the loan and building/rebuilding the whole system at once.

Rural Water Association of Utah assisted us in calculating the water rates needed, total amounts needed and term of repayment all the time trying to keep the impact on the district members as low as possible. The rates adopted were: Connected in the full time area = $58.00 per month. Not connected in the full time area=$35.00 per month. Those not in area 1 (the upper mountain, area 2 and Birch Creek, area 3) would see no change in their water rate but an amount equal to $3.40 per month from each area 2 and area 3 owner’s water bills would be used to help mitigate the costs of the water the Resort, itself uses for the rental cabins, pool, campgrounds, clubhouse etc. There have been several who have asked why they should pay for it all year when we are only here ½ or more of the year? We’ll talk about that in a little while.”

Question: What happens when no one during these economic times can pay the amount? Answer: The District has pledged to repay the Revenue Bond. No property has been pledged and none of our water rights or facilities has been pledged as collateral. Several people asked us what we would do in some kind of Armageddon scenario. We see that as so remote that we aren’t even putting such a scenario in the realms of different possibilities that may occur. We are entering into a rate covenant with the Division of Drinking Water that we will adopt rates that will be sufficient to maintain the debt service on the bond and maintain an adequate reserve fund to operate the system so that we will always be able to make the bond payment.

Eric Johnson, Bond Attorney: Answer: “Since statehood was granted, our constitution has had a provision to carefully monitor municipalities so they don’t, in fact, get in over their heads. The bond has a first payment in 2013 and a final payment in 2043. Payments will be approximately $143,000 annually. Let me explain what the 2 ½% interest is. That means that the State of Utah is subsidizing this loan to the tune of about 2% per year. These are tax exempt bonds. This loan can be prepaid at any time in whole or in part without penalty but it comes off the back so it doesn’t lower the payment but it would shorten the time. The District is being given a very favorable interest rate. Could the District go out and borrow on its own and get an even better rate? I would have to say, no because of the very favorable terms of this loan. You are getting a very favorable rate but the DDW is very serious about getting repaid. The interest on delinquent payments can be as high as 18%. The funds go into a construction escrow and the DDW oversees the disbursement. Your first priority is to maintain the system. The second is the debt payment. The third obligation is to set aside in the first 10 years one year’s payment in reserve. The fourth thing is to gradually build up a replacement fund. “

“What power does the District have to ensure collection? They have the power to establish late fees; to lien property; and, in your case, to lean on the Resort’s funds in a dire emergency.”

Question: Then it is possible they could lien your property and repossess it if one came on really hard times? Answer: I’m not saying that isn’t a possibility but I deal with these things every day and I have never seen it done.”

Question: So if I can’t afford to pay, they can take my property and attempt to sell it to cover the payment due and I would be off down the road looking for a trailer to rent?” Answer: “

Pages 3…..The powers that the District has are the same for every special services district in the State. The law applies equally to everyone. I will say this: In all my years of practice, I have never seen anyone lose their property over an unpaid water bill.”

Eric: “The covenant says the system can’t be sold. They promise to operate the system with adequate books. They commit to try to operate the system efficiently. If the District were to run into trouble, this lender has a larger listening ear than any bank you would ever go to. I deal with all lenders all over the state and this lender has a greater ability to work things out with you than any other I know about.”

Question: John DePaul? Lot C61: What collateral is the District pledging? Eric: None. Only the revenues from the users.

Question: Earl Seely B22: What rights of way will be required? Answer: The District already has in place with Skyline Mountain Resort the necessary agreements to build this system. It is possible there may have to be amendments to smooth out details. We have to demonstrate to the DDW that we have the rights of way etc.

Question: Burt Beddoes part owner of C52. If the Resort gives property away don’t the members have to vote on it? Answer: We presume that the leases we have in place right now perhaps with some necessary amendments will be the instrument by which this is done.

Question: Earl Seely B22: The notice in the paper states a possible bond of $3,600,000 and the figures here are for $3,007,000. Why are the two figures different? Answer: The Bond Parameters requirement is for a larger number in case of unforeseen circumstances. That is why it is different than the DDW’s loan amount.

Question: What are you going to do with all the rock? Answer: We have done everything we can do and the Skyline Board has been very forthcoming to alert the engineering professionals as to our ground conditions.

Question: Has a geological study been done on the soils? Answer: We have done that for the storage tank location but only generally for the water line locations because the location of those is not yet set in stone, but there will be.

Question: G Guckenberg A51: I understand there are some who don’t want to go along with this. Is it possible that someone could petition out of the Resort and drill their own well? Answer: While it is theoretically possible there are several things working against that idea. One: The CC&R’s prohibit individual well drilling. Two: One would have to own sufficient water right s. Three: Creating an area of legal source protection large enough for such a well would require more space than the individual lots generally have.

Question: Stauffer J78? (Upper Mountain) Did you say a geological study has or will be done? Yes or no. Answer: We have already answered that question: Yes, it has been done and more will be done as the project progresses.

Question: Stauffer J78? (Upper Mountain) Will this be put to a vote of the whole Resort? Answer: No, I don’t think so. We have a strong majority that have expressed their desire for this project and we are comfortable with the many hearings and meetings that we have had, that we have a firm sense of the majority and what they want. You are in the upper mountain area and are not even affected by this project except for better overall fire protection and better overall water supplies for our “fill stations” which you use regularly. I have answered this question at least 12 times in the meetings that we have had.

Mrs. Stauffer: “I move that we have a full vote of the members.” Answer: This is not a meeting where motions will be entertained. You are completely out of order. (More comment from Mrs. Stauffer). Ed: “Mont will you please record the comments.” Mr. Stauffer: I vote against it. Ed: I’m sorry. You are not in the area affected by the project except for the benefits already stated.

Page 4…..Ed: Are there any other comments or questions?

Comment: Rick Whitney (part owner of Lot C52) Some people in the Resort don’t have electricity yet. Are we going to have to help pay for that too? Why do I have to pay for water I won’t use? How are you going to limit overuse for landscape watering? Answer: The rate structure deals with over use. This discussion has no relationship to Skyline Board’s ongoing efforts to bring electrical power to all areas of the Resort.

Comment: Stan Adams B section: I can’t afford this. There are at least 15 people here and at least 12 of them are against this. I can’t afford it. I’m going to have to go live in a trailer. I don’t know if you people have some vested interest in this or money in it or what but something is wrong here. Answer: We have had hundreds of people at various meetings and you are correct, there are about 12 people against this project and you are all here tonight as a group. The other 90% of the members have already attended one or more meetings and have cast their straw poll ballot through SMR and although this little group is loud, you simply do not in any way represent the vast majority.”

Comment: John Tidwell C69: I have to haul water and I’m tired of hauling water and I am in complete favor of this project.

Comment: Bert Beddoes: part owner of C52: Mont says he has talked to numerous people about this project but he has never talked to me about it so I don’t know who he is talking to.

Ed: Are there any other comments?

Comment: Rick Whitney part owner of C52: I have talked with the county commission and told her that there are a whole lot of people against it and wonder what we can do? She answered that she has not heard from too many people but a few have called. The Board of Trustees of the Resort should take into consideration the majority of the members and put an end to this. Answer: Everett Taylor, joint board member: The Board of Trustees has listened to the majority. Our results of our straw ballot were 89% in favor to 8% in opposition. Our open house in Orem was more than 75% favorable. The District’s March Public Hearing had a significant majority speak in favor of the project. The Board IS and has listened to the majority, as you have suggested and it is clear that a large majority want us to proceed and get all these deficiencies corrected and the long promised water to these Sanpete County designated “full time available” lots so thank you for your suggestion but that is exactly what we have done.

Comment: unknown: “I’m part of the 90% who agreed to go ahead with this project. I want water. We had a vote and we have had meetings and I agree with the 90% who want this. I’m tired of hauling water. I want it to go ahead.”

Any other comments? Any other comments? Ok, hearing none, I declare the public hearing closed.

Ed: “. I want to address the issue that there are other options for less money. The only specific proposal that I have seen said that we can fix the problems for 1/3 of the money. Have you seen that as well? I don’t know that number was arrived at but it was in a letter sent by someone to the DDW. I presume that we are solving the pressure problems with pressure pumps but I doubt that it includes the storage tank but I don’t know that but when I do the math on that myself, $1,000,000 to solve the problems for the existing customers, if that is 1/3 of the debt service of that $140,000 plus another $60,000 extra operating costs totaling $1,000,000. If you run that against the existing meters (approximately 96) that equates to over $600.00 more per year for each metered customer. That would be far more than the $58.00 per month this whole project will cost. It is conclusive that no matter how you run the numbers, the proposed project is the least costly way to go. As detailed as you are asking us to be, before you start spouting off figures, I am asking you to be as careful and accurate as you have required of us. When you are quick to assume that there is a cheaper way to solve the problems, please make sure you run your figures through the same detail we have done. I can’t get there. I would be glad to go over any spread sheet you have. Someone said that it seems that the page 5…..Skyline Board of Trustees and the District Board seem to be of one mind. I don’t think we have ever been bashful about that. We are of one mind and it is the best interests of the Resort, which is the Districts ONLY customer that we are, indeed of one mind. We believe that this project is the best option for us to solve all of our water deficiencies. I’ll tell you what I wish. I wish for the last 35-40 years the Skyline Boards had not deferred maintenance and that for the last 12 years, the Special Service District had not ignored the problems they knew were there. But, they didn’t so here we are. The stewards who had these positions before we held them frankly did not do the things they needed to do to protect the assets of the District. Some of the very most vocal in opposition are the same ones who WERE in these roles previously. I wish they had done what they should have and we wouldn’t be in the same position we are today.”

Comment: Layne Lundstrom, Board member: As a board we are dealing with a probable moratorium on connections until these things are resolved. We simply don’t have enough storage to continue to allow connections. There are lot owners who have been promised water for years and they deserve to get that service. The partial fix proposed by the small opposition simply does nothing to address those issues.

Action item: Do we want to take action or defer it?

Mont: After a review of all we have heard from every meeting, it is clear to me that the vast majority of our members want us to proceed. Dawayne: I, therefore move we approve Resolution #2 as listed in the public notice. Second by Mont. Is there any discussion on the motion? Hearing none, all those in favor of accepting the resolution as presented indicate by saying AYE. Are there any opposed? The vote is 5 in favor and 0 opposed to the adoption of the Resolution. The motion carries.

The next item is the following published notice that on May 9th there would be a public hearing to hear comments concerning the proposed rate increase. The base rate for connected users in area one will be $58 per month. The base rate for those whose property is passed by the water lines but who are not connected will be $35.00 per month. The rates for those in areas 2 and 3 will remain the same but $3.40 per lot per month will be allocated to the maintenance and operation of the overall system and the Equivalent Residential Connections caused by the amenities of Skyline Mountain Resort.

Are there any questions about the rate proposal?

Question: Is there a timetable when the new rates will be in effect? Answer: It is not our intention to implement the new rates until we have closing on the loan. You should not be mislead into thinking that if we don’t proceed with the whole system that your rates will be as they were. We would still have system fixes and repairs that MUST be done so the future water rates even if the project did not proceed, would likely be the same or very similar. We simply have a lot of deficiencies that absolutely have to be addressed. Essentially we would have to go back to ground zero if the project does not go forward and determine what needs to be done and in what order and timeframe and figure out the costs of that and then hold hearings such as this.

Question: If I paid the whole amount up front, so as to not leave the burden on my children, is there a way to do that? Answer: We do not as yet have a policy in place but would be willing to try to assist in that area.

Question: Why should all the rest of us, who paid for our meters, have to subsidize those with improper meters? Answers: The engineer’s estimate included an assumption that every meter would need upgrading but we have been using the type and brand of meter we will be using in the project for some time and very few of them actually will have to be replaced.

Page 6…..Question: Are we setting up to eventually use computer readers? Answer: We are already doing that in anticipation of someday going to “radio read” meters.

Are there any other comments? Hearing none I declare the public hearing closed.

Ed: What is the pleasure of the Board? One thing we have heard loud and clear is the desire to possibly establish a rate for the portion of the year when homes are unoccupied. We will give that some serious consideration but we are not prepared to bring such an idea to a vote tonight.

Mont: I move for the adoption of the rates as published. Second by Dawayne Coombs. Is there any discussion on the motion? Hearing none, all those in favor indicate by saying AYE. Are there any opposed? Let the record show there are 5 votes in favor and none against. The motion carries.

Ed: There has been a question raised as to potential personal gain by some board members as a result of this proposed project so I am going to ask each board member in turn to answer for the record. Mr. Henrie (SMR Board) how many lots do you own and where are they? Answer: I own 4 lots. One on the golf course, one on the mountain plus two others all but one I purchased over 7 years ago. Ed: I own a lot on the mountain and one in C section that I bought in 2005 and 2006. Layne: I have 4 lots all in area 3 and I have owned them for a long time. Mr. Taylor: One lot that I have owned for nearly 2 decades. Dawayne: 1 lot in the Birch Creek area that I have owned for a long time. Mont: I have one lot in the B section that I bought in 2003 and I am connected to the water.

Ed: It should be fairly clear that none of us has made recent purchases anticipating some gain by supporting this project. The lot ownership of the people on these boards has history behind it and quite obviously none have been purchased recently with some thought of personal gain and that accusation has been made. Interestingly that accusation was made by a man who also has informed us that this entire project is a terrible, unreasonable burden and that the value of all properties will be diminished by this terrible project. I would suggest to you that you cannot argue that point on both sides. You need to pick. It is either a terrible burden or it is a great benefit. It cannot be a terrible burden for you and a great benefit to me. It has also been alleged that there are members of these boards who will personally benefit by the awarding of these contracts. I want to put everyone on the spot. Do any of you have any interest in any company that may or proposes to do business with the District as a result of this project? Mr. Henrie: No. Layne: None. Everett: I am the certified water systems operator but I have no connection with anyone in the construction part. Dawayne: none. Mont: I have a Brother-in-law who owns a very large construction company in St. George but I doubt that he would bid on this because it is way too small for him. Ed: I have none. My firm submitted an engineering proposal so I recued myself from the selection process but my marketing people submitted an incomplete proposal so it was not considered. No connection to any contractor. None.

Mont: There is a potential conflict with Everett’s recent appointment because we already have an SMR Board member on our Board, as we are supposed to. Our legal counsel has told us that we are within State statutes but the Sanpete County Attorney has expressed some concerns and since we are appointed by and serve at the behest of the County Commission, we will continue to work to resolve this potential conflict area.

Ed: I have no other items and I think we have answered a lot of questions. We may not be the most popular people for bringing this project forward in not so good economic times but we are doing so with the very best intentions and we believe that it is in the best interests of the members of the District and does provide the best value for the dollars to be expended.

Motion to adjourn by Mont with second by Everett. Any discussion on the motion? Hearing none, all those in favor signify by saying AYE. Motion carried 5-0. Meeting adjourned. Respectfully submitted, Mont Pugmire sec-clerk.