



## COUNTY WATER DISTRICT OF BILLINGS HEIGHTS

### Board of Directors Meeting Minutes

November 10, 2025, at 10:00 AM

County Water District of Billings Heights 1540 Popelka Dr., Board room

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The meeting is open to any interested member of the public. Agendas are prepared for the meetings and are available at <https://heightswaterdistrict.com/agendas-and-minutes>. Agenda packets, due to their size, will not be printed for the meetings or at the public's request. The public can access and view the agenda packet online and print them.

1. Pledge of Allegiance
2. President Jeff Essmann called the meeting to order at 10:00 a.m.
3. Roll call: Director Ellis, Director Erpenbach, Director Graves, Director Kary, Director Ewalt, and Director Essmann were all present.
4. Staff Present: Bo Andersson, General Manager; Suzie McKethen Acting Board Secretary
5. Also present: Tom Zurbuchen, Evelyn Pyburn (Yellowstone County News), Andrew Rheem (Raftelis via Zoom), and Harold Smith (Raftelis via Zoom)

#### **President's remarks on Conduct of Meeting**

There are two opportunities for members of the public, our customers, and employees to make their voice heard on issues with the Water District. The first is the next agenda item. Any member of the public may be heard on any subject that is NOT on the agenda. You will have one opportunity to speak which is limited to 3 minutes. Please come to the lectern so your comments may be recorded by the microphone and may be heard. Please identify yourself by name and address and spell your last name for the Secretary. This is a good time to request items for consideration at future Board meetings. The Board will not engage in debate but will attempt to provide brief answers to relevant questions. There is also an opportunity for you to be heard on the Agenda items before a vote. The Board President will acknowledge the Public after a motion has been made and discussed by the Board for their input. The President will recognize speakers who raise their hand. You may comment for up to three minutes. Each speaker will have only one opportunity to speak on an agenda item.

**PUBLIC COMMENT and Questions to the Board on Non-Agenda Items:** None

**APPROVAL OF AGENDA:** Director Ellis made a motion to approve the agenda. Director Erpenbach seconded. President Essmann called for a vote. Motion passed unanimously.

**AGENDA:**

President Essmann asked Andrew Rheem to move briskly through his presentation. Director Ellis asked if any of the numbers had been changed from those presented on Saturday (November 8, 2025). Mr. Rheem said they had not.

A. **City Rate Negotiations** – Andrew Rheem presented an analysis of the city's proposed water rates for the district. He explained that the city uses the "Utility Approach" for contract customers and outlined the proposed rates:

- FY26: A proposed rate of \$3.42/1,000 gallons, with the city adopting \$3.41.
- FY27: A proposed rate of \$4.40/1,000 gallons, with the city adopting \$4.38.

The significant increase in FY27 was attributed primarily to the timing of the West End project.

Mr. Rheem indicated he was scheduled to release a report next week that is more of a report style documentation and analysis. There are timelines that are driving the specific deadlines.

Director Ellis indicated she could not vote to approve or disapprove the recommendations without seeing the complete report. She asked if he could complete the report by Monday, November 17<sup>th</sup> so it could be in the agenda packet for the November 19<sup>th</sup> meeting. President Essmann stated that the 30 days were up November 20<sup>th</sup>. Director Essmann stated that by MT case law, anything the board votes on has to be posted to the public 48 hours in advance. If Raftelis wants the board to support moving forward, the report will have to be available to the board on Monday, Nov 17<sup>th</sup>, 5:00 pm is the deadline. Mr. Rheem said he would "make it happen."

Director Essmann noted that our contract with the city notes that these rates be based on the AWWA Manual. He asked if Mr. Rheem can cite the provision in the AWWA manual that would support your argument? Andrew Rheem said he had the references to the AWWA Manual included within the report. President Essmann noted that these changes impact the city's cash flow. We better have some language in that manual that supports our argument if they don't accept it and you want to make a case that we go through a very expensive arbitration process. Put the language in front of the board before we pull the trigger.

Director Ellis cited an email Jennifer Duray sent November 19, 2021, to Andrew Rheem, Duke Nieskins, Peyton Brookshire, Harold Smith and herself stating "We book assets when they are substantially complete/in-use". The District has known for four years that those assets would be booked. I don't see that there is any advantage to push it out another year. It seems like there is more interest that we haven't paid which would increase our total costs. This is the second time the Board asked to see the actual wording from the manual and Raftelis has not provided it.

Harold Smith said there were multiple references in the Utility Manual as to the proper use of the Utility approach. You do not collect on any asset that is not used and useful.

Mr. Rheem noted there is a change in calculating peaking factors in FY 27 that doesn't make any sense. He is recommending going back to the formula the city used in FY26 which is more in line with industry standards or actual demands.

President Essmann asked if there was language in the AWWA Manual that supports change #3 that Mr. Rheem could provide to the board. Mr. Rheem said he did not believe the manual spoke directly to a requirement for a 3-year rolling average. He said they would cite the support they have for this change. President Essmann asked if he was suggesting the manual had inferential support but not direct support. Mr. Rheem said there was direct support for using multiple years which they accomplish using a recent 3-year period.

GM Andersson said the M1 Manual gives a rough estimate of what to do and how to do it. The manual is a guideline, but it is not an XYZ type of calculation.

#4 City is proposing a step up. Goes back to a master plan for the source. Proposing to use more recent information. President Essmann said that the city needed to build to support future growth for their customers which includes the District. So, the city needs to project how big a plant they need to build. Have you asked the city what we provided to them when they were planning the new water treatment plant? The city assumed the projections we gave them were accurate. Mr. Rheem said this is the one that is less clear because of the problem President Essmann identified. The District engineers based it on 2021 demand data.

#5 GM noted the proposal took 4 million gallons off the Oxbox tank in calculations. Director Essmann asked if there was basis in the manual for the argument? Mr. Rheem confirmed there was. President Essmann asked him to please provide the citation.

Director Ellis noted she wasn't clear what expenses he was talking about. If he was talking about the telemetry, our contract specifies that the City will be responsible for cost of purchasing, installing, and operating the telemetry system. This is standard, and similar to the statement that the City will "... at all times furnish, operate, and maintain, at its own expenses, water transmission mains and pumping facilities capable of providing water at a pressure and quantity sufficient to meet the demands of the District...". Jennifer Duray told Duke Nieskins in May 2021 that "Section II of the water contract specifies that the District shall pay reasonable and just rates for water purchased and the City shall receive reasonable and just compensation for water sold to the District. The City's cost of service-based approach, utilized since 1998 and reviewed/revised in 2009 according to the MOU, fairly identifies the O&M and capital revenue requirements associated only with system components/operations that provide a benefit to Heights Water District. The telemetry system is critical to ensure the reliable delivery of water to the Heights. As a result, the portion of capital and O&M costs associated with the telemetry system that enables delivery of water to the District is a reasonable component of the water rate charged to the District." Director Ellis was unclear if that is what #5 is challenging; the management has complained about telemetry charges for a long time. Dir. Ellis believes that the reasoning is solid on the city's part.

Andrew Rheem said that telemetry is part of the expenses, but it is more than that. It is \$60,000 that is assigned to the District under the methodology for the Oxbow District. By removing the Oxbow Reservoir, we are saying it is city facility, city costs that is driving this. \$60,000 maybe just the cost for telemetry, but I think it is more than telemetry that is being recovered. GM Andersson said there is no telemetry at the Oxbow cost. The city has no cost. They fill the Lanier tank; we fill the Oxbow tank.

\$29,600 difference. President Essmann said we are talking about 3 cents per thousand gallons, so this is not a big item—let's move on.

Director Ewalt noted that the proposal was to take off the Oxbow tank. But that water still goes through the Walter Pump Station. It doesn't just appear out of thin air into the Oxbow Reservoir. President Essmann said the board would have monitors watching both GM Andersson and Mr. Rheem.

### **Five Proposed Changes to the City's Rate Calculation Methodology**

Andrew detailed five proposed changes to the city's rate-setting methodology, intended to form the basis for negotiations.

#### **1. Timing of Capital Facilities Recognition:**

- **Proposal:** Recognize capital costs for ratemaking in the year after a project is funded and in service, not on day one of the construction year.
- **Impact:** This timing change would increase the FY26 rate by \$0.06 but decrease the FY27 rate by approximately \$1.05, pushing significant costs to FY28.
- **Discussion:** President Essmann noted this is just about pushing a big step increase into a later year. The increase will still hit, just a year later. He asked to see what the impact would be in FY28. If it increases the city's costs, it may make the rates higher. Before we pull the trigger, we need to see what the impact is going to be in 28. Mr. Rheem said he did not think he had enough information to project FY28. Raftelis has information about capital expenses, but they would have to make assumptions about the other components. Director Essmann asked Andrew Rheem to estimate FY28 based on prior patterns of increase.

Director Ellis noted that FY26 began July 1, 2025, and we are paying \$3.41 per KG. How does the city recover the additional 7 cents per KG that you propose we owe them and how do we pay for it? Mr. Rheem suggested city may agree that what was paid was paid and the differences aren't significant. Raftelis is focused on FY27; we cannot wind back in time.

Harold Smith noted that Raftelis is proposing alternatives. The board can decide if we want to pursue them further.

#### **2. System Peaking/Demand Allocation Factors:**

- **Proposal:** Revert to the FY26 methodology for calculating system peaking factors in FY27, as the change appears to be a calculation error inconsistent with industry practice.
- **Impact:** This would incrementally reduce the FY27 rate by \$0.10 per thousand gallons.
- Director Ellis noted that the slide says FY27 was calculated incorrectly. Mr. Rheem said he could provide the language from the manual that proves the calculations are incorrect. He suggested what the city provided makes no sense.

#### **3. Demand Data Period:**

- **Proposal:** Use a consistent, rolling three-year average (2022-2024) for demand data for all customers, including the district, to ensure consistency.
- **Impact:** This would incrementally reduce the FY27 rate by \$0.17 per thousand gallons.

#### 4. Annual Volume Demand Projections:

- Proposal: Adjust the district's projected water use for FY26 and FY27 based on more recent data, rather than older master plan projections and the city's assumed 1.9% growth rate for the district (vs. 0.5% for other customers).
- Impact: This would *increase* the district's FY27 rate by \$0.08.

#### 5. Pumping System Cost Allocation:

- Proposal: Remove the district's 4 million gallons of Oxbow Reservoir capacity from the cost allocation formula for a specific set of city pumping facilities, as it is not operationally accurate.
- Impact: This would reduce the district's allocated costs by just under \$30,000 per year, a rate reduction of \$0.03 per thousand gallons in both FY26 and FY27.
- Board discussion:
  - President Essmann asked if he was talking about storage, is this confined to storage of treated water or does it include storage of untreated water as well. Mr. Rheem said it was treated water, but a lot of the costs have to do with pumping costs and not just the tanks. President Essmann asked him to clarify that in the final report.
  - Director Ellis said our current PER from 2024 shows that the District is growing by 2% per year; the Raftelis report says we are growing by a little over 1%. What is key for #4 is that our contract requires us to tell the city our growth rate. Depending on what we told them, that seems to be the controlling factor. We can't go back after the fact and say we didn't know what we were talking about. Andrew Rheem said the District used 2021 data as this was being planned. Item #4 was not just the growth but also the initial base demands before growth was applied. Do agree that if that question is asked in the future, maybe you want to answer that a little differently.

SUMMARY DISCUSSION Director Ewalt noted that the big change is when the cost of capital comes on line. You are just delaying all the costs by one year. Is that true? Harold Smith noted that they are recommending that the rates be calculated based upon standard rate making processes. President Essmann noted that the board needs to know how the proposed changes are going to impact our customers in FY28. That's why he wants to see the estimated calculations. Harold Smith said unless there are major capital costs added in FY28, it is basically just moving the costs forward. Mr. Rheem did note that the city plans the third year of the west end project will be added in FY28. To be consistent, the current fiscal projects the city projects would be pushed to FY29. Mr. Rheem suggested the District could increase our interim rates in FY27 to moderate the projected FY 28 and FY29 rate increase impact from city rate increases. The District doesn't have to wait until the third year and have significant increases for your customers.

Director Ellis asked if Mr. Rheem had proof that the city wasn't anticipating completing the water treatment plant and holding ponds in FY28 which would increase rates dramatically for District customers. Mr. Rheem said the City provided a 5 year estimate that the recommendations were based on.

President Essmann noted that the board will wait for the final report which we need a week from today.

- Public comments: Mr. Zurbuchen noted that he printed the information on Saturday morning. He didn't get squat of what was on the screen and what board members had available. There is nothing on the website even this morning saying the packet had been amended. He asked who represented the rate payer in this? He also has concerns about paying in advance for a project that has yet to be completed. He has heard plenty on representing the City. Director Essmann addressed the issue and is working with General Manager Bo Andersson to improve the process.
- Director Ewalt said the city anticipated completing the project mid-year. So then do we owe the city for the time it is completed in FY27? He indicated that when he was in business, there were several times when he bought a pickup in late December, and he depreciated it for the full year—and he hadn't even used the pick up that year.
- President Essmann noted that this would be on the November 19<sup>th</sup> agenda. If Mr. Rheem does not get his report to the board in time to post on Monday, November 17<sup>th</sup>, the project ends.
- Director Ellis noted that she looked at the packet on Saturday after it was reposted. Typically, pages are added at the end of the packet. She asked what changed and got no response. It is critical that we come up with a system that alerts the public and the board when there are changes and what the changes are. It's been a pattern to drop things in on Monday night, not change the agenda and not communicate to the board, and then nobody reads the addition.

**B. Revise RFQ for Audit of 2025 to clarify Board participation in selection process.**

Director Ellis made a motion to approve Resolution 052-25 modified RFQ. Director Erpenbach seconded the motion.

Board discussion: Director Ellis stated changes were made when the General Manager's asked for assistance. We don't actually need to complete the audit until June 2026. We changed the timelines to make them more reasonable and added some things the board wanted. We added meeting with the board with a draft and correcting errors made in the past 2 years. Given that the board wants to seek a new auditor, the board needs to be active in soliciting RFQ's.

Public comments: Mr. Zurbuchen asked why the wait? A new auditor should have been requested in the spring. Audits are not for correcting errors but to guarantee accuracy.

President Essmann responded that an RFQ was requested last spring. The staff did not bring an RFQ for an audit. They brought a signed contract they wanted us to sign. The last firm failed to ask an obvious question, which is "was there any personal employee use of District vehicles?" It should be reported to the IRS. In fact, there has been for years. Has it been reported for the last 3 years. No, we were informed of that. They weren't asking the right questions. We need to find an audit firm that asks the right questions.

Motion: Director Essmann asked all in favor of the motion to adopt Resolution 052-25, indicate by saying aye. Motion passed unanimously.

**C. Engage the services of Associated Employers of Montana to engage in a Conflict Resolution process**

Director Graves made a motion to approve Resolution 053-25. Seconded by Director Kary.

Board discussion: President Essmann noted we obviously have conflict in this district that we need to get resolved. I think it bothers the employees. I have asked the representative from Associated Employers to talk to the employees first to make sure their voices are heard. Then conduct interviews with the General Manager and the board.

Director Ellis said, "I had District staff trespassing on my property, leaving stolen property. ...the decision about whether or not to pursue the staff member for trespassing is a decision of my husband and I, not of the board. I want to clarify that under no circumstances, ever, should a staff member be on my property after dark to do nothing but deliver stolen property. This is unbelievable behavior. And the staff member was visible on camera. . . at this point my husband and I haven't decided whether to take further action...but I am extremely unhappy about what happened."

Public comments: None

Motion: Director Essmann asked all in favor of adopting Resolution 053-25, indicate by saying aye. Motion passed unanimously.

Director Ewalt stated he talked with Steve Beggar at Bench Auto who could install the GPS in vehicles. The cost would be \$70 per vehicle and take about ½ hour for each. The backhoe would be \$140/hour. We will need to add an agenda item to include installation of the GPS units under Old Business.

Meeting adjourned at 11:40 a.m.

Corrected minutes corrected and approved.

  
Board Secretary, Carolyn B. Bakker