

Hayden Lake Sewer District

The Hayden Lake Sewer District until 2017 was the Hayden Lake Recreational Water and Sewer District. Few of us were aware of the name change until the 2018 proposed subdivision of the Steele Property near English Point. Although a part of that property was within the sewer district's boundary roughly half was not. Nonetheless the newly named Hayden Lake Sewer District provide a letter pledging sewer service to the Steele property developers. More recent initiatives to annex and service areas outside the District's boundaries north of Lancaster Road alarmed the Association's Board.

Idaho statute provides for two types of sewer districts (Title 42 Chapter 32). A sewer district and a recreational sewer district. A sewer district simply collects sewage and treats it for those served. A recreational sewer district is described in the statute as: *"said district shall be predominantly recreational in character. The district or area near the district shall meet one (1) or more of the following criteria: have unique scenic value; man-made or natural recreational facilities such as waterways, marinas, ski slopes, wilderness areas; provide open space; and be removed from large, densely populated urban areas"* (42-3202A). A recreational district is further described as: *"one in which less than a majority of the landowners or state lessees or federal permittees in the district sought to be created reside within the district and at least fifty percent (50%) of the land area of said district is in a natural state, or used for agricultural purposes."* The statute reads that a recreational district is formed to protect the natural resource that allowed its formation. Todd Walker who served for years on the Hayden Lake Recreational Water & Sewer Districts and as its chairman, states that the recreational district was created to take in all the sections of land touching Hayden Lake to protect Hayden Lake. To this day the district includes private land in the sections that border Hayden Lake excepting the Cities of Hayden and Hayden Lake. The district boundary is not to be confused with the area of sewer service which is well less than fifty percent of the district's bounded area.

When the Association sought clarification for the name change, the District was unresponsive. After some additional request, the name change documents were supplied to the Association. These were the "Motion to Change Name and Legal Classification of the Sewer District Case number CV-1983-34668" and the appended "Verification of Motion." The motion to change simply changes the name and classification from recreational sewer district to sewer district. The verification of motion authored by the District's legal counsel states in item 3: *"I worked with the District's engineer, Welch Comer Engineers, in order to confirm that the District no longer meets the requirements of Idaho Code § 42-3202A. Specifically, it was determined that well over 50% of the land within the District is no longer in a natural state or used for agricultural purposes. Additionally, it was determined that the majority of landowners (by name/title) within the District also reside within the District."* After receiving and studying these documents the Association filed a public records request (PRR) for the documentation supporting the item 3 claim.

The initial request received an e-mail reply from District support staff stating that no documentation of item 3 existed in the District's files. Representatives of the Association then attended a meeting of the sewer board. The District's legal counsel assured the Association's representatives that the documentation did exist, but other staff indicated the 50% residency was based not on the district, but on the recent LID for that part of the district served by sewer. The Association filed a second PRR for the documentation. The response was a file that was in no way related to the request. In a final PRR, the Association threatened legal action if the District did not comply with the request. In late October the Association received 66 photocopied pages of e-mails and meeting minutes from the District. Study of these documents demonstrated that the name change was based on a figure of 62.5% residency in the LID area and not in the entire district. Further the record indicates no effort to assess the land use in the

District was ever implemented, because of the residency figure. Assessment of the e-mails suggest the name change was driven by legal counsel and support staff and not the district's board. Two reasons suggested by the materials was to make the election process more convenient for support staff and a motive to disenfranchise non-resident Idaho voters.

The Association finds the "Motion of Verification" upon which the name change was based to be flawed. The Association is certainly not interested in disenfranchising property owners who are not full time resident, when those owners pay a fee on their property tax to the District. Losing a focus on protection of the central natural resource jewel at the heart of the District is hardly worth making elections held every two years more convenient for the District's support staff.

The Association plans to return to the District's Board many of whom were not on the Board when the name change occurred to request that based on the record the name be returned. The Association does believe that the intent of recreational sewer districts is to protect the valuable natural resource, around which they are created. In that spirit the Association is willing to do the hard legislative and lobbying work to change Idaho statute to make it clear that recreational sewer districts have the power to address the damaging undesirable side products of sewerage new development, notably storm water management and treatment.