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RECORD OF PROCEEDINGS

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**MINUTES OF THE BOARD OF DIRECTORS OF  
THE ARAPAHOE COUNTY WATER AND WASTEWATER AUTHORITY**

HELD: January 16, 2019

13031 E. Caley Ave.  
Centennial, CO 80111

ATTENDANCE:

Present were Directors: Ken Beard, Nancy Sharpe, Tom Wood, Jeff Baker, Geri Santos-Rach, and Brad Cromer. Director Doyle Tinkey was absent and excused. Also in attendance were Steve Witter, Kate McRae, Martin Stegmiller, Kevin McBrien, Emily Lowell, Patty Pratt, Sandor Rebek, Michael Morianti, Rhonda Ruiter, Elizabeth Rector, and Legal Counsel Ron Fano. The guest in attendance was Alan Leak, Respec.

CALL TO ORDER:

Director Beard called the meeting to order at 9:00 a.m. in the Arapahoe Conference Room of the Arapahoe County Water and Wastewater Authority (ACWWA) office at 13031 E. Caley Ave., Centennial, CO 80111. Director Beard led the Pledge of Allegiance.

ADOPTION OF THE AGENDA:

Director Beard indicated that the Agenda would need to be modified by the addition of an Item 12.5 – Raw Water Weighting Exercise. Director Baker then made a motion to Adopt the Agenda as modified. The motion was seconded by Director Wood and passed 6 to 0.

PUBLIC FORUM

No one came forward to address the Board.

CONSENT AGENDA:

Director Santos-Rach made a motion to approve the Consent Agenda as presented. The motion was seconded by Director Sharpe and passed 6 to 0. The Consent Agenda consisted of the following:

1. Request for Approval of Minutes of the Board of Directors of the Arapahoe County Water and Wastewater Authority - from December 12, 2018

2. Request for Approval of Payment Register
3. Request for Approval Regarding Funding of 2019 Field Operations and Wastewater Department Vehicles
4. Request for Approval of Scope of Work from AECOM Regarding Chambers Reservoir Design and Litigation Support

## GENERAL BUSINESS ACTION ITEMS

### ITEM No. 5 – Introduction of New Staff

Ms. Lowell introduced Sandor Rebek, ACWWA's new Water Resource Engineer and Ms. Rüter introduced Elizabeth Rector, ACWWA's new Administrative Assistant. Both employees shared a bit information about themselves and the Board welcomed them to ACWWA.

### ITEM No. 6 – Discussion and Possible Action Regarding the Nomination of a Board Member to ACWWA's Retirement Board

Director Beard reported that Director Santos-Rach has been acting as the Board Representative to ACWWA's Retirement Board. Director Sharpe nominated Director Santos-Rach to continue as the representative to ACWWA's Retirement Board. Director Santos-Rach accepted the nomination and Director Cromer seconded the nomination. The nomination passed 6 to 0.

### ITEM No. 7 – Discussion and Possible Action Regarding the ACWWA Flow Connecting Main Project

Mr. Witter distributed to the Board an updated Director Briefing Report regarding this matter. Mr. McBrien gave a brief update of Phase 2C of the project and reported five valid/responsive bids were received to provide the final connection to the East Cherry Creek Valley Water and Sanitation District (ECCV) water distribution system. This final length of piping allows ACWWA to receive the full ACWWA Flow Project Deliveries of 5.25 MGD. Five bids were for the work, with the low bid being awarded to Duran Excavation. The Planning Water Resources and Capital Projects Committee (PWRCP) and staff recommend the authorization of funds for the project. After discussion, Director Cromer made a motion to approve the requested funding authorization for the ACWWA Connecting Main Project – Phase 2C – construction bid proposal as received from ECCV at an amount not to exceed \$1,621,438, plus pre-purchased items, contingency, and engineering services for a grand total of \$1,861,376. The motion was seconded by Director Beard and passed 6 to 0.

### ITEM No. 8 – Discussion and Possible Action Regarding ACWWA's 2019 Organizational Areas of Focus

Mr. Witter gave a brief report on staff's continual efforts and direction to ensure it is in line with the expectations and works towards meeting ACWWA's mission and vision. In

conjunction with the Personnel Committee a list of 2019 Proposed Areas of Focus was developed, including: Continue to grow/develop ACWWA's High Performing Culture; Evaluate Industry Trends; Looking for Opportunities to Show ACWWA as a Leader; Water Rights; Water Quality; Project Execution; Long-Term Planning; and Succession Planning. The Board expressed their support of the 2019 Proposed Areas of Focus.

## FIRST EXECUTIVE SESSION

### ITEM No. 9 – Discussion and Possible Action Regarding the Opus Development Agreement

Mr. Witter explained that the Opus Development is seeking the execution of a Land Exchange and Roadway Development Agreement for a proposed development project located at the southwest corner of Chambers Road and Potomac Street.

At 9:16 a.m., a motion was made by Director Beard and seconded by Director Santos-Rach to enter into the First Executive Session, pursuant to §24-6-402(4)(b) to consult or receive legal advice from the attorney on the proposed Opus Development Agreement. Motion passed 6 to 0. The following people were present in the Executive Session: Ken Beard, Nancy Sharpe, Geri Santos-Rach, Tom Wood, Jeff Baker, and Brad Cromer. Also in attendance were: Steve Witter, Kate McRae, Kevin McBrien, Emily Lowell, Patty Pratt, Alan Leak, Respec; and Legal Counsel Ron Fano. At the direction of Mr. Fano, the First Executive Session was not recorded.

At 9:44 a.m., a motion to adjourn the First Executive Session was made by Director Sharpe. The motion seconded by Director Baker. Motion passed 6 to 0.

Mr. Witter invited members of the public to return to the meeting. Director Cromer then made a motion to authorize ACWWA's General Manager to execute the Land Exchange and Roadway Development Agreement for the Opus Development project at ACWWA's Denmark well site, contingent on Engineering and Legal Review, which will include a cost sharing agreement of 50% OPUS, 50% ACWWA, for the access road construction only, with a maximum ACWWA contribution as determined by ACWWA's Engineer's cost estimate. The motion was seconded by Director Beard and passed 6 to 0.

## SECOND EXECUTIVE SESSION

### ITEM No. 10 – Discussion and Possible Action Regarding an Arapahoe County Development

At 9:45 a.m., a motion was made by Director Beard and seconded by Director Baker to enter into the Second Executive Session, pursuant to §24-6-402(4)(e) to develop negotiating positions, strategy, or instruct negotiators regarding Prosper Development. Motion passed 6 to 0. The following people were present in the Executive Session: Ken Beard, Nancy Sharpe, Geri Santos-Rach, Tom Wood, Jeff Baker, and Brad Cromer. Also in attendance were: Steve Witter, Kate McRae, Kevin McBrien, Emily Lowell, Patty Pratt, Alan Leak, Respec; and Legal Counsel Ron Fano. (Executive Sessions recordings are retained for 90 days.)

At 10:14 a.m., a motion to adjourn the Second Executive Session was made by Director Beard. The motion seconded by Director Wood. Motion passed 6 to 0.

Mr. Witter invited members of the public to return to the meeting.

### THIRD EXECUTIVE SESSION

#### ITEM No. 11 – Discussion and Possible Action Regarding Valley Country Club Litigation Issues

At 10:15 a.m., a motion was made by Director Beard and seconded by Director Baker to enter into the Third Executive Session, pursuant to §24-6-402(4)(e) to develop negotiating positions, strategy, or instruct negotiators regarding Valley Country Club. Motion passed 6 to 0. The following people were present in the Executive Session: Ken Beard, Nancy Sharpe, Geri Santos-Rach, Tom Wood, Jeff Baker, and Brad Cromer. Also in attendance were: Steve Witter, Kate McRae, Kevin McBrien, Emily Lowell, Patty Pratt, Alan Leak, Respec; and Legal Counsel Ron Fano. (Executive Sessions recordings are retained for 90 days.)

At 10:59 a.m., a motion to adjourn the Third Executive Session was made by Director Beard. The motion seconded by Director Baker. Motion passed 6 to 0.

Ms. Lowell invited members of the public to return to the meeting.

### FOURTH EXECUTIVE SESSION

#### ITEM No. 12 – Discussion and Possible Action Regarding Chamber Reservoir Litigation

At 10:59 a.m., a motion was made by Director Wood and seconded by Director Santos-Rach to enter into the Fourth Executive Session, pursuant to §24-6-402(4)(e) to develop negotiating positions, strategy, or instruct negotiators regarding Chamber Reservoir litigation. Motion passed 6 to 0. The following people were present in the Executive Session: Ken Beard, Nancy Sharpe, Geri Santos-Rach, Tom Wood, Jeff Baker, and Brad Cromer. Also in attendance were: Steve Witter, Kate McRae, Kevin McBrien, Emily Lowell, Patty Pratt, and Alan Leak, Respec. To avoid a potential conflict of interest, Legal Counsel Ron Fano left the meeting. (Executive Sessions recordings are retained for 90 days.)

At 11:09 a.m., a motion to adjourn the Fourth Executive Session was made by Director Beard. The motion seconded by Director Wood. Motion passed 6 to 0.

Ms. Lowell invited members of the public to return to the meeting and Mr. Fano returned to the meeting.

Director Sharpe left the meeting at 11:09 a.m.

ITEM No. 12.5 – Raw Water Weighting Exercise

Mr. Witter reported that the presentation relates to the Cherry Creek Project Water Authority and the question raised by the Board regarding whether ACWWA should continue to fund this project or not. Ms. Lowell reported that staff and consultants have looked at the risks as well as alternatives of supply, while thinking about the long-term objectives regarding water supply. Ms. Lowell presented the different criteria that was developed and asked each Board Member to complete a comparison of the different criteria. The criteria listed were: Long-term project capital and operating and maintenance costs per acre foot; renewable water supply; the ability to scale the project as finances allow and minimize rate impacts; and, risk of outside entities impacting operations. The comparisons will then be consolidated and integrated with other information and will be shared at the next PWRCP meeting.

ITEM No. 13 – General Managers Report to the Board of Directors

At the request of Director Cromer, Mr. Witter clarified the changes to the Development Rules and Regulations, previously approved by the Board at the November 14, 2018 regular meeting.

ITEM No. 14 – Committee Updates

- Planning Water Resources and Capital Projects (PWRCP) – No report necessary at this time.
- Joint PWRCP/Finance Committee – No report necessary at this time.
- Personnel Committee – No report necessary at this time.

ITEM No. 15 – Staff Updates

- A. Development Report – No report necessary at this time.
- B. Monthly Financial Statements – No report necessary at this time.
- C. Legal Report – Mr. Fano reported that the only pertinent matter was discussed in Executive Session.

ITEM No. 16 – Informational Updates

- A. Water Informational Dashboard – No report necessary at this time.
- B. Customer Service and Website Activity – No report necessary at this time.
- C. Investments – No report necessary at this time.
- D. Billing Activities – No report necessary at this time.

ADJOURNMENT

At 12:17 p.m. Director Beard made a motion to adjourn the meeting. The motion was seconded by Director Cromer and passed 6 to 0.

Approved: \_\_\_\_\_ 2019.

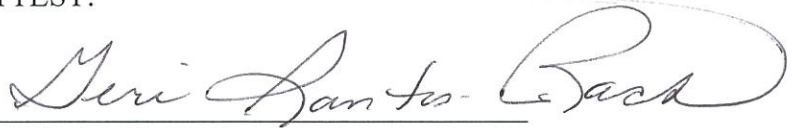
ARAPAHOE COUNTY WATER AND  
WASTEWATER AUTHORITY



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Ken Beard, President

ATTEST:



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Geri Santos-Rach, Secretary



SpencerFane<sup>®</sup>

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File No. 5113777-4

January 17, 2019

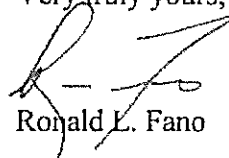
Arapahoe County Water and  
Wastewater Authority  
Attn: Patty Pratt  
13031 E. Caley Avenue  
Centennial, CO 80111

**Re: Opinion Concerning Executive Session Held January 16, 2019**

Members of the Board:

In my opinion, the first executive session concerning the discussion regarding the Opus Development Agreement that occurred during the Board meeting that I personally attended on January 16, 2019 was properly announced and was a privileged attorney-client communication. Therefore, no record or electronic recording of this executive session was required pursuant to Section 24-6-402(2)(d.5)(II)(B), C.R.S.

Very truly yours,



Ronald L. Fano

DN 3108830.1