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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: February 8, 2023

13031 E. Caley Ave.  
Centennial, CO 80111

**ATTENDANCE:**

Present either in person or via Zoom were Directors: Doyle Tinkey, Brad Cromer, Geri Santos-Rach, Jessica Campbell-Swanson, Jeff Baker, Tom Wood, and Derek Killebrew. Director Perry Deeds was absent and excused. Also in attendance either in person or via Zoom, were Steve Witter, Matt Vigil, Bill Veydovec, Kevin McBrien, Patty Pratt, Sandor Rebek, Sam Waxlax, Ed Trujillo, and Legal Counsel Ron Fano. The guests in attendance were Legal Counsel Nicole Black, of Cohen Black Law, Steve York, of Dworkin, Chambers, Williams, York, Benson & Evans, P.C., and, Alan Leak, of Respec.

**CALL TO ORDER:**

Director Tinkey called the meeting to order at 9:05 a.m. The Pledge of Allegiance was recited.

**ADOPTION OF THE AGENDA:**

Director Tinkey made a motion to adopt the agenda as presented. The motion was seconded by Baker and passed 6 to 0.

**PUBLIC FORUM**

No one came forward to address the Board.

**CONSENT AGENDA**

Director Tinkey made a motion to approve the Consent Agenda as presented. The motion was then seconded by Director Santos-Rach and passed unanimously 6 to 0.

The Consent Agenda consisted of the following:

1. Request for Approval of Minutes of the Special Meeting of the Board of Directors of the Arapahoe County Water and Wastewater Authority - from January 11, 2023
2. Request for Approval of Payment Register for January 2023

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3. Discussion and Possible Action Regarding Proposed Modification to ACWWA's Rules and Regulations for NFPA 13D Combined Water/Fire Systems

Director Campbell-Swanson joined the meeting at 9:07 a.m.

GENERAL BUSINESS ACTION ITEMS

ITEM No. 4 – Discussion and Possible Action Regarding Litigation Related to VCC Lift Station Failure (Possible Executive Session)

FIRST EXECUTIVE SESSION

At 9:09 a.m., a motion was made by Director Santos-Rach and seconded by Director Cromer to enter into the First Executive Session, pursuant to §24-6-402(4)(b) to receive legal advice related to the VCC Lift Station failure litigation. The motion passed 7 to 0.

The following people were present either in person or via Zoom in the First Executive Session: Doyle Tinkey, Geri Santos-Rach, Brad Cromer, Jessica Campbell-Swanson, Jeff Baker, Derek Killebrew, and Tom Wood. Also in attendance were Steve Witter, Matt Vigil, Bill Veydovec, Ed Trujillo, Patty Pratt, Alan Leak, and Legal Counsel Nicole Black and Steve York. (At the request of legal counsel, this Executive Session was not recorded, and a letter from legal counsel is attached to these minutes.)

Attorney Steve York left the meeting at 9:58 a.m.

At 10:16 a.m., a motion to adjourn the First Executive Session was made by Director Tinkey. The motion was seconded by Director Santos-Rach. The motion passed 7 to 0.

Director Cromer then re-opened the meeting to the public.

In Open Session, Director Baker made a motion to authorize Board Members Campbell-Swanson and Cromer to exercise their discretion to settle the VCC litigation on terms they deem most favorable to ACWWA and to otherwise proceed to trial if an acceptable settlement cannot be reached. The motion was seconded by Director Santos-Rach and passed 7 to 0.

Attorney Ron Fano left the meeting at 10:29 a.m.

ITEM No. 5 – Discussion and Possible Action Regarding Award of Task Order to Respec to Provide 2023 Industrial Pretreatment Program Support

Mr. Veydovec gave a brief description of the proposed program, reporting that anticipated future regulations on contaminants is precipitating ACWWA rolling out a robust industrial pretreatment program. Mr. Veydovec stated that staff and the Planning, Water Resources and Capital Projects Committee (PWRCP) recommend approval of the authorization of funds for the 2023 Industrial Pretreatment Program Support Project.

The Board encouraged staff to have a strong customer service campaign to assist with the implementation of the program. The Board also suggested that staff investigate the possibility of partnering with the new Arapahoe County Health Department to work with businesses who are not in compliance with the rule. After discussion, Director Santos-Rach moved to approve the authorization of \$147,609 for RESPEC to complete the 2023 Industrial Pretreatment Program Support Project. The motion was seconded by Director Campbell-Swanson and passed 7 to 0.

ITEM No. 6 – Discussion and Possible Action Regarding the Possible ACWWA Headquarters Building at 6566 South Revere Street

Mr. Witter reported that the contract has not yet been signed by the seller. They are continuing to negotiate the language surrounding the roof replacement. The Board told staff to continue moving forward and keep the Board posted on the progress. The Board mentioned investigating the idea of moving the entrance from the north side of the building to the south and, in order to comply with impending state legislation, to include neutral-gender restrooms with changing tables. Mr. Witter reported that a real estate inspector has been lined up and will begin work once the contract is signed.

ITEM No. 7 – Discussion Regarding FRICO Negotiations (Possible Executive Session)

SECOND EXECUTIVE SESSION

At 10:44 a.m., a motion was made by Director Campbell-Swanson and seconded by Director Baker to enter into the Second Executive Session, pursuant to §24-6-402(4)(e) to develop negotiating positions regarding the FRICO mediation. The motion passed 7 to 0.

The following people were present either in person or via Zoom in the Second Executive Session: Doyle Tinkey, Geri Santos-Rach, Brad Cromer, Jessica Campbell-Swanson, Jeff Baker, Derek Killebrew, and Tom Wood. Also in attendance were Steve Witter, Matt Vigil, Bill Veydovec, Sandor Rebek, Patty Pratt, and Alan Leak. (Executive Session meetings are recorded and retained for 90 days.)

At 11:17 a.m., a motion to adjourn the Second Executive Session was made by Director Campbell-Swanson. The motion was seconded by Director Cromer. The motion passed 7 to 0.

Director Cromer then re-opened the meeting to the public.

ITEM No. 8 – Discussion and Possible Action Regarding the Mediation with CH2M Hill Over JWPP Contract Claims and Issues

Mr. Witter reported that there is nothing new to report.

ITEM No. 9 – Discussion and Possible Action Regarding the General Manager’s Annual Evaluation (Possible Executive Session)

THIRD EXECUTIVE SESSION

At 11:18 a.m., a motion was made by Director Tinkey and seconded by Director Santos-Rach to enter into the Third Executive Session, pursuant to §24-6-402(4)(f) to discuss the General Manager’s annual evaluation. Mr. Witter was given the option to exercise his right to have the discussion in open session. Mr. Witter stated that he waived that right. Motion passed 7 to 0.

The following people were present either in person or via Zoom in the Third Executive Session: Doyle Tinkey, Geri Santos-Rach, Brad Cromer, Jessica Campbell-Swanson, Jeff Baker, Derek Killebrew, and Tom Wood. (Executive Session recordings are retained for 90 days.)

At 11:38 a.m., the Board invited Mr. Witter only back into the meeting to discuss his evaluation.

At 11:43 a.m., a motion to adjourn the Third Executive Session was made by Director Tinkey. The motion was seconded by Director Santos-Rach and passed 7 to 0.

Director Cromer then re-opened the meeting.

Director Tinkey made a motion to have Director Baker send the salary recommendation to Daniela for Mr. Witter’s file. The motion was seconded by Director Cromer and passed 7 to 0.

REPORTS

ITEM No. 10 – General Manager’s Report to the Board of Directors

Mr. Witter reiterated what was described in his General Manager’s report that the exceedance of ACWWA’s discharge permit was handled in the appropriate manner and staff have since developed short-term measures to ensure this doesn’t occur again.

The Board discussed the proposed dates for a Board dinner and tentatively agreed on Wednesday, March 22, 2023, 6:00 p.m. Staff will confirm and send further details.

ITEM No. 11 – Financial and Administration Report – No further report required at this time.

ITEM No. 12 – Legal Report – Before Mr. Fano left the meeting, he stated that the investigation into the pending employment matter is close to being complete and he will report to the Board when it is complete.


ITEM No. 13 – Updates – No further report needed at this time.

ADJOURNMENT


At 11:50 a.m., the meeting was adjourned.

Approved: \_\_\_\_\_ 2023.

ARAPAHOE COUNTY WATER AND  
WASTEWATER AUTHORITY

  
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Doyle Tinkey, President

ATTEST:

  
\_\_\_\_\_  
Geri Santos-Rach, Secretary



SpencerFane®

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File No. 5113777-4

February 9, 2023


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

**Re: Opinion Concerning Executive Session Held February 8, 2023**

Members of the Board:

In my opinion, the executive session to discuss and receive legal advice regarding the VCC Lift Station litigation that occurred during the Board meeting that I personally attended via video conference on February 8, 2023, was properly announced and was a privileged attorney-client communication. Therefore, no record or electronic recordings 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

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