
RECORD OF PROCEEDINGS

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

HELD: April 14, 2021

13031 E. Caley Ave.
Centennial, CO 80111

ATTENDANCE:

Present via Zoom Video Conferencing were Directors: Doyle Tinkey, Geri Santos-Rach, Jeff Baker, Tom Wood, Brad Cromer, Perry Deeds, and Derek Killebrew. Director Sharpe was absent and excused from the meeting. Also in attendance via Zoom Video Conferencing were Steve Witter, Tony Campbell, Matt Vigil, Kevin McBrien, Patty Pratt, Sandor Rebek, Savana Dumler, and Legal Counsel Ron Fano. The guests in attendance via Zoom Video Conferencing were Alan Leak, of Respec, Randy Warren, of Mulhern MRE, Matthew Marino and Max Haberkorn of RubinBrown.

CALL TO ORDER:

Director Tinkey called the video conference meeting to order at 9:03 a.m. The Pledge of Allegiance was recited.

WELCOME OF NEW BOARD MEMBERS

Director Tinkey welcomed two new Board Members Perry Deeds and Derek Killebrew to ACWWA's Board. Director Tinkey explained that a formal orientation will be scheduled to get the new members up-to-speed. Each of the new members introduced themselves and recited the Oath of Office.

ADOPTION OF THE AGENDA:

Director Santos-Rach made a motion to adopt the Agenda as presented. The motion was seconded by Director Baker and passed 7 to 0, as follows:

Doyle Tinkey – Yes
Geri Santos-Rach – Yes
Brad Cromer – Yes
Jeff Baker – Yes
Tom Wood – Yes
Derek Killebrew – Yes
Perry Deeds - Yes

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 Baker and passed 7 to 0, with Directors Killebrew and Deeds abstaining from voting on Item No. 3 – Request for Approval of Minutes from March 10, 2021, as follows:

Doyle Tinkey – Yes
Geri Santos-Rach – Yes
Brad Cromer – Yes
Jeff Baker – Yes
Tom Wood – Yes
Derek Killebrew – Yes
Perry Deeds - Yes

The Consent Agenda consisted of the following:

3. Request for Approval of Minutes of the Board of Directors of the Arapahoe County Water and Wastewater Authority - from March 10, 2021
4. Request for Approval of Payment Register for March 2021
5. Request for Approval of the Chambers Pipeline Fourth Amendment to Lease Agreement
6. Request for Authorization for the Purchase and Installation of Identified Critical Process Variable Frequency Drives for the Lone Tree Creek Water Reuse Facility

GENERAL BUSINESS ACTION ITEMS

ITEM No. 7 – Discussion and Possible Action Regarding the 2020 Audited Financial Statements

Discussion of this item was delayed until later in the meeting.

ITEM No. 8 – Discussion Regarding the Joint Water Purification Plant (JWPP) (Possible Executive Session)

EXECUTIVE SESSION

At 9:15 a.m., a motion was made by Director Tinkey and seconded by Director Wood to enter into an Executive Session, pursuant to §24-6-402(4)(b) to consult or receive legal advice from the attorney regarding the current status of the JWPP Project. Motion passed 7 to 0 as follows:

Doyle Tinkey – Yes
Tom Wood – Yes
Geri Santos-Rach – Yes

Brad Cromer – Yes
Jeff Baker – Yes
Derek Killebrew – Yes
Perry Deeds – Yes

The following people were present in the Executive Session: Doyle Tinkey, Geri Santos-Rach, Tom Wood, Brad Cromer, Jeff Baker, Perry Deeds, and Derek Killebrew. Also in attendance were Steve Witter, Tony Campbell, Kevin McBrien, Patty Pratt, Alan Leak, Matt Vigil, and Legal Counsel Ron Fano. (At the request of legal counsel, this Executive Session was not recorded, and a letter from legal counsel is attached to these minutes.)

At 10:11 a.m., a motion to adjourn the Executive Session was made by Director Tinkey. The motion was seconded by Director Baker. The motion passed 7 to 0 as follows:

Doyle Tinkey – Yes
Tom Wood – Yes
Geri Santos-Rach – Yes
Brad Cromer – Yes
Jeff Baker – Yes
Derek Killebrew – Yes
Perry Deeds – Yes

Ms. Pratt then re-opened the meeting to the public.

In Open Session, Director Cromer made a motion to authorize ACWWA's General Manager and ACWWA staff to continue negotiations with Jacobs regarding the pilot study including the determination of the potential costs to use the Lone Tree Creek Water Reuse Facility as part of the process. The motion was seconded by Director Wood and passed 7 to 0 as follows:

Doyle Tinkey – Yes
Tom Wood – Yes
Geri Santos-Rach – Yes
Brad Cromer – Yes
Jeff Baker – Yes
Derek Killebrew – Yes
Perry Deeds – Yes

The Board directed Mr. Fano to schedule a time in which to update the new Board Members on the various legal agreements to which ACWWA is a party.

ITEM No. 7 – Discussion and Possible Action Regarding the 2020 Audited Financial Statements

Mr. Vigil gave a brief explanation regarding the 2020 Audited Financial Statements and then introduced Matt Marino and Max Haberkorn, of Rubin Brown. Mr. Marino then gave an in-depth presentation of the Viewpoints, which included the required auditor communications as well as auditor observations and recommendations, reporting that they were issuing an

“unmodified opinion.” After that Mr. Haberkorn gave a high-level review of the actual financial statements. After a brief discussion, the Board thanked the auditors and staff for their hard work and efficiency in getting this accomplished. Director Wood then made a motion to approve the 2020 Audited Financial Statements, the motion was seconded by Director Baker and passed 5 to 0 as follows:

Doyle Tinkey – Yes
Tom Wood – Yes
Geri Santos-Rach – Yes
Brad Cromer – Yes
Jeff Baker – Yes
Derek Killebrew – Abstain
Perry Deeds – Abstain

ITEM No. 9 – Discussion and Possible Action Regarding the Chambers Reservoir Pump Station Rehabilitation Project

Mr. McBrien and Mr. Rebek gave an update on the project reporting that they are currently filling the reservoir every day and that the level is currently at approximately 80-acre feet. Mr. McBrien reported that to be able to efficiently use the water in the reservoir during the 2022 irrigation season, more pumps will need to be purchased and installed. The need for this purchase has been vetted by staff and the PWRCP. After a brief discussion, Director Tinkey moved to authorize funds for the Chambers Reservoir Pump Station Rehabilitation Project at the requested amount of \$1,550,000, including the construction contract award to RN Civil Construction. The motion was seconded by Director Cromer and passed 7 to 0 as follows:

Doyle Tinkey – Yes
Tom Wood – Yes
Geri Santos-Rach – Yes
Brad Cromer – Yes
Jeff Baker – Yes
Derek Killebrew – Yes
Perry Deeds – Yes

ITEM No. 10 – Discussion and Possible Action Regarding Elkhorn Ranch Demands and Modification to the Water Conservation Response Plan

Mr. Rebek gave a history of the water supply in Elkhorn Ranch and previous conservation measures used to date. Mr. Rebek explained that due to the unique situation in Elkhorn, staff and the Planning Water Resources and Capital Projects Committee recommend that the Water Conservation Response Plan be modified to include a separate section for Elkhorn Ranch with different Conservation Stages which will provide clearer guidelines for Elkhorn. Mr. Rebek also explained that the recommendation is for the Excessive Use Fee to remain as is for 2021. After a brief discussion, Director Cromer moved to approve a modification to the Water Conservation Response Plan to include a separate section for Elkhorn Ranch with the stages outlined in the report provided to the Board of Directors, contingent upon final

staff and legal counsel review. The motion was seconded by Santos-Rach and passed 7 to 0 as follows:

Doyle Tinkey – Yes
Tom Wood – Yes
Geri Santos-Rach – Yes
Brad Cromer – Yes
Jeff Baker – Yes
Derek Killebrew – Yes
Perry Deeds – Yes

ITEM No. 11 – Discussion Regarding the ACWWA Flow Project (Possible Executive Session)

Mr. Witter explained that there is no need to discuss this item as it will be covered in the GM Report.

ITEM No. 12 – General Manager’s Report to the Board of Directors

Mr. Witter stressed the value of in-person committee and board meetings and that as conditions improve around the pandemic and restrictions are lifted, ACWWA will most likely transition from video conference meetings to in-person meetings. Director Baker reported on how Arapahoe County is beginning to transition back to in-person meetings.

Mr. Witter reported that a special board meeting will most likely be necessary on April 21, 2021, to discuss the ACWWA Flow Project as well as provide an update on the mediation efforts regarding the operations agreements with the Farmers Reservoir and Irrigation Company. Staff was directed to be sure to include the two new board members in this meeting.

Mr. Witter reported that as a result of the pandemic, Arapahoe County has received funds from the American Rescue Plan, and it appears water and wastewater infrastructure projects have been designated as an approved use of these funds. Mr. Witter will meet with County staff to discuss the various possibilities, which has the potential to greatly benefit ACWWA’s rate payers.

Mr. Witter reported with the 2021 irrigation season upon us, ACWWA staff will be following-up with the Ladera HOA regarding resolution to the staining of the Ladera sidewalks.

Mr. Witter reiterated that Chambers Reservoir began filling towards the end of January 2021 and continues each day. There is currently approximately 80-acre feet of water.

Mr. Witter reported that the City of Centennial is continuing work and provided ACWWA with a 30% design proposal of the Lone Tree Creek Trail that will cross into ACWWA’s property for a portion of the trail as well as proposed fencing. ACWWA staff will review the information provided and will report back to the ACWWA Board.

ITEM No. 13.A. – Operations Report

Mr. Campbell highlighted the various items in the Operations Report including annual flushing of fire hydrants in the ACWWA service area; how efficiently and expertly staff handled snow removal after the record-breaking storm that hit the area; how the ACWWA Operations staff conducted a table-top exercise on the loss of a 24" line under Cherry Creek taken from the Emergency Response Plan; and how staff is working on defining a process of IGA management.

ITEM No. 14.A – Financial Report

Mr. Vigil reported that the sale of tap fees is well ahead of the budget and that overall ACWWA reports increased revenue with decreased expenses. In response to a question by Director Cromer, Ms. Pratt explained that a meter reading rollover resulting in one customer receiving an extremely high bill and that a corrective bill was generated to correct the issue.

ITEM No. 15 – Legal Report

Mr. Fano reported that legal counsel for ACWWA's insurance company has drafted a complaint against the Colorado Department of Transportation and Sema Construction to recover ACWWA's costs beyond the subrogation portion of the VCC lift station failure in 2019. Mr. Fano anticipates that this complaint will be filed within the next week. Mr. Fano reminded staff to note Director Sharpe's excused absence from this meeting.

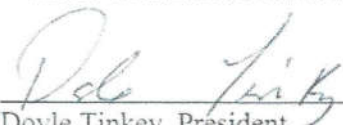
ITEM No. 16 – Updates – No further report on these items was necessary.

ADJOURNMENT

At 11:33 a.m. the meeting was adjourned.

Approved: _____ 05-12- 2021.

ARAPAHOE COUNTY WATER AND
WASTEWATER AUTHORITY



Doyle Tinkey, President

ATTEST:



Geri Santos-Rach, Secretary



SpencerFane

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File No. 5113777-4

April 14, 2021

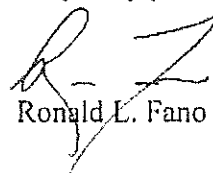
Arapahoe County Water and
Wastewater Authority
Attn: Patty Pratt
13031 E. Caley Avenue
Centennial, CO 80111

Re: Opinion Concerning Executive Session Held April 14, 2021

Members of the Board:

In my opinion, the executive session concerning legal issues related to the JWPP status and existing agreements that occurred during the Board meeting that I personally attended via Zoom Conference on April 14, 2021 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

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