
RECORD OF PROCEEDINGS

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

HELD: June 8, 2022

13031 E. Caley Ave.
Centennial, CO 80111

ATTENDANCE:

Present were Directors: Doyle Tinkey, Brad Cromer, Geri Santos-Rach, Tom Wood, Derek Killebrew, and Nancy Sharpe. Directors Jeff Baker and Perry Deeds were absent and excused. Also in attendance were Steve Witter, Matt Vigil, Kevin McBrien, Patty Pratt, Sandor Rebek, Sam Waxlax, Les Nelson, Marc Letourneau, and Legal Counsel Ron Fano. The guest in attendance was Alan Leak, of Respec.

CALL TO ORDER:

Director Tinkey called the meeting to order at 9:03 a.m. Director Geri Santos-Rach led the Pledge of Allegiance.

ADOPTION OF THE AGENDA:

Director Sharpe made a motion to adopt the agenda as presented. The motion was seconded by Director Cromer and passed unanimously 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 unanimously 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 May 11, 2022
2. Request for Approval of Payment Register for May 2022
3. Request for Funding Approval of Brown and Caldwell Engineering Services Second Half 2022

06/08/2022

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GENERAL BUSINESS ACTION ITEMS

ITEM No. 4 – Update on Power Failure at Lone Tree Creek Water Reuse Facility (LTCWRF)

Mr. Letourneau and Mr. Nelson reported that on May 29, 2022, the LTCWRF experienced an 11-hour power failure/outage. Through ACWWA staff's proper planning and execution of the emergency situation, no service interruptions occurred. The Board thanked staff and expressed their appreciation for handling a potentially serious situation without issue.

ITEM No. 5 – Update on American Rescue Plan Act Funding Approval from Arapahoe County Board of County Commissioners

Mr. Rebek reported that Arapahoe County Board of County Commissioners approved allocation of \$1.5M as investment in three ACWWA water projects that will improve access to clean drinking water and support critical infrastructure for the residents of Arapahoe County. These projects include a redundant pipeline to ensure coverage in the event of a pipeline failure; treatment of iron and manganese in the water; and emergency interconnections in the event of failure during the peak summer demands. Director/Commissioner Sharpe reported that there remain funds from the American Rescue Plan Act and that the Arapahoe County Board of County Commissioners will be having additional discussions in July to discuss further potential allocations.

ITEM No. 6 – Presentation of Water Monitoring System Used by the ACWWA Flow Project

Mr. Rebek gave an update on how ACWWA monitors the ACWWA Flow Project to ensure things are running the way they should. Mr. Rebek shared a web application/dashboard from United Water and Sanitation District's (United) website that displays "real-time" data, (updated approximately every fifteen minutes), including stream gages, diversions, river calls and the United stations (well fields). Mr. Rebek reported that having access to this data is very helpful.

Mr. Rebek also reported that Parker Water and Sanitation District along with the Lower South Platte Water Conservancy District have filed an application for a new water project. This project plans to construct a large reservoir east of Brush, Colorado, in an attempt to capture excess water that leaves Colorado, which is beyond what Colorado is required to send to Nebraska under the 1923 Compact. Mr. Rebek explained that ACWWA is monitoring the case closely and is an active opposer.

ITEM No. 7 – Discussion and Possible Action Regarding the Joint Water Purification Plant (JWPP) RO Reconversion Project

Mr. Fano reported that the negotiations are going down two different paths. The first is the non-lawyer approach with negotiations between the high-level executives from Jacobs, ADWWA and Cottonwood Water and Sanitation District (CWSD). This method has stalled because Jacobs appears to be solely focusing on the potential rerating of the Lone Tree Creek Water Reuse Facility. The second is the lawyer approach via mediation. Mr.

Fano stated that the mediator has been agreed upon and all parties are looking to a mutually agreed upon date, with it potentially happening in August or may be pushed out until October or November. ACWWA's litigation counsel, Jim Wooll will prepare a mediation statement and at ACWWA's July Board Meeting, the ACWWA Board of Directors will need to appoint two representatives to prep for and attend the mediation session, including reporting to and taking negotiation direction from the ACWWA Board.

FIRST EXECUTIVE SESSION

At 9:42 a.m., Director Tinkey made a motion to enter into the First Executive Session, pursuant to §24-6-402(4)(b) to receive legal advice regarding the status of the negotiations with Jacobs regarding the JWPP. The motion was seconded by Director Santos-Rach and passed 6 to 0. The following Board Members were present in the Executive Session: Doyle Tinkey, Brad Cromer, Geri Santos-Rach, Tom Wood, Derek Killebrew, and Nancy Sharpe. Also in attendance were Steve Witter, Matt Vigil, Kevin McBrien, Patty Pratt, Consultant Alan Leak, 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 9:57 a.m., a motion to adjourn the First Executive Session was made by Director Tinkey. The motion was seconded by Director Cromer and passed unanimously 6 to 0.

Director Cromer opened the meeting to the public.

ITEM No. 8 – Discussion and Possible Action Regarding Employee Assistance

SECOND EXECUTIVE SESSION

At 9:58 a.m., Director Cromer made a motion to enter into the Second Executive Session, pursuant to §24-6-402(4)(f) to discuss the potential employee assistance program as outlined in the Board packet. The motion was seconded by Director Santos-Rach and passed 6 to 0. The following Board Members were present in the Executive Session: Doyle Tinkey, Brad Cromer, Geri Santos-Rach, Tom Wood, Derek Killebrew, and Nancy Sharpe. Also in attendance were Steve Witter, Matt Vigil and Legal Counsel Ron Fano. (Executive Session recordings are retained for 90 days.)

At 10:06 a.m., a motion to adjourn the Second Executive Session was made by Director Tinkey. The motion was seconded by Director Sharpe and passed unanimously 6 to 0.

Director Cromer opened the meeting to the public.

In Open Session, Director Cromer moved to approve the suggested Employee Assistance Program, grossed up dollar-wise to hit the net distributions mentioned in the program. The motion was seconded by Director Sharpe and passed unanimously 6 to 0.

ITEM No. 9 – Discussion and Possible Action Regarding Employment Matters Relating to the General Manager

THIRD EXECUTIVE SESSION

At 10:08 a.m., Director Santos-Rach made a motion to enter into the Third Executive Session, pursuant to §24-6-402(4)(f) to discuss employment matters relating to the General Manager. The motion was seconded by Director Sharpe and passed 6 to 0. The following Board Members were present in the Executive Session: Doyle Tinkey, Brad Cromer, Geri Santos-Rach, Tom Wood, Derek Killebrew, and Nancy Sharpe. Also in attendance were Steve Witter and Legal Counsel Ron Fano. Mr. Witter waived his right to have the discussion in open session. (Executive Session recordings are retained for 90 days.)

At 10:21 a.m., a motion to adjourn the Third Executive Session was made by Director Tinkey. The motion was seconded by Director Cromer and passed unanimously 6 to 0.

Director Cromer opened the meeting to the public.

REPORTS

ITEM No. 14 – General Manager’s Report to the Board of Directors

Director Cromer asked for an update regarding the Vermilion Creek site application with the Cherry Creek Basin Water Quality Authority. Mr. Witter reported that the developer is seeking to build their own wastewater treatment plant and that is beyond ACWWA’s purview. In regards to the ground water rights that they have, pursuant to the recent change in ACWWA’s Rules and Regulations, they appear to be able to meet the requirement and will simply be required to pay the tap fees. At this point, this appears to be a fact-finding mission for the developer regarding costs. Director Sharpe suggested ACWWA staff consult with the City of Centennial to ensure they understand the groundwater requirements as it relates to new development before asking moving forward. Mr. McBrien stated that ACWWA staff has been meeting with staff from the City of Centennial regarding this issue.

Director Cromer asked if ACWWA should be investigating the possibility of limiting turf planting in new developments like the City of Aurora is proposing. Mr. Witter explained that ACWWA does not have the authority to make land use decisions, that the City of Centennial would make those types of decisions.

ITEM No. 15 – Finance and Administration Report – Nothing further to report at this time.

ITEM No. 16 – Legal Report – Mr. Fano reported that the Memorandum of Understanding with the Ladera Homeowner’s Association regarding the switchover to potable water has been finalized and executed.

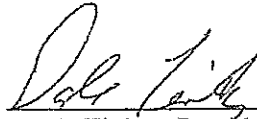
ITEM No. 17 – Updates – No further report necessary at this time.

ADJOURNMENT

At 10:35 a.m., the meeting was adjourned.

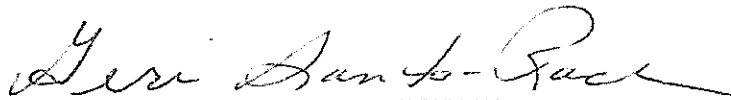
Approved: 07-13- 2022.

ARAPAHOE COUNTY WATER AND
WASTEWATER AUTHORITY



Doyle Tinkey, President

ATTEST:



Geri Santos-Rach, Secretary



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File No. 5113777-4

June 9, 2022

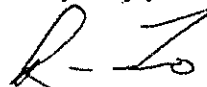
Arapahoe County Water and
Wastewater Authority
Attn: Patty Pratt
13031 E. Caley Avenue
Centennial, CO 80111

Re: Opinion Concerning Executive Session Held June 8, 2022

Members of the Board:

In my opinion, the executive session to discuss and receive legal advice regarding the JWPP, and negotiations with CH2M Hill regarding the JWPP, that occurred during the Board meeting that I attended via Zoom video on June 8, 2022 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

DN 3108830.1