
RECORD OF PROCEEDINGS

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

HELD: March 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, Tom Wood, and Perry Deeds. Directors Jessica Campbell-Swanson, Jeff Baker, and Derek Killebrew were 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 either in person or via Zoom were Legal Counsel Nicole Black, of Cohen Black Law and. Alan Leak, of Respec.

CALL TO ORDER:

Director Tinkey called the meeting to order at 9:01 a.m. The Pledge of Allegiance was recited.

ADOPTION OF THE AGENDA:

Director Santos-Rach made a motion to adopt the agenda as presented. The motion was seconded by Deeds and passed 5 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 then seconded by Director Wood and passed unanimously 5 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 February 8, 2023
2. Request for Approval of Payment Register for February 2023

3. Request for Approval Regarding the Award of Task Order to Carollo to Complete the Aerobic Digester Blower System Preliminary Design Project

GENERAL BUSINESS ACTION ITEMS

ITEM No. 4 – Update Regarding the 6766 South Revere Building (Possible New ACWWA Headquarters Building) (Possible Executive Session)

Mr. Witter reported that parking at the proposed building is limited and is shared with tenants and visitors of the other three buildings, which could potentially pose a problem for ACWWA and its customers. Staff is researching whether ACWWA can designate certain spots to be reserved exclusively for ACWWA customers via signage. Mr. Witter also reported that the parking lot, snow removal and landscaping is handled by a Property Owners Association (POA). Staff is researching whether as an owner of one of the four buildings, ACWWA will have a seat on the board of the POA or what voting rights ACWWA may have. The realtor assisting ACWWA with the purchase of a new building has been instructed to continue the search for other potential buildings that may fit ACWWA's needs. Staff will only consult ACWWA's Board of Directors if a potential property is a contender.

ITEM No. 5 – Discussion and Possible Action Regarding Vermillion Creek Inclusion (Possible Executive Session)

Mr. McBrien explained that ACWWA's legal counsel, Ron Fano, has been working with the attorney for Arapahoe County regarding the necessary steps for Vermillion Creek to be included into the Public Improvement District (PID), including any necessary re-platting. All information must be submitted no later than March 21, 2023 for review and possible decision by Arapahoe County Board of County Commissioners on April 25, 2023. Mr. Fano reported that the Letter of Recommendation for Inclusion has been drafted and will need to be approved and signed by ACWWA's Board.

ITEM No. 6 – Discussion and Possible Action Regarding Litigation Related to VCC Lift Station Failure (Possible Executive Session)

FIRST EXECUTIVE SESSION

At 9:31 a.m., a motion was made by Director Tinkey and seconded by Director Baker to enter into the First Executive Session, pursuant to §24-6-402(4)(b) to discuss and receive legal advice regarding the VCC Lift Station litigation. The motion passed 5 to 0.

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

At 10:19 a.m., a motion to adjourn the First Executive Session was made by Director Tinkey. The motion was seconded by Director Cromer. The motion passed 5 to 0.

Director Cromer then re-opened the meeting to the public and legal counsel, Ron Fano rejoined the meeting.

In Open Session, Director Cromer made a motion for the ACWWA Board of Directors to ratify the decision of the mediation committee to dismiss with prejudice the ACWWA plaintiff's claims against PSCO and Excel. The motion was seconded by Director Tinkey. Motion passed unanimously. Director Cromer made a second motion for the ACWWA Board of Directors to ratify the settlement of the ACWWA plaintiffs as to SEMA and C-DOT, in the amount of \$100,000, subject to obtaining a release. The motion was seconded by Director Tinkey and passed unanimously. Director Cromer then made a motion for the ACWWA Board of Directors authorize retaining the services of attorney Jeremy Sitcoff, together with Sedgwick Insurance for the limited scope of determining Q3's insurance coverage and potential settlement offers from Q3's insurers. The motion was seconded by Director Tinkey and passed unanimously.

ITEM No. 7 – Discussion and Possible Action Regarding the Sale of Water Rights (Possible Executive Session)

SECOND EXECUTIVE SESSION

Mr. Rebek reported that Jim Marshall, Spring Valley Metropolitan District, has expressed a renewed interest and gave ACWWA a firm offer to purchase the Hunt water rights. This offer is currently being reviewed by ACWWA staff and legal counsel. Negotiations are ongoing and staff will keep the Board updated.

ITEM No. 8 – Discussion and Possible Action Regarding the Results of Investigation of Letter from Former Employee (Possible Executive Session)

Mr. Fano stated there was nothing new to report that was not included in his most recent email to the Board. He will keep the Board apprised of any further developments in this matter.

REPORTS

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

Mr. Witter reminded the Directors of the upcoming Board of Directors dinner that is scheduled for Wednesday, March 22, 2023, at 6:00 p.m., asking for firm RSVPs and/or dietary restrictions. Mr. Fano reminded staff that the dinner will need to be posted. The Board asked staff to include Nancy Sharpe, the recently retired director.

Mr. Witter then touched on the Farmers Reservoir and Irrigation Company (FRICO) negotiations, indicating that we should have some resolution in the next month or so.

Mr. Veydovec reported that the EPA did not meet its deadline of early March 2023 for issuing draft maximum contaminant levels (MCL) regarding PFAS. It is a “waiting game” and staff will keep the Board advised.

Mr. Witter stated that staff is proposing a move away from Zoom meetings to Microsoft Teams meetings. Several Directors stated that they continue to have problems with Teams meetings; that the platform is very unstable. Mr. Witter stated staff will reevaluate this proposal and maybe do some further testing.

ITEM No. 11 – Financial and Administration Report

Mr. Vigil reported that the financials continue to look good. ACWWA has seen increased interest income and thus transferred additional funds to ColoTrust to take advantage of the interest rates. Mr. Vigil reported that ACWWA has almost reached its 2023 goal for tap sales. Mr. Vigil stated that December financial statement needs to be changed as ACWWA recently received a “true-up” invoice from East Cherry Creek Valley Water and Sanitation District (ECCV) regarding the ACWWA Flow water. ECCV did not charge the correct amounts because we took more water than anticipated.

ITEM No. 12 – Legal Report –Mr. Fano reported that an attorney from Spencer Fane will be at ACWWA to conduct harassment and discrimination training next week.

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

ADJOURNMENT

At 10:50 a.m., the meeting was adjourned.

Approved: 4-12- 2023.

ARAPAHOE COUNTY WATER AND
WASTEWATER AUTHORITY



Doyle Tinkey, President

ATTEST:



Geri Santos-Rach, Secretary



SpencerFane®

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File No. 5113777-4

March 8, 2023

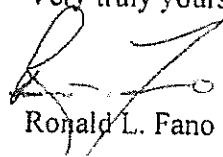
Arapahoe County Water and
Wastewater Authority
Attn: Patty Pratt
13031 E. Caley Avenue
Centennial, CO 80111

Re: Opinion Concerning Executive Session Held March 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 on March 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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