
RECORD OF PROCEEDINGS

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

HELD: September 13, 2023

13031 E. Caley Ave.
Centennial, CO 80111

ATTENDANCE:

Present either in person or via Zoom were Directors: Doyle Tinkey, Jeff Baker, Geri Santos-Rach, Brad Cromer, Jessica Campbell-Swanson, and Tom Wood. Director Perry Deeds was absent and excused. Director Derek Killebrew was absent and not excused. Also in attendance either in person or via Zoom, were Steve Witter, Matt Vigil, Bill Veydovec, Kevin McBrien, Patty Pratt, Sandor Rebek, Ed Trujillo, Daniella Soare, Jacob Abbott, and Legal Counsel Ron Fano, and Jim Wooll. The guests in attendance were Scott Neibur, East Cherry Creek Valley Water and Sanitation District; Tom Roberts and Jacob Gallagher, JDS-Hydro Consultants, Inc.

CALL TO ORDER:

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

ADOPTION OF THE AGENDA:

Director Tinkey stated that the order of the items on the agenda would be changed to accommodate guests in attendance. Discussion of Item No. 7 – Update on East Cherry Creek Valley Water and Sanitation District (ECCV) Water Treatment Plant – Deep Injection Well #2 will be addressed immediately after discussion and vote on the Consent Agenda, and Item No. 10 – Discussion and Possible Action Regarding the Elkhorn Arapahoe Well #3 (Possible Executive Session) will follow. The rest of the items on the agenda will be addressed in order. Director Tinkey then made a motion to adopt the agenda as modified. The motion was seconded by Director Cromer 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 then seconded by Director Baker and passed unanimously 6 to 0.

09/13/23

Page 1 of 5

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 August 9, 2023
2. Request for Approval of Payment Register for August 2023
3. Request for Approval Regarding the Renewal of ACWWA's Health/Dental/Vision Benefits Provider
4. Request for a Change in ACWWA's Long-Term and Short-Term Disability Carrier
5. Request for Approval Regarding a Modification to ACWWA's Vacation Accrual Policy

GENERAL BUSINESS ACTION ITEMS

ITEM No. 7 – Update on East Cherry Creek Valley Water and Sanitation District (ECCV) Water Treatment Plant – Deep Injection Well #2

Sandor Rebek introduced Scott Neibur, Operations Manager for ECCV. A brief technical problem occurred over the Zoom connection. Mr. Neibur reconnected via phone and then gave a brief history and report of the failure of Deep Injection Well #2 (DI-2), which initially occurred on July 31, 2023, and subsequently on August 28, 2023. ECCV is working with consultants to determine why the failure occurred, proposed repairs, and the path forward. ECCV will keep ACWWA staff and Board updated as they work on a resolution.

ITEM No. 10 – Discussion and Possible Action Regarding the Elkhorn Arapahoe Well #3 (Possible Executive Session)

Mr. McBrien introduced Tom Roberts, General Manager and Vice President of Hydro-Resources. Mr. Roberts gave a brief history of the drilling of the Elkhorn Arapahoe Well #3, explaining that even though they have checks in place, staff of Hydro-Resources inadvertently installed the well screens within the well in the wrong locations/at the wrong elevations (i.e. approximately 8.5 feet higher than designed). Mr. Roberts reported that the drill result was good, sand free and the water production is good. Mr. McBrien explained that the misplacement of the well screens hinders the water from coming to the well at an estimated rate of 10-15 gallons per minute less than had the screens been installed at the correct elevations. To remedy the shortage, Mr. Roberts apologized for this mistake and is authorized to reduce the invoice to accommodate for the problems caused by the incorrect well screen installation in billable supplies, etc., and to offer a monetary adjustment to the bill. Hydro-Resources offered, as an equitable adjustment, a \$50,000 reduction to the drilling invoice.

FIRST EXECUTIVE SESSION

At 9:25 a.m., a motion was made by Director Baker and seconded by Director Tinkey to enter into the First Executive Session, pursuant to C.R.S. §24-6-402(4)(b) to receive legal advice regarding the contract issue with JDS-Hydro. The motion passed 6 to 0.

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

At 9:34 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 unanimously 6 to 0.

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

In Open Session, Director Cromer made a motion to recommend the Board accept the Elkhorn Arapahoe Well #3, as is, once all contractual requirements are completed and require a reduction of \$50,000 in the final contract cost as compensation for ACWWA's accepting the as-constructed well screen locations in the well, subject to legal review of any final settlement document. The motion was seconded by Director Baker and passed 6 to 0.

ITEM No. 6 – Discussion and Possible Action Regarding the Purchase of New Vehicles

Mr. Trujillo gave a brief explanation regarding the need to purchase four new vehicles for field staff. ACWWA staff will send five of the older vehicles to auction to recoup some of the expense. The purchase of the vehicles will be completed via the State of Colorado bid process to affect the best price available. Mr. Witter explained that these vehicles are for next year, but because it takes so long to get new vehicles, staff need to begin the purchase process now. After a brief discussion, Director Baker moved to approve the funds necessary, \$198,634 for the purchase request for four new vehicles. The motion was seconded by Director Santos-Rach and passed 6 to 0.

ITEM No. 8 – Discussion and Possible Action Regarding the Mediation with CH2M Hill over JWPP Contract Claims and Issues (Possible Executive Session)

SECOND EXECUTIVE SESSION

At 9:43 a.m., a motion was made by Director Baker and seconded by Director Santos-Rach to enter into the Second Executive Session, pursuant to C.R.S. §24-6-402(4)(b) to receive legal advice regarding the settlement and mediation with CH2M Hill over the JWPP contract claims and issues. The motion passed 6 to 0.

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

At 9:56 a.m., a motion to adjourn the Second Executive Session was made by Director Tinkey. The motion was seconded by Director Santos Rach. The motion passed unanimously 6 to 0.

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

In Open Session Director Cromer moved to accept the proposed settlement with CH2M Hill on the JWPP contract claims as negotiated and previously discussed in Executive Session and related Settlement Agreement. The motion was seconded by Director Wood. With no further discussion necessary, Director Tinkey called for a vote. The motion passed 6 to 0.

Director Cromer then moved to accept the Memorandum of Understanding with Cottonwood Water and Sanitation District regarding the disbursement and management of the settlement funds related to the CH2M Hill on the JWPP contract claim proceeds, subject to final legal review. The motion was seconded by Director Baker and passed 6 to 0.

ITEM No. 9 – Discussion and Possible Action Regarding the Litigation Related to the VCC Lift Station Failure (Possible Executive Session)

THIRD EXECUTIVE SESSION

At 9:59 a.m., a motion was made by Director Santos-Rach and seconded by Director Baker to enter into the Third Executive Session, pursuant to C.R.S. §24-6-402(4)(b) to receive legal advice related to the litigation regarding the VCC Lift Station and the settlement of the litigation. The motion passed 6 to 0.

The following people were present either in person or via Zoom in the Executive Session: Doyle Tinkey, Geri Santos-Rach, Brad Cromer, Jessica Campbell-Swanson, Jeff Baker, and Tom Wood. Also in attendance either in person or via Zoom, were Steve Witter, Matt Vigil, Bill Veydovec, Patty Pratt, Ed Trujillo, 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 10:04 a.m., a motion to adjourn the Third Executive Session was made by Director Tinkey. The motion was seconded by Director Baker. The motion passed unanimously 6 to 0.

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

In Open Session, Director Tinkey made a motion to approve the settlement of the VCC Lift Station litigation under the terms outlined in Executive Session, subject to review and approval of a settlement agreement by legal counsel and staff. The motion was seconded by Director Cromer and passed unanimously 6 to 0.

Director Tinkey then mentioned he was adding an item that was not on the Agenda. Director Tinkey wanted to congratulate Mr. Witter for fifteen years of service to ACWWA. The Board expressed their gratitude and appreciation to Mr. Witter. Mr. Witter then congratulated Ms. Pratt for fifteen years of service to ACWWA. The Board again expressed their gratitude and appreciation to Ms. Pratt. A cake was cut and enjoyed by all.

REPORTS

ITEM No. 11 – General Manager’s Report to the Board of Directors – No further report necessary at this time.

ITEM No. 12 – Financial and Administration Report

Mr. Vigil reported that revenue continues to be lower through the month of August but is stronger than the last two months. ACWWA’s financial picture remains steady, due to strong tap sales, investment income and service fees. At this time, ACWWA will not have any problems meeting their bond ratio covenants.

ITEM No. 13 – Legal Report

Mr. Fano reported that many news agencies are reporting on large class-action lawsuits surrounding PFAS against companies such as DuPont. Apparently, a settlement has been reached, but has not yet been made public. ACWWA, along with other local water providers are being solicited by class-action counsel to join the class. A lot of analysis will be necessary to determine if we qualify to join the class. Mr. Fano will keep the Board posted as more information is learned.

ITEM No. 14 – Updates – No further report necessary at this time.

ADJOURNMENT

At 10:34 a.m., the meeting was adjourned.

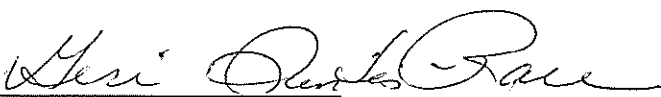
Approved: 10-11 2023.

ARAPAHOE COUNTY WATER AND
WASTEWATER AUTHORITY



Doyle Tinkey, President

ATTEST:



Geri Santos-Rach, Secretary

09/13/23

Page 5 of 5



SpencerFane

RONALD L. FANO
DIRECTOR (303) 839-3820
rfano@spencerfane.com

File No. 5113777-4

September 14, 2023

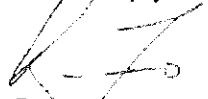
Arapahoe County Water and
Wastewater Authority
Attn: Patty Pratt
13031 E. Caley Avenue
Centennial, CO 80111

Re: Opinion Concerning Executive Sessions Held September 13, 2023

Members of the Board:

In my opinion, the executive sessions to discuss and receive legal advice regarding the (1) mediation with CH2M Hill over the JWPP contract claims and issues; (2) the litigation related to the VCC lift station failure; and (3) issues related to the Elkhorn Arapahoe Well #3, that occurred during the Board meeting that I personally attended on September 13, 2023, were properly announced and were privileged attorney-client communications. Therefore, no record or electronic recordings of these executive sessions 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