

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE
BACA GRANDE WATER AND SANITATION DISTRICT

October 18, 2023- 9:00 AM

District Office – 57 Baca Grant Way South

Crestone, Colorado 81131

Meeting held via Zoom

ATTENDANCE

Directors in Attendance:

Vivia Lawson

John Loll

Mike Smith

David Karas

Also in Attendance:

Marcus Lock, District Legal Counsel

Diego Martinez, District Manager

Gary Potter, District Director of Utilities

JoAnn Slivka

Cathy Fromm, District Accountant (for a portion of the meeting)

Nicholaus Marcotte, Element Engineering

(for a portion of the meeting)

Community Members and Guests:

Matthew Eric Lit

Dan Gray

Mary Montagano

CALL TO ORDER

President Lawson opened the meeting at 9:03 AM.

Board Roll Call: Directors Lawson, Smith, and Karas were present. Director Hart has an excused absence. Director Loll joined the meeting at 9:10.

DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

Attorney Lock has discussed with the Board the requirements pursuant to Colorado law to disclose any potential conflicts of interest to the Baca Grande Water and Sanitation District Board of Directors and to the Secretary of State. It was noted that a quorum was present and members of the Board were requested to disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting. No new disclosures were made.

AGENDA

M/S/P: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR KARAS, SECONDED BY DIRECTOR SMITH AND UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD APPROVED THE AGENDA.

CONSENT AGENDA

The board considered the following consent agenda items:

- Approve Minutes from the September 20, 2023 Regular Meeting.

M/S/P: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR KARAS, SECONDED BY DIRECTOR SMITH AND UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD APPROVED THE CONSENT AGENDA.

PUBLIC COMMENT (ITEMS NOT ON THE AGENDA ONLY. NO ACTION MAY BE TAKEN).

The district is subject to the Colorado Open Meetings Law, which states that no Board discussion or action will take place until a later date, if necessary. Please limit your comments to three minutes or less.

Dan Gray: 3898 Rarity Way

Mr. Gray had several comments regarding the new district manager, the potential for composting wastewater sludge, and allegations of the presence of drugs in Crestone’s wastewater. President Lawson informed Mr. Gray that this latter item was discussed and determined to be a false allegation at prior board meetings. Mr. Gray’s comments exceeded the allotted time and President Lawson called time. President Lawson invited Mr. Gray to review the minutes from the previous meeting.

FINANCIAL MATTERS

Check Register: The board considered approval of the check register through the period ending October 18, 2023 as follows:

| | | |
|-------------------|----|-------------------|
| General | \$ | 7,664.00 |
| Capital | \$ | 19,241.00 |
| <u>Enterprise</u> | \$ | <u>125,816.00</u> |
| | \$ | 152,721.00 |

M/S/P: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR SMITH, SECONDED BY DIRECTOR KARAS AND, UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD APPROVED THE CHECK REGISTER FOR THE PERIOD ENDING OCTOBER 18, 2023.

Director Loll joined the meeting at this time.

Financial Statements: Ms. Fromm reviewed the financial statements with the Board of Directors. Discussion followed regarding possible early payment of bonds and loans should the property values increase. Ms. Fromm will check to see when the Bonds will become available for early calls so we could start paying down the principal earlier. Our Colorado Water Resources and Power Development Authority loan will be paid off in 2029.

M/S/P: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR SMITH, SECONDED BY DIRECTOR KARAS AND, UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD APPROVED THE UNAUDITED FINANCIAL STATEMENTS FOR THE PERIOD ENDING SEPTEMBER 30, 2023 AND THE CURRENT SCHEDULE OF CASH POSITION.

Review and Approve Audit Engagement Letter for the 2023 Financial Audit:

M/S/P: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR LOLL, SECONDED BY DIRECTOR SMITH AND, UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD APPROVED THE ENGAGEMENT LETTER PROVIDED BY ERIC BARNES OF FISCAL FOCUS PARTNERS, LLC

Line Extension Pay Application:

Mr. Marcotte provided an update on the progress of the line extension at 590-C Hillcrest Overlook. The project is substantially complete and he recommends payment of the pay application. This being a small project the pay application reflects 95% of the completed work. Element Engineering will provide the district with a statement for advertisement for final

payment, after that the remaining 5% final payment can be distributed upon 30 days of publication.

M/S/P: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR SMITH,
SECONDED BY DIRECTOR KARAS AND, UPON VOTE, UNANIMOUSLY CARRIED,
THE BOARD APPROVED PAY APPLICATION #1 FROM COOLEY AND SONS IN THE AMOUNT OF \$76,237.50.

BOARD AND STAFF REPORTS

The board reviewed and discussed the reports incorporated herein by this reference.

Board of Director Matters

President Lawson welcomed Mr. Martinez to his first meeting with the Board of Directors as the District Manager. She also noted that Ms. Slivka is assisting today with the transition and back up for Ms. DeBon who was unable to attend today's meeting.

Engineer's Report

Water Loss Prevention Project (WLPP)

Mr. Marcotte reviewed his report with the Board and gave an update on our projects. Most of the survey work has been completed. They are waiting on the process survey and ground shots for the WLPP.

Element will then review the plans with District staff to ensure all is where it should be and that the District's expectations are being met. The public bid will then go out.

Mr. Marcotte reported that he came on site to meet with Mr. Martinez, introduce himself and his company and review our projects together.

Water Treatment System Improvements

Mr. Marcotte reminded the Board that the Planning Needs Assessment (PNA) has been submitted to Colorado Department of Public Health and Environment (CDPHE) and we are awaiting CDPHE review of the document. Element will respond to any questions or CDPHE comments.

Wastewater Treatment Plant

Mr. Marcotte also reviewed again that the United States Department of Agriculture (USDA) funding application was finalized and sent to the USDA several months ago. We are currently in the underwriting phase and awaiting the issuance of a letter of conditions. Mr. Marcotte is uncertain about the exact timeline for receiving a response from the USDA, but he estimates that it may take a few more months.

Public Comment Response- Beneficial use of Biosolids

Mr. Marcotte responded to Mr. Gray's public comment. Biosolids can certainly be used for beneficial use. Class B biosolids could be used but further work is needed before we could produce a product for beneficial use, Class A biosolids is needed for land applied use. Either way, a treatment facility to discharge water pursuant to an applicable discharge permit is still needed. But this does not preclude the District from needing to build a new treatment facility.

District Manager Report

Mr. Martinez presented his report. He reminded the Board that the line extension is paid for by the District customer.

2024 Budget is in process, there has been a couple of budget meetings; the initial draft budget was submitted to the Board of Directors by the October 15 deadline as required by statute. He will continue to work with staff and directors to refine the budget throughout the month. Mr. Martinez mentioned that Proposition HH will have an impact on the budget if it passes.

Mr. Martinez further reported that he has met with staff on an individual basis to get himself acquainted with them and establish a rapport.

Mr. Martinez is also working with staff on the new lead and copper rule revision (LCRR) which will require an inventory of all service lines from the meter to the house to determine the type of material used in the lines. October 2024 is the deadline to submit the line material inventory and plan as appropriate. Staff is confident that we do not have lead in our service lines but these are precautionary measures we have to take and he will budget as needed.

Administrative Manager Report

Mr. Martinez reviewed the administrative report with the Directors in Ms. DeBon's stead and noted a few highlights from her report which included the Certification of Delinquent hearing that is included later on today's agenda.

Operations Manager Report

Mr. Potter spoke to the photos in his report of recent repairs Operations staff performed recently:

The first photo is of the Well 18 main transmission line located in the field by the old Desert Sage building; the repair went well.

The next photo is of a sewer main repair. It was a difficult repair; they were able to use the new shoring equipment which helped them dig straight down in an efficient manner.

Pump Station Equipment Failures

Mr. Potter further reported that he continues to have issues with pumps at Well 18. He worked with the Baca POA to temporarily stop irrigating during the time the pump was being worked on. A new motor was ordered and is now in place and working well. He is working with Element Engineering and others on why the motors are failing. In the meantime, he has ordered another new motor so they have good backups.

Wagon Wheel Lift Station

Unfortunately, the rebuild that was performed last year failed. After discussions, they will purchase a new pump at Wagon Wheel. It is a better solution and the expenditure fits well within the 2023 budget.

Aspen Wastewater Treatment Plant

Incufridge: Mr. Potter is still waiting on the replacement equipment that they use to analyze samples in house. Currently they are sending the samples out to the lab which is going well.

Spectrometer Failure: Another piece of equipment has failed recently; the Spectrometer which gives important daily information such as ammonia and nitrate has also failed. This piece of equipment is not necessarily used for compliance purposes, hopefully it will not be a major expenditure. Manufacture is going to send a loaner unit to help staff so they can continue analyzing samples. Only will be a problem if the discharge monitoring report numbers do not pass.

Water Main Breaks: Mr. Potter reported on the two breaks; #1 transmission line, #2 electric company hit the line because the locate for the water main line was ~5 feet off. It is a major challenge for Operations staff to locate the utilities; staff uses the maps and other information available to them to locate the lines to the best of their ability. Whenever staff interfaces with water lines, they will update the map as needed.

Summer Projects: Staff is still working on the collection system working with the Vector in the field daily. They are also working through the "dig list" to replace meters; two new fire hydrants have been purchased and will be replaced in the next couple of weeks.

Water Loss: 2.8 million gallons are unaccounted for which is up considerably from last month for an average throughout the year of about 44% loss.

Legal Matters

Resolution No. 2023-10-01—Certifying Delinquent Water, Sewer, and Availability of Services Fees to the Saguache County Treasurer for Collection

Mr. Lock reviewed the resolution and the process of certifying delinquent accounts with the District Board of Directors. There were no public comments related to the certified accounts nor customers present for the discussion.

M/S/P: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR LOLL, SECONDED BY DIRECTOR SMITH, AND, UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD ADOPTED RESOLUTION NO. 2023-10-01 – CERTIFYING DELINQUENT WATER, SEWER, AND AVAILABILITY OF SERVICES FEES TO SAGUACHE COUNTY TREASURER FOR COLLECTION.

Exclusion: Mr. Lock reviewed the Petition for Exclusion process with the Board. A public hearing for this exclusion petition has been noticed for the November 15, 2023 meeting of the board of directors. Mr. Lock again emphasized that excluding a property from the district does not exempt the property from the debt mill levy until such obligations are retired. The property will not be subject to the District Rules and Regulations.

EXECUTIVE SESSION:

M/S/P: PURSUANT TO C.R.S. § 24-6-402(4) (A), (B), AND (E), UPON MOTION DULY MADE BY DIRECTOR LOLL, SECONDED BY DIRECTOR KARAS AND, UPON AN AFFIRMATIVE VOTE OF AT LEAST TWO-THIRDS OF THE QUORUM PRESENT, THE BOARD ADJOURNED TO EXECUTIVE SESSION AT 10:26 AM WHICH CONCERN THE SALE OR LEASE OF REAL PROPERTY, SPECIFIC LEGAL ADVICE FROM COUNSEL, AND DETERMINING POSITIONS

RELATIVE TO MATTERS SUBJECT TO NEGOTIATION REGARDING THE LEASE RATE FOR THE NEXT 20-YEAR TERM OF THE WATER SERVICE AGREEMENT AND THE TERMS AND CONDITIONS FOR CONTINUED PROVISION OF SEWER SERVICE TO THE TOWN OF CRESTONE AS WELL AS NEGOTIATIONS RELATED THERETO AND C.R.S. § 24-6-402(4) (F), FOR DISCUSSION OF PERSONNEL MATTERS INVOLVING THE DISTRICT MANAGER TRANSITION.

M/S/P: DIRECTOR SMITH MOVED; DIRECTOR LOLL SECONDED TO RECONVENE TO REGULAR SESSION AT 11:05 AM.

ADJOURNMENT:

THERE BEING NO FURTHER BUSINESS TO DISCUSS, UPON MOTION DULY MADE DIRECTOR KARAS, SECONDED BY DIRECTOR SMITH AND UPON VOTE, UNANIMOUSLY CARRIED, THE MEETING WAS ADJOURNED AT 11:10 AM.

THE NEXT REGULAR MEETING IS SCHEDULED FOR
November 15, 2023

Respectfully submitted by,



JoAnn Slivka

THESE MINUTES ARE APPROVED AS THE OFFICIAL October 18, 2023 MINUTES OF THE BACA GRANDE WATER AND SANITATION DISTRICT BY THE BOARD OF DIRECTORS SIGNING BELOW:

Vivia Lawson

Vivia Lawson

J Loll

John Loll

Mike Smith

Mike Smith

Rick Hart

Rick Hart

David Karas

David Karas

ATTORNEY STATEMENT

Regarding Privileged Attorney-Client Communication

Pursuant to §24-6-402(2) (d.5) (II)(B), C.R.S., I attest that, in my capacity as the attorney representing the Baca Grande Water and Sanitation District, I attended the executive sessions on October 18, 2023, and it is my opinion that the portion of the executive session that was not recorded constituted attorney-client privileged communications.

A handwritten signature in cursive script, appearing to read "Marcus J. Lock", written in black ink on a white background.

Marcus J. Lock
General Counsel
Baca Grande Water and Sanitation District