

RECORD OF PROCEEDINGS

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE BACA GRANDE WATER AND SANITATION DISTRICT HELD MARCH 21, 2014

A regular meeting of the Board of Directors (referred to hereafter as "Board") of the Baca Grande Water and Sanitation District (referred to hereafter as "District") was held on Friday, the 21st day of March, 2014, at 8:00 a.m. at the offices of the District, BGWSD Shop, 57 Baca Grant Way South, Crestone, Colorado. The meeting was open to the public.

ATTENDANCE

Directors In Attendance Were:

Martin Macaulay
Cindy Reinhardt
Kyle Grote
Michael Scully

Following discussion, upon motion duly made by Director Macaulay, seconded by Director Reinhardt and, upon vote, unanimously carried, the absence of Vicki Matthews was excused.

Following discussion, upon motion duly made by Director Reinhardt, seconded by Director Scully and, upon vote, unanimously carried, the Board appointed Martin Macaulay as Acting President.

Also In Attendance Were:

AJ Beckman and Lindsay Ross (for a portion of the meeting); Special District Management Services, Inc. (via speakerphone)

Jennifer Gruber Tanaka, Esq.; White, Bear & Ankele, P.C. (via speakerphone)

Steven Harrell; District General Manager

JoAnn Slivka; Administrative Manager (for a portion of the meeting)

Brad Simons; TST Inc. of Denver (via speakerphone – for a portion of the meeting)

Marcus Lock, Esq.; Law of the Rockies (via speakerphone - for a portion of the meeting)

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Sandia Belgrade, Crestone Eagle

Matthew Crowley; Shumei International Institute, Inc.

Lisa Cyriacks; Resident

DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

Disclosure of Potential Conflicts of Interest: The Board discussed the requirements pursuant to the Colorado Revised Statutes to disclose any potential conflicts of interest or potential breaches of fiduciary duty to the Board of Directors and to the Secretary of State. Attorney Tanaka noted that conflicts were filed for applicable Directors at least 72-hours prior to the meeting. Mr. Beckman noted that a quorum was present and requested members of the Board to disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting. No further conflicts were disclosed.

ADMINISTRATIVE MATTERS

Agenda: Mr. Beckman reviewed the proposed Agenda for the District's regular meeting with the Board.

Following discussion, upon motion duly made by Director Reinhardt, seconded by Director Macaulay and, upon vote, unanimously carried, the Agenda was approved, as amended.

Presentation by Matthew Crowley: Request from Shumei International Institute, Inc. ("Shumei") for Well Exemption: Mr. Crowley addressed the Board regarding the request by Shumei for an exemption from water and sewer service. He explained that there will be a ground breaking ceremony on Sunday for the proposed new development.

He explained that he understands that the request by Shumei for a well exemption must make sense to the District, and Shumei intends to continue voluntary payment of a Payment in Lieu of Taxes ("PILT") for its main campus regardless of the decision made by the Board. Mr. Crowley explained that in prior discussions with the District regarding the District's request for a PILT agreement with Shumei, the District's rationale for the request was based on the assertion that that the cost of providing water and sewer services to Shumei is greater than the amount collected by the District in service fees because Shumei does not pay taxes. Mr. Crowley suggested that based on this logic, not granting an exemption would create an inequity to the District because it would cost too much to extend service to and provide service to Shumei. Therefore, his position is that the exemption would be in the best interest of the District and Shumei.

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Mr. Beckman explained that, in his opinion, the District's responsibility is to continue to require participation from users and to request PILT Agreements whenever possible so that the remaining customers are not bearing the additional costs. Director Macaulay stated that he agrees with the fiduciary duty of the District to require equivalent participation; however, he also sees a need to be accommodating to users in a unique situation. Director Scully asked how many other properties within the District are of similar size that may also request a similar exemption. Mr. Harrell reported that he believes there are a few parcels of 35 acres or more that could potentially request an exemption from the requirement to connect to the District's water and sewer systems. Mr. Crowley suggested that the District would be in a stronger position to request a PILT from other non-profit organizations if, in this case an exception were made to allow the variance, because the District could thereby demonstrate that it is willing to make reasonable exceptions. Director Reinhardt asked Mr. Beckman to restate his position regarding equality of service. Mr. Beckman explained that in his opinion the District is created for the purpose providing service to all of the customers within the service area. Deviation from providing equivalent service may create an unwanted precedent.

Director Grote moved to approve a variance to its Rules and Regulations that would not require Shumei to connect to the District's water and sewer systems for the parcel currently being developed. Director Macaulay seconded the motion, and additional discussion ensued. Director Grote commented that from a business perspective he would be surprised if Shumei would continue to provide the District a voluntary PILT payment if they were required to connect to the District's infrastructure. The Board further discussed reasons for potentially allowing an exception for Shumei and determined that due to the nature of the discussion it would be best to continue in executive session.

Following discussion, upon motion duly made by Director Reinhardt, seconded by Director Scully and, upon vote, unanimously carried, the Board determined to continue discussions on this matter later in the meeting during the Executive Session.

Presentation by the U.S. Fish and Wildlife Service: This matter was deferred until the April 18, 2014 regular meeting.

May 6, 2014 Directors' Election: Attorney Tanaka discussed the statutory deadlines for the 2014 election noting that the deadline for sending ballots to overseas and military voters is today. Mr. Beckman confirmed that the ballots will go out this afternoon. He further reported that he now has five individuals interested in being Election Judges. He will appoint one of them as a receiving

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judge and the rest will be counting judges. He will be in contact with all five next week to provide information on Election Judge Training. In addition he will be at the District office on May 5, 2014, the day before Election Day, to perform an on-site training. Mr. Beckman also reported that Mr. Lloyd withdrew his name from the election and, as a result, the only contested seat at the election will be for the 2-year term.

Consent Agenda: The Board considered the following actions:

- Approval of Minutes of the February 21, 2014 regular meeting, as revised.
- Engineer's Report.
- Operations Report.
- Administrative Report.
- District Manager's Report.
- Ratify approval of Independent Contractor Agreement (Electrical Motor and Pump Repair Services) between the District and Royal Electric Services, Inc.

Following discussion, upon motion duly made by Director Reinhardt, seconded by Director Scully and, upon vote, unanimously carried, the Board reviewed, approved and accepted the Consent Agenda items. It was noted that the Administrative Report was not available.

Director Scully asked about the duty cycle of the District's pumps. Mr. Harrell reported that the District's equipment, to a large degree is controlled by a SCADA system. The facilities are operated according to schedules and operating parameters programmed into the system. Mr. Harrell reported that there is still programming to be done to the SCADA system. Director Scully asked about security from potential internet hacking. Mr. Harrell explained that the SCADA computer is not connected to the internet and controls the various components of the system via radio frequency. He reported that stringent security protocols will be put in place as remote access is created for the system operators.

Director Reinhardt asked why the Administrative Report was not in the meeting packet. Ms. Slivka reported that she was unable to provide the report due to her extremely busy work load. She reported that she has been additionally taxed by recent changes in procedures and has experienced delays in processing the check register due to delays in invoice turn-around on the part of SDMS. Mr. Beckman explained that there are several changes in process underway; however, in order to understand the magnitude of the challenges being experienced by Ms. Slivka

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and the office staff, he must be made aware of them. The Board determined to continue the discussion in executive session.

PUBLIC COMMENTS

Public Comments: Ms. Belgrade requested that the District consider providing fire protection services as a commission form of local government. She discussed the status of the service being provided by the Property Owners Association (“POA”) and the limitations the POA is experiencing in providing the services. She then discussed the services regularly provided by special districts and suggested that the District consider providing fire protection services. Ms. Belgrade noted that she believes the community trusts the District and understands that this process would not happen overnight, but would like to know whether the District would consider this. Ms. Belgrade noted that she did not want a response at the time, but wanted the Board to consider the option moving forward.

OPERATIONS

Operational Follow-Up: Mr. Harrell reported that the operations staff inspected a section of sewer line on Alpine Overlook that contributed to sewage backups at two residences, as previously reported. He is of the opinion that the problems with the sewer line cannot be addressed with a simple repair. He will prepare a recommendation for the Board to consider at the next Board meeting.

Corrosion Control Study: Mr. Beckman reviewed the letter from the CDPHE regarding the recent approval of Soda Ash as the Optimal Corrosion Control Technique. It was noted that the CDPHE has approved this treatment technique as being optimal.

Independent Contractor Agreement for Ongoing Testing and Analysis Services between the District and Agricultural Consultants Inc. d/b/a Colorado Analytical Laboratory, Inc.: Mr. Harrell discussed the scope of services to be provided by Agricultural Consultants Inc. d/b/a Colorado Analytical Laboratory, Inc.

Following discussion, upon motion duly made by Director Reinhardt, seconded by Director Scully and, upon vote, unanimously carried, the Board approved the Independent Contractor Agreement for Ongoing Testing and Analysis Services between the District and Agricultural Consultants Inc. d/b/a Colorado Analytical Laboratory, Inc., subject to legal finalization, as necessary.

Independent Contractor Agreement for Well 18 Rehabilitation Project between the District and Ecodynamics, Inc.: Mr. Harrell discussed the scope of services to be provided by Ecodynamics, Inc. He explained that Ecodynamics

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will replace the well pumps, inspect the well casing and remove sand that has accumulated in the bottom of the well.

Following discussion, upon motion duly made by Director Reinhardt, seconded by Director Scully and, upon vote, unanimously carried, the Board approved the Independent Contractor Agreement for Well 18 Rehabilitation Project between the District and Ecodynamics, Inc., subject to legal finalization, as necessary.

Independent Contractor Agreement for Heavy Equipment Repair and Maintenance between the District and Titan Machinery, Inc.: Mr. Harrell discussed the scope of services to be provided by Titan Machinery, Inc.

Following discussion, upon motion duly made by Director Reinhardt, seconded by Director Scully and, upon vote, unanimously carried, the Board approved the Independent Contractor Agreement for Heavy Equipment Repair and Maintenance between the District and Titan Machinery, Inc., subject to legal finalization, as necessary.

Recycling Services: Mr. Harrell reported that he is attempting to engage Creed Recycling but has not yet received a proposal. He expects to have a proposal for consideration at the next Board meeting.

CAPITAL IMPROVEMENTS

Capital Projects Summary Sheet for System Pressure Reduction Project: Mr. Simons joined the meeting at this time. Mr. Beckman reported that the project will require six specific components and a Capital Summary Sheet will be forthcoming for each component of the overall project at the April meeting. Mr. Simons further discussed the scope of work for the overall project and explained that the projects will require the help of outside contractors.

Capital Funding Sources and Uses: Mr. Beckman reviewed the capital funding sources and uses report noting that the revenue for the water meter grant is now being shown in the sources section of the report. Director Grote requested a percentage complete column be added.

Grant Agreement: Attorney Tanaka reviewed the Grant Agreement with the Board. She noted that she is okay with the contract language but reported that she previously noted to Mr. Beckman and Mr. Harrell that the contract has stringent insurance requirements for contractors which should be carefully monitored. She also noted that the Agreement requires that the District have certain levels of insurance which she requested Mr. Harrell confirm with the District's provider. She also noted that the Agreement requires the reporting and disclosure of certain

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documents and events and noted that Mr. Beckman will want to carefully track those to ensure the District remains in compliance.

Following discussion, upon motion duly made by Director Reinhardt, seconded by Director Grote and, upon vote, unanimously carried, the Board approved the Grant Agreement between the District and the State of Colorado Department of Local Affairs.

Mr. Simons departed the meeting at this time. Ms. Ross joined the meeting at this time.

FINANCIAL MATTERS

Claims: The Board deferred discussion of the payment of claims through the period ending February 21, 2014.

Following discussion, upon motion duly made by Director Macaulay, seconded by Director Grote and, upon vote, unanimously carried, the Board authorized Director Reinhardt to review and sign checks, and coordinate a second signature by another Board member. It was noted that the check register will be on the next agenda to be ratified.

Financial Statements: Ms. Ross reviewed with the Board the unaudited financial statements of the District setting forth the cash deposits, investments, and budget analysis and accounts payable vouchers for the period ending February 28, 2014 and the current schedule of cash position and cash flow projection through August of 2014.

Following review and discussion, upon motion duly made by Director Reinhardt, seconded by Director Macaulay and, upon vote, unanimously carried, the Board accepted the financial statements for the period ending February 28, 2014 and the current schedule of cash position and cash flow projection through August of 2014.

Payroll Withholding Issues: Ms. Ross explained that the District contracted with Paychecks Inc. at the beginning of the year for payroll services. At that time it became apparent that taxes were being withheld from earnings earmarked for retirement funds. She has been researching how to correct the issue and reported that there is no statutory limitation to how far back W2s can be amended; however, there is an IRS rule limiting the time frame for penalties to three years. She has a proposal from Paychecks for \$1,300 per year to make the correction. Ms. Ross reported that staff would have to compile information to be submitted to Paychecks. Ms. Cyriacks requested clarification on the issue. Ms. Ross explained that QuickBooks was subjecting PERA withholdings to federal income

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tax. Ms. Ross estimated that the amended W2s can be prepared by Special District Management Services, Inc. for less than \$1,300 per year. The Board directed Special District Management Services, Inc. to perform the work.

LEGAL MATTERS

Water Matters: Mr. Lock joined the meeting at this time. He reported that the Division One Rules Committee accepted recommendations by Mr. Lock and his firm to allow a one year compliance period from the date of implementation for stakeholders subject to the new rules. He then reported that all additional updates would be subject to attorney-client privilege and recommended that the Board convene in Executive Session.

EXECUTIVE SESSION

EXECUTIVE SESSION: Pursuant to Sections 24-6-402(4)(b),(e) and (f), C.R.S., upon motion duly made by Director Macaulay, seconded by Director Grote and, upon an affirmative vote of at least two-thirds of the quorum present, the Board convened in executive session at 11:09 a.m. for the purpose of discussing negotiations with third parties, personnel matters and receiving legal advice, as authorized by Sections 24-6-402(4)(b), (e) and (f), C.R.S.

Furthermore, pursuant to Section 24-6-402(2)(d.5) (II)(B), C.R.S., no record will be kept of those portions of the executive session that, in the opinion of the District's attorney, constitute privileged attorney-client communication pursuant to Section 24-6-402(4)(b), C.R.S.

The Board reconvened in regular session at 12:33 p.m.

OTHER BUSINESS

Neighbors Helping Neighbors ("NHN"): Director Reinhardt reported that there is nothing new to report.

Response to Issues Raised by Brenda Friedberg: Mr. Beckman reviewed a draft letter in response to questions and concerns raised by Ms. Friedberg.

Following review and discussion, upon motion duly made by Director Reinhardt, seconded by Director Macaulay and, upon vote, unanimously carried, the Board approved the letter and directed staff to forward it to Ms. Friedberg.

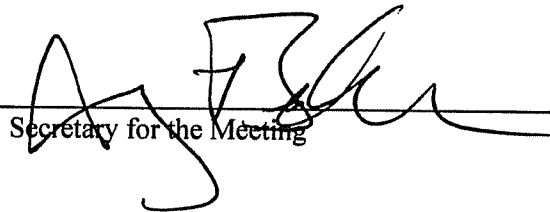
Reschedule September 2014 Board Meeting: Following discussion, the Board determined to reschedule the September 26, 2014 regular meeting to Friday, September 19, 2014 at 8:00 a.m. at the regular meeting location, due to the rescheduling of the SDA Conference.

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ADJOURNMENT

There being no further business to come before the Board at this time, upon motion duly made, seconded and upon vote, unanimously carried the meeting was adjourned.

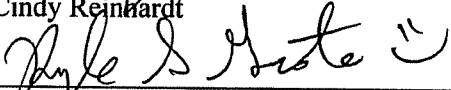
Respectfully submitted,

By 
Secretary for the Meeting


THESE MINUTES ARE APPROVED AS THE OFFICIAL MARCH 21, 2014
MINUTES OF THE BACA GRANDE WATER AND SANITATION DISTRICT
BY THE BOARD OF DIRECTORS SIGNING BELOW:

Vicki Matthews


Martin Macaulay


Cindy Reinhardt


Kyle Grote



Michael Scully

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**Attorney Statement
REGARDING PRIVILEGED ATTORNEY-CLIENT
COMMUNICATION**

Pursuant to Section 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 session meetings convened on March 21, 2014 for the purpose of discussing negotiations with third parties, discussing personnel matters and receiving legal advice as authorized by Sections 24-6-402(4)(b), (e) and (f), C.R.S. I further attest it is my opinion that a portion of the executive session discussions constituted a privileged attorney-client communication as provided by Section 24-6-402(4)(b), C.R.S. and, based on that opinion, no further record, written or electronic, was kept or required to be kept pursuant to Section 24-6-402(2)(d.5)(II)(B), C.R.S., for those portions of the executive sessions.

Signed


Jennifer Gruber Tanaka, Esq.
