

MINUTES OF THE REGULAR MEETING OF  
THE BOARD OF DIRECTORS OF  
GREEN MOUNTAIN WATER AND SANITATION DISTRICT

March 9, 2021

A Regular Meeting of the Board of Directors (the "Board") of the Green Mountain Water and Sanitation District, (the "District") was held at 6:00 p.m. on Tuesday, March 9, 2021.

A.P.  
B.K.

~~This document is an edited version of the audio recording of the District Board meeting. The audio recording shall be the official record of the District Board meeting proceedings. Such audio recording is available on the District website.~~

Attendance: A regular meeting of the District was scheduled in compliance with the laws of the State of Colorado, with the following directors in attendance:

Adrienne L. Hanagan, President – Virtual Attendance  
Jeff A. Baker, Vice President – Virtual Attendance  
Alex Plotkin, Secretary – Virtual Attendance  
Karen Morgan, Treasurer – Virtual Attendance  
Rhonda Peters, Director – Virtual Attendance

Also, present were:

Greg Kropkowski, District Manager  
Sam R. McKay  
Jesse Davenport  
Austyn Pantano, Field Supervisor  
Doug Pavlich, Financial Specialist  
Terry Kenyon, Merrick & Company  
Jo Deziel Timmins, Deziel Timmins LLC, District Legal Counsel  
Randy Ashburn, Browns Hill Engineering  
Denver Jernigan, Browns Hill Engineering

Also, in Attendance from the Public:

Brenda Bronson	Christopher Arlen
Peggy Ralph	Wendy Shrader
John Henderson	Mr. M.D.
Imara	

Call to Order /  
Declaration of  
Quorum:

Director Hanagan, noting the presence of a quorum of the Board called to order the Regular Meeting of the Board of the Green Mountain Water and Sanitation District at 6:05 p.m.

Directors &  
Disclosure Matters: None.

Approval of/Deletions  
from the Agenda: None.

Public Comment: Brenda Bronson: Stated that the Board is not in compliance with the Bylaws dated January 10, 2006, and that the Board does not have officers for the positions of Assistant Secretary and Assistant Treasurer. She explained that it was her understanding that the February 24, 2021, letter from John Henderson was sent via email to all Board members. Trying to understand if John Henderson has been hired and if yes, who signed the agreement with him and questioned whether or not his hiring was legal. States that she doesn't feel that he is impartial. Also, asked for a written response to her previous public comment regarding Dave Wiechman's letter requesting that the Board wait to update the Bylaws until the Board has resolved their various lawsuits.

Christopher Arlen: States that he appreciates the Boards kind attention to the various concerns for the District and appreciates the Boards leadership. States that it is important that the Board confirms the January 10, 2006, Bylaws. Commented that the minutes from February 9, 2021, are the worst he has seen and that they don't represent the Board and request that that they be reviewed. Stated that he opposes the proposed engagement letter from John Henderson dated February 24, 2021 and felt that Mr. Henderson has a conflict of interest with several issues currently before the Board. States that he urges the Board to continue with the representation of the current counsel.

Peggy Ralph: Asks if Jo Timmins is the only attorney representing Green Mountain Water and what is the status of the lawsuit from 2019.

Wendy Shrader: Commented that the Agenda Packet for the meeting wasn't posted as of 10:00 a.m. this morning and that it would be beneficial to post earlier so that it can be reviewed prior to the meeting. Concerned with the increase in legal fees and how they are reflected in the Budget and if the outstanding legal invoices mentioned in prior meetings have been paid. Would also like a status update on the legal cases.

Approval of Minutes: a. Approval of January 12, 2021, Regular Meeting Minutes

Director Morgan **MOVED** to approve the January 12, 2021, Regular Meeting Minutes once Scott Gessler is added to reflect that he attended the Executive Session. Director Plotkin seconded. Director Peters

asked if Andrew had also attended these meetings. Ms. Deziel Timmins stated she would confirm and would have him added if he attended. Director Hanagan voted no, Director Plotkin voted yes, Director Baker voted yes, and Director Morgan voted yes. Director Peters asked why Director Hanagan voted no and she stated that there were discrepancies in the written minutes from the recording transcript. Director Peters voted no. **The Motion with the edits of the attendees passed 3-2.**

- b. Approval of January 19, 2021, Special Meeting Minutes
- c. Approval of January 27, 2021, Special Meeting Minutes
- d. Approval of January 31, 2021, Special Meeting Minutes
- g. Approval of February 16, 2021, Special Meeting Minutes

Director Hanagan **MOVED** to approve the January 19, 2021, Special Meeting Minutes; January 27, 2021, Special Meeting Minutes; January 31, 2021, Special Meeting Minutes; and the February 16, 2021 Special Meeting Minutes once Scott Gessler is added to reflect that he had attended the Executive Session and confirmation that Andrew had also attended these meetings. Director Baker seconded. Director Morgan requested that the January 31, 2021, minutes reflect that there was a quorum of five reflected. Ms. Jo Deziel Timmins stated that she would review these minutes to be sure that it reflected that there was a quorum of 5. **The Motion passed by unanimous consent.**

- f. Approval of February 9, 2021, Regular Meeting Minutes

Director Baker **MOVED** to approve the February 9, 2021, Regular Meeting Minutes (21 Pages). Director Plotkin seconded. Ms. Deziel Timmins requested that you need to confirm which version of the Minutes you are approving. The one included in the Agenda Packet is 21 pages. Mr. Kropkowski stated that he had circulated to the Board Members an edited version that is a total of 6 pages. Director Peters expressed concern over typos and the accuracy of recent edits to the minutes, and wants to review the recording and compare before approving. Director Hanagan is not in favor of approving these minutes (21 pages) as they are too long and detailed. Ms. Deziel Timmins stated that the Board can state that the recorded transcription can be the official minutes of a meeting and the written minutes would be a summary. Director Morgan stated that she likes more substance in the minutes. Director Peters asked what the minute taking process would be going forward. Director Plotkin stated that during his tenure an attorney had taken the minutes and the Public felt that they were not detailed enough (there wasn't an audio recording at this point) so the minutes were reviewed by the Board Members and edits given. Ms. Deziel Timmins stated that currently Andrew is taking the minutes.

Previously a paralegal in Ms. Deziel Timmins office had been taking the minutes. Director Peters is open to finding a system that works for everyone. Directors Baker, Plotkin and Morgan are in favor of approving the minutes. Director Peters and Hanagan are opposed. **The Motion passed 3-2.**

Director Hanagan opens the floor and asks if anyone from the Public has a comment as to the Minutes.

Christopher Arlen: States that everyone is right in part in their comments. The minutes should be a good balance summation and having the audio is an additional benefit.

Director Hanagan states that if anyone has additional comments.

- e. Approval of February 2, 2021, Special Meeting Minutes – These minutes were not discussed nor was there a vote taken

Maintenance Report: Austyn Pantano presented along with Randy Ashburn and Denver Jernigan both with Browns Hill Engineering

- a. vSaas Agreement

Randy Ashburn and Denver Jernigan from Browns Hill Engineering introduced themselves and did a 10–15-minute presentation. Directors asked various questions.

Director Plotkin asked for the staff's thoughts on the program. Mr. Pantano stated that he is supportive of moving forward with Browns Hill.

Director Hanagan stated that since the cost is within the approved administrative costs, the Board didn't need to vote on this matter. Ms. Deziel Timmins confirmed that was correct.

Director Hanagan asked for any comments from the Public and there were none.

Financial Matters:

- a. February 2021/March 2021 Daily/Monthly Operation Expenses & Capital Expenditures
- b. February 2021 Unaudited Financial & Investment Reports

Mr. Kropkowski presented and stated that these are the standard month to month reports and asked for approval. Doug Pavlich called in to answer questions and is currently working with the auditor, Debbie Crady on the annual audit.

Director Hanagan **MOVED** to approve the February 2021/March 2021 Daily/Monthly Operation Expenses & Capital Expenditures and the February 2021 Unaudited Financial & Investment Reports. Director Baker seconded. Director Morgan stated she had concerns regarding the legal expenses. The Board discussed the reasons for the high legal fees.

Ms. Diezel Timmins stated this litigation started in June 2019 and that she believed were well within reason. She further described she had been preparing for a trial but had recently received a settlement offer. Ms. Diezel Timmins suggests that the Board add the settlement offer to an agenda to go through the options of going forward and how that would solve the current problems with the IGA.

Ms. Diezel Timmins discussed the need for an updated IGA inclusive of a public process. The Board generally discussed their concerns with the legal expenses incurred to date and explored a few options.

Directors Hanagan, Baker and Peters voted in favor. Director Morgan voted in favor with objections. Director Plotkin voted against. **The motion passed 3-2.**

Engineering Matters: Presented by Terry Kenyon, Merrick & Company

- a. 2021 Capital Improvements Project Updates – Proceeding with the design developing the background drawings. Scheduling the field locates for the dry utilities. We have corresponded with the engineers of Bear Creek Water and Sanitation District regarding the outfall sewer regarding the process.
- b. Master Plan Updates – Had a work session with the staff on the Water Master Plan. We took them through the Ethernet model with an introduction on how to use and gave them a status update.
- c. Construction Project Status – No major changes. Construction Filing 19 construction inspection was completed last month and Construction Filing 20 of the sewer lines has been completed. Trailblazer Stadium construction has been completed.

Director Hanagan asked if anyone had any questions. None.

District Manager  
Report:

Presented by Greg Kropkowski.

- a. Colorado PERA/Social Security – Employee Impact  
On average our employees put in on average \$400 per pay period for PERA. Mr. Kropkowski feels that the 2021 employees we have are happy to be able to participate in both programs by having amounts taken out of their checks. Employees will be able to draw amounts on both PERA and Social Security when they meet the criteria for being able to do so. Mr. Kropkowski described the costs of leaving PERA and further stated that all new hires do participate in both programs.
- b. Employee Accomplishments and Compliments – Update on employee anniversaries and shared a thank you from a resident for the crews being professional.
- c. Tap Count Analysis – coordination with Denver Water  
In January Denver Water stated in a high overview that we are in basic agreement on our tap number. On March 1, we asked for their files and more detail of their map reflecting our taps, so that we can work with Mr. Kenyan to go address by address.
- d. New Hires – 2 New Hires.

Director Hanagan asked if anyone from the Public had any comments.

Jesse Davenport asked if there is a discussion about disassociating from PERA or is this informational? Mr. Kropkowski confirmed it was informational.

Legal Matters:

Summary of Current Litigation Regarding Big Sky IGA.

No discussion.

Directors Matters:

- a. Ravine – Sewer Developments - Status

Directors Hanagan and Peters met with the City of Lakewood along with Kit Newland, Mr. Kropkowski and Ms. Deziel Timmins. Ms. Deziel Timmins stated that there is a fair bit of history that was learned and suggested that this be added to the agenda for the next meeting. Ms. Deziel Timmins discussed a few of the things she learned.

Director Peters requested that the City of Lakewood forward their Stormwater Abatement Plan and ask that they disclose how much the Green Mountain residents are paying for that stormwater management.

Director Peters stated that based on our Budget there are significant fees paid to the City of Lakewood and that each resident of Green Mountain also pays. A request was made for any aerial photos and any historical photos for the area also be sent to be able to track the timeline of the erosion.

Director Hanagan suggested requesting a study of how many people are using the bridge from the City of Lakewood.

Director Hanagan asks if there are any questions from the members of the Board. None. Does the Public have any questions? None.

b. Adding Litigation Co-Counsel: Discussion – Approval

Director Baker stated that he had added this item as it was his understanding that Mr. Henderson was available as a pro-bono co-counsel. Ms. Diezel Timmins had informed the Board that before using Mr. Henderson, this item needed to be on the agenda, approved by the Board and then an engagement letter would be required.

Director Hanagan asked for Public comments.

Director Peters noted her understanding was that Mr. Henderson was to assist in the settlement process of the lawsuit; however, the scope of the engagement letter is much broader.

Mr. Henderson described his position with the Board and provided a timeline of events from August 2018 to present. At the same time Ms. Diezel Timmins joined as attorney, the Board asked him to come on formally as an attorney or consultant to handle the Title 32 issues that he had developed an expertise in. Mr. Henderson stated that he had provided advice, answered questions, attended the Executive Sessions and until the Board disengaged him, felt that he was still engaged.

Ms. Diezel Timmins stated that the Engagement Letter he executed was with her firm, not the Board and that she had terminated him because he had breached the co-counsel agreement.

Mr. Henderson and Ms. Diezel Timmons discussed the order of events and reasons for his termination noting that it was potentially an ethical issue since he was listed on the Plaintiff's witness list.

Ms. Diezel Timmins stated that the Court in this case found that Mr. Henderson was not permitted by law to represent and give advice to the District and further described that he was not to participate in any work, not just in trial, but even on trial strategy and some trial preparation.

Mrs. Deizel Timmins clarifies that the engagement letter that is on the table now is not the informed consent that is necessary. Mr. Henderson disagrees and states that what is required is an informed consent and that there is no conflict.

#### Public Comments:

Christopher Arlen told Mr. Henderson we don't see your value and that he has a life to live and that he wished him well. Mr. Arlen stated that he was concerned about travel expenses associated with Mr. Henderson if the Board in fact solicited his services, and desired clarification on the informed consent. He inquired as to how Mr. Henderson became involved and was concerned that the agreement or engagement letter was never discussed publicly. He ended by stating that he is open to hearing if there is a valid business rationale that has not yet been considered.

Imara recalled previous meetings to which Mr. Henderson offered services pro bono but that an agreement was never signed. She added that if the Board thinks they need additional counsel to support our lead attorney the co-counsel should be recommended by the lead. She raises concern about Mr. Henderson's location, unlimited travel budget and requested the Board disclose the amount of District funds that have been paid to Mr. Henderson. She felt that hiring Mr. Henderson would be poor optics and in bad taste given his stance against the Plaintiff. She informed the Board that she would hold personally accountable any Director that signed the agreement.

Wendy Shrader stated that she just started listening out of curiosity to the Board meetings around the first of the year. As a 24-year resident of Green Mountain and a customer of this water district, she stated that what she has witnessed tonight is alarming. She believes there needs to be some serious investigation on what is happening with this Board.

Brenda Bronson stated that she would like an answer from all of the Board Members, whether they signed this letter or not. She asks Ms. Deizel Timmins, if it is legal for 3 of the 5 Board Members to hire Mr.



Henderson behind the backs of the people that pay for Green Mountain water?

Director Baker states that the intentions of the Board have not been to do things behind anyone's back. He explained Mr. Henderson had the history and legacy of information, and he was doing this pro bono. The Board was told by Ms. Diezel Timmins that we would need to get this paperwork signed before anything could happen. He noted that he had signed the engagement letter.

Brenda Bronson asks Director Baker if it was ever on the agenda?

Director Baker stated he put it on the agenda tonight. Ms. Bronson stated, yes, but Mr. Henderson's name wasn't added. Director Baker apologized for not being more specific.

Ms. Diezel Timmins clarified her understanding of the conversations with Mr. Henderson. She found out that Directors Baker and Plotkin were having conversations with Mr. Henderson and this became a roadblock for her in this litigation.

Director Baker stated that when we went into this thing, he shut everything down. Ms. Diezel Timmins stated that yes, it stopped then, but she then discovered that the conversations with Mr. Henderson continued. She reiterated If you wanted to hire Mr. Henderson, you needed to do it in an open meeting.

Christopher Arlen: Believes what we see here is the culmination of what happens when people are outside of a relationship of trust. He thanked Director Baker for stating his opinions. Mr. Arlen encourages the Board to consider that every single one of you are correct and challenges the Board to find out why they are correct. He stated that he appreciated the Board for their leadership and passion and that he felt that everyone was doing their best.

Director Peters: Confirmed that the attorneys were copied on the email that Mr. Henderson sent out with the Engagement Letter. She clarified that the Board generally had a desire to get specific Title 32 questions answered and thus Mr. Henderson sent over the engagement letter.

Director Hanagan proceeds to read the Engagement Letter in full. She noted she had not signed the agreement but asked the other Directors if they did.

Christopher Arlen states that as an elector and not a member of the Board, believes that the Directors have an obligation to answer the question.

Imara states that this is a breach of their oath of office, that they would be so bold as to sit there and refuse, not just to answer a question.

Christopher Arlen states that if they will not answer this question, my first order of business tomorrow will be to initiate a recall against them.

Director Hanagan states some problems that she sees with this contract. Her primary concern was that the agreement seemed to skirt the Open Meetings Law.

Director Plotkin states that it was his understanding from Ms. Deizel Timmins, that Mr. Henderson was properly engaged. So yes, I also signed the letter.

Director Hanagan asks if there is a Motion to approve the addition of Mr. John Henderson to Co-Counsel?

Director Baker states that he doesn't agree with a lot of the things that were said by the stakeholders tonight. He appreciates Mr. Arlen, as he thinks that we are all trying to do the right thing here. He clarifies that he does not have a back door agenda and simply believed that Mr. Henderson could provide additional information that would benefit the District.

c. Discussion and Approval of the "Resolution Regarding Communication With District Employees"

Mr. Kropkowski stated that this was created at the request of a Director from the February 16, 2021, meeting. Director Hanagan expressed concern that this was not included in the meeting packet for the public to review. Mr. Kropkowski states he was given a directive to prepare this resolution as a result of the February 16<sup>th</sup> meeting. Two members of the Public asked for the release of the February 16 executive session recording. Mr. Kropkowski informed both individuals that he was not authorized to release the recording and offered the language provided by legal counsel. If this resolution needs to go before the Public, we can put it on the website and invite public comment. Director Baker agrees that the resolution should be posted on the website and put it up for the next Board meeting. Ms. Deziel Timmins states that the point of the Open Meetings Act is that the business of the District is to be done in public.

d. Hiring of transcription service for meeting minutes.

Director Plotkin states that in the past the Board had used a transcription service. He thought the Board might be interested in bringing it back.

Jesse Davenport was directed to do some research on various transcription services and report back to the Board.

e. Article XXIX Colorado Constitution

Director Hanagan stated that it is important that we uphold our oath of office to defend the state constitution and abide by it. She explained she would like to hold a community meeting to discuss outstanding unanswered questions of the public.

There was a lengthy discussion regarding possible locations, having the meeting virtually and how the staff would handle the technical side once a location was determined and what topics could be discussed regarding the IGA litigation. Comments and suggestions were also received from the Public. A tentative date of March 23 was proposed for a 2-hour community meeting. Mr. Kropkowski is to contact various locations for availability based on suggestions from the Board and the Public. Ms. Deziel Timmins would coordinate the agenda and the items to be discussed.

- Executive Session: Ms. Deziel Timmins stated that the Executive Session would need to be rescheduled. It was determined that it would be held virtually on Tuesday, March 16 at 6:00 pm.
- New Business: Director Peters asked that the transcription of the minutes be added to the next monthly Board meeting.
- Other Matters: None
- Adjourn: Director Hanagan **MOVED** to adjourn the meeting. Director Plotkin seconded the Motion. The Motion passed by unanimous consent, and the meeting was adjourned at 11:04 p.m.

Adrienne L. Hanagan  
Adrienne L. Hanagan, President

Jeffrey A. Baker  
Jeffrey A. Baker, Vice President

Alex Plotkin  
Alex Plotkin, Secretary

Karen Morgan  
Karen Morgan, Treasurer

Abstained  
Rhonda Peters, Director