

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

April 20, 2021

A Special 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, April 20, 2021.

~~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.~~

A.P.  
Baker

Attendance: A special 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, District IT  
Scott Gessler, Deziel Timmins LLC, District Litigation Counsel

Rick Enstrom  
Lynn Judson  
Wendy Shrader  
Imara  
Mike Muller  
Linnea Hauser  
Jenn Penn  
John Henderson  
Deborah Romero (Phone ending in 1558)  
Christopher Arlen  
Kathe Odenweller  
Other Members of the Public

Call to Order /  
Declaration of  
Quorum:

Director Hanagan, noting the presence of a quorum of the Board, called to order the Special Meeting of the Board of the Green Mountain Water and Sanitation District at 6:00 p.m.

Directors &  
Disclosure Matters: None.

Approval of/Deletions  
from the Agenda: There were no deletions or additions to the agenda.

Statement from  
District Legal Counsel: None

Statements from  
Members of the Green  
Mountain Water and  
Sanitation District  
Board  
Adrienne Hanagan: Director Hanagan is grateful to the constituents for their input. She would like the dispute to settle the lawsuit in a fair and equitable way as soon as possible to avoid further financial losses.

Jeff Baker: Director Baker is grateful to the constituents for attending the meeting and for the comments to be provided.

Alex Plotkin: Director Plotkin stated that he is looking forward to receiving comments from the public and would like to keep comments to the matters at hand.

Rhonda Peters: Director Peters is considering all feedback received to this point. No settlement agreement has been received yet, therefore she has no position on the settlement. She wants to avoid putting the District into financial liability and wants to ensure service capacity and legality in the settlement.

Karen Morgan: Director Morgan encourages attendees to email the Board if they cannot sit through the meeting to wait for their time for public comment. She would like to thank all attendees for coming and looks forward to hearing the comments. She will put the interest of the District first.

Public Comment: Members of the public wishing to address the board during the public comment period are asked to indicate the agenda item number or public comment period next to their name on the sign-in sheet. Members of the public will then be recognized by the Board as each agenda item is undertaken.

#### General Facts for Residents of GMWSD:

1. You are a resident/constituent of the GMWSD District.
2. GMWSD exists to provide sewer (and water) to you and other residents inside the District boundary.
3. GMWSD is a Master Meter for the water provided by Denver Water and sewer collected by Metro Waste. This means that GMWSD is legally bound by certain provisions from those entities.

4. GMWSD has no obligation to provide sewer to entities outside the District boundary.
5. All of the plaintiffs (Big Sky, CDN, Cardel, Green Tree, Three Dinos) are outside the GMWSD District boundary.
6. All the plaintiffs have alternative ways to obtain sewer service (sewer collection) without GMWSD.

The survey on April 7, 2021 was as follows:

Comments related to  
Survey Posted April 7,  
2021

- 1. Do you support GMWSD providing the collection of sewer to the plaintiffs who are now outside the District boundary?**  
If yes, there are two ways for GMWSD to provide access to the sewer outfall connector: Inclusion or an Intergovernmental Agreement.
- 2. Are you aware of the inclusion process?**
- 3. Do you support using an Intergovernmental Agreement?**  
(With an Intergovernmental Agreement, the new Service Areas stay outside the District boundary. The GMWSD District boundary and number of residents stays the same. All the residents of the plaintiffs' future potential developments become customers of the District, but not the residents (constituents) of the District. For example, Solterra gets sewer from GMWSD through an IGA. They are customers, but not residents (constituents) of the District. Hence, they can't vote or be taxed in/by the GMWS District. Their contract for sewer expires in 2023. With the IGA the Developer's Metro District would control the provision of the sewer service within their Metro District.)
- 4. Do you support the district going to court and litigating the Big Sky lawsuit?**  
There are additional pros and cons for each option. There are no preferred choices at this time. We would love to hear from you on this in order to help us better understand where does the Public stand on these issues.

Rick Enstrom: Would like to know when the master plan survey for capacity will be shared with the constituents.

Lynn Judson: Would prefer to litigate the case due to limited water resources for development. The District has no obligation to provide service outside the boundaries. Would like an engineering survey on the soils in Rooney Valley. If an IGA is required, so that the District doesn't take on any future risks or liabilities having to do with breakdowns related to the outside sewer system or unstable land. She is opposed to including additional land in the District's boundaries. Would like to have a better idea what actions need to be taken if the District is to provide additional sewer services.

Wendy Shrader: Would like more visibility on the financials, and what the legal expenses are for last year and this year compared to the budget. Directors Morgan, Hanagan and Plotkin responded to Ms. Shrader's comments.

Imara: Supports litigation, including paying a per household cost of \$357 based on an estimated litigation cost of \$5 Million. Would like to see a breakdown of the legal costs, including categories and breakdown of costs toward litigation, bylaws project, ravine bridge, John Henderson, normal business, or other matters. Would like more information regarding an agreement with John Henderson obligating the District to pay legal fees. Some Green Mountain Water witnesses paid for their own legal expenses and were not reimbursed by the District. Directors Morgan, Baker and Plotkin responded to Imara's comments.

Mike Muller: Stated he is having a hard time reaching the Directors by phone. Doesn't see a problem with providing service if the system can support the capacity, as it will help make the District money. Would like to see a settlement and new IGA. Directors Peters, Baker and Plotkin responded to Mr. Muller's comments. Counsel Gessler responded as follows:

Scott Gessler, District Litigation Counsel: Works with Jo Deziel Timmins on litigation issues for the District and has been engaged through an engagement letter signed by the District President and Counsel Timmins. Regarding settlement, there have been many discussions, including mediation, with legal counsel for the Plaintiffs.

Linnea Hauser: Requests that the Board not settle the lawsuit, and that the Board not take on unknowns, additional expenses and risks by moving forward with an inclusion or another IGA. Scott Gessler responded, stating that many issues in the IGA including costs, financial arrangements and capacity issues have been identified and need to be worked out in order to proceed with a solution.

Jenn Penn: Encourages the Board to consider a new IGA. Directors Peters and Baker responded to Ms. Penn's comments.

Lynn Judson: Would like more detail on what would be required for the other side to receive sewer service. Directors Baker and Plotkin responded to Ms. Judson's comments. Counsel Gessler responded as follows:

Scott Gessler, District Litigation Counsel: Provided more information on flow equalization tanks and how it pertained to the original IGA.

According to the capacity study, the system can handle the capacity with some small modifications without a flow equalization system; only a normal lift station with a backup tank, which is required by law. Some developers are willing to assume maintenance obligations for the lift station and backup tank. There are questions regarding approval by other governmental entities such as the county when it comes to entering into a new IGA.

John Henderson: Would like to note that he has not received (and will not) compensation for his volunteer work for the District. The District agreed to pay an attorney for his deposition and discovery due to residing in Maine. Directors Baker and Plotkin responded to Mr. Henderson's comments.

Deborah Romero: Requests that the Board not cease spending money on the litigation attorneys so that the District is successful in the lawsuit. Would prefer that there be a full consensus on any decision that is made in regards to the lawsuit. Requests that the Board make a concerted effort to not argue and fight. Directors Plotkin, Peters and Hanagan responded to Ms. Romero's comments. Counsel Gessler responded as follows:

Scott Gessler, District Litigation Counsel: Provided information that depositions can be accessed by the public unless they are restricted for reasons such as confidentiality, or by request of any of the parties. Transcripts of depositions could be shared with the public if the Board determined to make it publicly available, depending on advice from legal counsel and subject to any protective orders or restrictions.

Christopher Arlen: Thanked the Board for their positive interactions during the meeting.

Director Plotkin relayed a question asked by a constituent at a prior meeting, regarding bringing the facilities down to Morrison at their existing sewer plant, which is down hill from the District instead of having to use lift stations. Counsel Gessler responded as follows:

Scott Gessler, District Litigation Counsel: The Town of Morrison would need to approve such a venture. Morrison is a small town with 400-600 residents, so any use of their sewer plant would require a large increase in the size of the facility, and other obstacles.

Mr. Henderson responded to Counsel Gessler's comments, noting that Mount Carbon Sanitation District was originally created to provide water and sewer for Rooney Valley and may be an alternative for Rooney Valley service. It is possible the District could consider an IGA with Mount Carbon to provide services to Big Sky. Counsel Gessler

commented on the option to inform the plaintiffs that they could use Mount Carbon, Morrison or another option besides GMWSD unless forced to. Counsel Gessler commented on the Plaintiff's potential damages amounts (greater than \$100 Million), but much of the detailed information is confidential under protective order. Board members have access to this information but would be required to sign a nondisclosure agreement.

Mr. Plotkin responded to Counsel Gessler's comments, discussing the notice given to the developers. Ms. Romero commented that the developers intentionally ignored an issue in order to increase damages, anticipating a future lawsuit. Imara commented, echoing and expanding upon Ms. Romero's comments.


Scott Gessler, District Litigation Counsel: Commented on the various options, including settling or litigation. He will work with Ms. Timmins to put together a streamline chart outlining options and variance to help the Board move forward with a decision. Directors Baker and Plotkin commented on the chart. Mr. Davenport commented on presentation aspects of the chart.

The Board discussed meeting in one week on Tuesday, April 27, 2021.


Mr. Kropkowski discussed ongoing CORA requests. Counsel Gessler will work with Ms. Timmons on the requests, and answered questions about the availability of requested documents for prior board members.

Other Matters: There were no other matters to come before the Board.


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 9:09 p.m.

  
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Adrienne L. Hanagan, President

  
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Jeffrey A. Baker, Vice President

  
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Karen Morgan, Treasurer

  
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Alex A. Plotkin, Secretary

  
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Rhonda Peters, Director