

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

July 13, 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, July 13, 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's website.

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
Alex Plotkin, Secretary
Karen Morgan, Treasurer
Rhonda Peters, Director

Also present were:

Greg Kropkowski, District Manager
Sam R. McKay,
Jesse Davenport,
Austyn Pantano,
Terry Kenyon, Jordan Capeloto, and Elle Moser, Merrick
Engineering
Dillon Woods, Coaty Marchant Woods P.C.
Sue Blair, Community Resource Services
Alex Carlson, Centennial Consulting Group

Brenda Bronson
Christopher Arlen
Kathleen
Angie Baker
Wendy Shrader
Kerry's Iphone
Richard Bennett
Cathi Mantey
John's Ipad
Imara
David Wiechman

Jjblk
Kathe Odenweller
Linnea Hauser
Number ending in 2711
Number ending in 1558
Number ending in 1341

Call to Order / Declaration of Quorum: Director Hanagan, noting the presence of a quorum of all Directors, called to order the Regular Meeting of the Board of the Green Mountain Water and Sanitation District at 6:00 p.m.

Reading of the Agenda Director Hanagan read the agenda to the Board.

Directors & Disclosure Matters: None.

Approval of/Deletions from the Agenda: None.

Public Comment: Brenda Bronson asked about attending meetings in person as it related to COVID-19 and the need for vaccinations or wearing masks. She asked about item 12 on the agenda and why Mr. Woods would participate in an executive session regarding Big Sky Litigation instead of Ms. Timmins. She inquired about the Coaty, Merchant, Woods, P.C., invoice for June. She reiterated her desire for Ms. Timmins to remain as counsel and noted concerns regarding increases in legal costs with the change of attorney. Finally, she discussed a concern regarding the phrasing Board members sometimes use regarding “technically” legal activities and offered examples.

Deborah Romero commented that she had listened to every meeting for some time and has similar concerns as the previous commenter. She asked Mr. Woods to please focus on what is good for the District and to be loyal to the District and not to three Board members that comprise a very small portion of the District. Furthermore, she requested that the spirit of the law be the guide and not the letter of the law and expressed concern that citizen input is not being considered.

Director Hanagan closed the public hearing at 6:13 pm.

Approval of the Minutes

1. May 25, 2021
Special Meeting
Minutes; Director Peters explained that she had made edits to each of the meeting minutes. She briefly noted each of the changes that she made .
2. June 8, 2021
Special Meeting
Minutes; Director Hanagan noted two minor typos as well .
3. June 15, 2021
Special Meeting
Minutes; Director Plotkin expressed appreciation for the minute-taking and provided history that in the past minutes were circulated to directors with the track changes function in advance of appearing on the agenda.
4. June 22, 2021
Special Meeting
Minutes;
5. June 29, 2021
Special Meeting
Minutes Director Morgan **MOVED** to approve the meeting minutes from May 25, 2021, June 8, 2021, June 15, 2021, June 22, 2021 and June 29, 2021 subject to the revisions described by Director Peters and Hanagan. Director Plotkin seconded the Motion. The motion passed unanimously.

Maintenance Report

Presented by Austyn Pantano and Josh Stanley:

- a. Sanitary Survey
Results

The District is waiting for the new endpoints to come in stock. He briefly described two main breaks that occurred since the last meeting.

Mr. Stanley described that on 4/21 the state issued a violation for not having implemented the storage plan. Notice of the violation was received on May 17th. He described generally the work that was completed to remedy the issues described. He noted that no water was at risk during this period.

Director Hanagan asked Mr. Kropkowski the reason for the delay in notifying the Board. He stated that the delay was to ensure there was no chance at a quick remedy and he reiterated the Board was notified in advance of the constituents receiving notice.

Financial Matters

- a. June 2021/July
2021
Daily/Monthly
Operation

Mr. Kropkowski commented that the cooler, wet weather throughout the season resulted in a reduction in water revenues but also a reduction in water expenses.

Expenses &
Capital
Expenditures

b. June 2021
Unaudited
Financial &
Investment
Reports

Director Plotkin asked if the District was still on track for a positive revenue stream.

Mr. Kropkowski noted that in the last several years the District has added 6 to 7 million dollars to the District's fund balance over the last 5-6 years.

Director Peters asked if Ms. Timmins' invoice had been received yet, and about the HVAC project timing as the delays contribute to being under budget. She mentioned that the District is down 20% in water sales this year and inquired whether or not the District would be able to recoup the loss by the end of the year.

Mr. Kropkowski noted that invoices were not yet received, the HVAC project is expected to begin in September. He also noted that the weather seemed to be trending warmer recently so the District would likely increase its water revenues.

Director Hanagan **MOVED** to approve the June 2021/July 2021 Daily/Monthly Operation Expenses & Capital Expenditures and the June 2021 unaudited financial and investment reports. Director Plotkin seconded and upon vote the motion passed unanimously.

Engineering Matters

a. 2021 Capital
Improvement
Project Updates

b. Red Zone Tank
Warranty

The Board took a break at 6:50 p.m.

The Board reconvened at 7:02 p.m.

Mr. Kenyon began with a high-level overview to bring Mr. Woods up to speed.

He described the differences between the three company proposals and acknowledged that the cost differences are not as simple as they appear. He noted that Matergenics has a higher estimate but an advantage from litigation experience, CPI is a smaller firm, with the lower estimate, but their start time would be delayed by approximately 10 weeks. He noted that KTA is a large firm, and one could question the level of attention the District would receive.

Director Peters expressed interested in the equipment each company was using and noted it could be a part of the cost difference between the three proposals.

Director Baker asked why the Board needed to engage one of the three firms if the issue is covered under warranty.

Mr. Kenyon described the complications with warranty claims and why it is important that the Board engage a firm to find the source of the issue.

Director Baker asked about metal testing. Mr. Kenyon described the situations in which they would perform the testing described by Director Baker.

Director Plotkin asked if all environmental factors had been accounted for during testing. Mr. Kenyon confirmed that to the best of their ability all factors were considered.

Director Peters pointed out that travel expenses were not included in the proposals and noted that the Matergenics line item was in excess of \$24,000.

Mr. Kenyon stated that he would reach out to receive the answers to the Board questions.

Director Peters clarified the cost per sample and noted that this is important to consider because it is unknown how many samples might be needed. Director Baker and Mr. Kenyon generally discussed capping the number of samples needed to help control costs.

Director Morgan asked about approving the RFP this evening subject to the questions being answered. Mr. Kenyon stated that the Board could make a motion subject to District Manager discretion following the information received from the questions asked by the Board.

Mr. Pantano described the maintenance activities that have been on-going throughout the District tanks.

The Board asked Mr. Pantano about timing for bringing the tank back online. He responded that the tank will be down until the issues are resolved. Mr. Kenyon explained that understanding the problem is the most important item, he then recommended that the tank be stripped of the coating to get it back on-line and re-visit the coating later.

Director Morgan hoped the Board could make a motion to approve the proposals and give final determination to the District Manager.

- c. Merrick
Presentation of
WWMP and WMP

Mr. Kenyon introduced the Merrick presentation of WWMP and WMP with the Board.

Director Peters asked about the District having access to the models. Mr Kenyon explained why proprietary software was used instead of public domain software.

Director Morgan questioned why the district would need the software since Developers pay for modeling associated with expansion. Mr. Kenyon agreed, noting that staff were busy and the model would be used infrequently.

Director Plotkin asked if depth of flow limits can be set for the district to adhere to. Mr. Kenyon confirmed it can.

Mr. Kenyon, Director Baker and Director Plokin generally discussed that development groups would pay for expenses that would customarily be a part of the analysis provided by Merrick for future developments and capital improvements associated therewith.

Mr. Kenyon and Mr. Capeloto presented the PowerPoint describing the Merrick analysis of the WMP for the District.

Throughout the presentation the Board discussed the findings and asked questions of Merrick Engineering.

Ms. Moser and Mr. Kenyon presented the WMP for the District.

Mr. Kenyon noted full systems studies had been done in the past and that long range planning can be accomplished with the information. Land use analysis, future demands including projected water use for vacant parcels with later development, and performance of system in handling demands, as well as qualitative analysis were part of the modeling. Staff have been diligent in maintenance and keep excellent maintenance records, which facilitated the performance assessment.

Director Plotkin noted rezoning trends from commercial to residential which increase flows and may not be captured in the model. Director Peters similarly inquired if parcels in the Union Area were modeled for the associated higher EQR from commercial to residential. Mr. Kenyon noted communication with the City of Lakewood for estimates on build-out, based on the City

Comprehensive Plan. Any changes beyond that would be paid for by developers.

Director Morgan noted that city plans in regard to building more density and Federal Center estimates based on Lakewood City input were conservative so she felt comfortable with the baseline assumptions provided in the report.

Director Plotkin inquired about maintaining headroom on the system for constituents and also safety reasons, and not pushing the system to limits. Mr Kenyon noted it is a board decision on how much headroom to maintain and that Merrick is generally more conservative than Denver Water.

Mr. Kenyon noted that Green Mountain has 3 monitoring stations with 15 min data for Metro. Director Peters enquired why older data from 2012-13 was used. Mr. Kenyon explained that those were the wettest years, and therefore contributed to highest flows.

Mr. Kenyon noted good correlation between the models and data measurements. The water system was found to be strong with few needs. Federal Central area development would require infrastructure expansion.

Director Peters asked about capacity limited areas. Mr. Kenyon noted none for water delivery and about 7 in sewer.

Mr. Kenyon noted the assumption in the study for build-out of ADUs was 50% of the qualifying lot sizes.

Mr. Capeloto noted that Green Mountain has 3 basin system. Peak flow was used for how many GPM per EQR on max day to calibrate model for conversion from EQR to GPM. Big Sky development was looked at in the model as well.

Director Peters enquired about Bandimere's public meeting expressing their interest in GM sewer, and if that was considered in the WWMP. Mr. Kenyon responded that flow from Bandimere was not included in the model.

Director Plotkin expressed that capacity needs to be maintained for constituents in the district.

Merrick identified problems that had a d/D greater than 1 for Board consideration. Board discussion ensued, including methods to address.

The Engineer's report was concluded at 9:07 pm.

Director Morgan described that the information presented alleviated her concerns about the status of the District. She inquired about the Board's next steps. Director Plotkin and Director Baker responded that the presentation was very helpful and that it is likely future needs of the District will be funded by future development.

Director Plotkin, Baker and Morgan discussed the need for a future discussion about budget requirements to complete future improvements that might be needed based on Merrick's analysis.

Director Peters provided information regarding next step review of the WWMP by CDM Smith and expressed the need for such a review. Director Morgan requested additional information from CDM Smith on the work scope before proceeding.

District Manager Report

- a. Employee Accomplishments and Compliments Mr Kropkowski noted that 2 employees celebrated milestones. He described a few compliments that were received regarding staff members.
- b. Risk Resilience Progress The Risk analysis is completed and should be distributed to the Board in the coming days.
- c. American Rescue Plan Fiscal Recovery – Plan to obtain Mr. Kropkowski described some of the challenges that he has faced in requesting the funds. He continues to move forward and hopefully will have additional information at the next regular meeting.

Director's Matters

- a. Sue Blair – DEO for the District – Recall Election Matters Director Hanagan welcomed Ms. Blair.
Director Hanagan asked about when self-nomination forms can be submitted.
Ms. Blair described the recall election process and her firms experience. She recommended that the Board hold the election on October the 5th 2021.

Based upon this information the publication for the call for nomination will be circulated on July 22nd.

Director Peters asked about the process by which a self-nominated candidate could be elected.

Ms. Blair explained that a constituent would need to select a candidate they would like replaced. Then the constituents could vote for the replacement candidate. Ms. Blair further described important dates that impact the recall election.

Ms. Blair presented a resolution to the Board and explained the blanks in the document that would be filled in based upon decisions made by the Board. She stated that a ballot box would be placed at the District's office.

Ms. Blair described that the resolution authorizes Ms. Blair to act on behalf of the Board.

Mr. Woods asked Director Hanagan if she would be willing to delegate her signing authority as president to the vice president of the Board due to her virtual attendance. She declined and left the meeting to drive to the physical meeting place.

The Board and Ms. Blair discussed generally the details regarding vote counting, absentee ballots, and events of election day.

Director Hanagan arrived at the physical location at 9:41 p.m.

Director Plotkin **MOVED** to approve the election date as October 5th and approve the resolution as presented. Director Baker seconded and upon vote the motion carried unanimously.

Director Morgan described the Resolutions regarding Will Serve and IGA and noted that each of the board members has made a commitment to hearing the public's opinion. She noted that several of the other IGA's have led to complicated issues and in some cases legal complications. She proposed 30 days' notice and a public hearing to request feedback from the public regarding extraterritorial service.

Director Plotkin noted that an amendment to the service plan would be needed to proceed to extend extraterritorial service.

b. Introduction of a
Resolution
Amending Will

Director Morgan and Director Plotkin discussed the need for public input and the language contained within the resolution and the Will Serve Notice. They noted that all the Will Serve letters have expired. Director Plotkin noted that Will Serve letters should have

Serve Notice
Policy

specific language that the District is not at any point obligated to serve unless obligated legally.

c. Introduction of a
Resolution to
Increase Public
Input to
Intergovernmental
Agreements for
Extra Territorial
Service

Director Morgan thanked Mr. Woods for his redline of the resolution. She furthermore explained that the resolution should be passed around to all Board members for comment.

Mr. Woods stated that Mr. Kropkowski should be the point person to distribute, and that Mr. Woods would provide comment as needed.

The Board generally discussed a strict process by which constituents or developers could apply for service.

Legal Matters

Mr. Woods described that he reviewed the two proposed resolutions that were provided to him and provided redline changes. He reviewed the resolution presented by Ms. Blair and reiterated his confidence in her as the DEO.

He mentioned that he reviewed ongoing litigation and did not have anything overarching to report to the Board.

Director Plotkin asked about Ms. Timmins report to the Board about ongoing litigation. Mr. Woods noted that he had not been able to make contact with Ms. Timmins yet due to her travel schedule, but expected to shortly. It was expected to have more information at the following meeting.

Mr. Woods and Director Peters discussed the timelines associated with an appellant court action. He mentioned that he has familiarized himself with all outstanding cases involving the District and provided an overview, but acknowledged his scope of work does not authorize him to delve further into the intricacies of the cases.

Director Morgan asked about overarching actions by the Board to eliminate will serve or extraterritorial service.

Mr. Woods noted that a Board cannot supersede a decision by a future Board but that they could make an action procedurally difficult.

Director Hanagan asked about the possibility of a future constituent of the District suing the District for deciding to never do an IGA again, given that several are in existence now. Mr. Woods generally stated that this would be a difficult case to win.

Executive Session (if required)

None.

New Business –
Notifications for Next
Board Meeting

Director Baker asked for an agenda item to be added to a special meeting on July 27th to discuss counsel representation for the ongoing Big Sky litigation.

Board members discussed availability.

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 10:22 p.m.

Excused - ill

Adrienne L. Hanagan, President

Alex Plotkin

Alex Plotkin, Secretary

Rhonda Peters

Rhonda Peters, Director

Jeffrey A. Baker

Jeffrey A. Baker, Vice President

Karen Morgan

Karen Morgan, Treasurer