

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

August 9, 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 Monday, August 9, 2021.

The audio recording of this meeting 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
Jeff A. Baker, Vice President
Alex Plotkin, Secretary
Karen Morgan, Treasurer
Rhonda Peters, Director

Also present were:

Greg Kropkowski, District Manager
Sam R. McKay and Jesse Davenport, District IT
Scott and Kristi Gessler,
Dillon Woods, Coaty Marchant Woods P.C.
Alex Carlson, Centennial Consulting Group

Christopher Arlen
Michael Yost
Kristen's Ipad
Imara
JA
Joshua Comden
Helen
Kathleen
John's Ipad
Steve Senigla
Lynn Judson
Linnea Hauser
Jjblk
Rita Batolli
Denise Luepschen
Carol Baum
Angie Baker

Phone Number Ending 7050
Phone Number Ending 1580

- Call to Order / Declaration of Quorum: Director Hanagan, noting the presence of a quorum and called to order the Special 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: Director Hanagan read the definition of a Special District. Following her recital, she requested to strike items from the agenda. She read the items that she would like removed from the agenda which included all agenda items other than public comment and adjournment.
- Mr. Woods read sections of the District Bylaws pertaining to the authority of the Board President in addition to the sections of State Statute recited by Director Hanagan.
- Mr. Woods advised that he believed a quorum of the Board was duly allowed to continue the meeting.
- Approval of/Deletions from the Agenda: Moving Roberts Rules of Order to 8. A of the Agenda
- Public Comment: Christopher Arlen discussed a correspondence that he had sent to the Board and read it to those in attendance. He stated the Board has had 30 meetings and expressed concern about the expenses associated with the continuous meetings. Mr. Arlen stated through a CORA request that he believed that the attorney that was under consideration at tonight's meeting had lied. An argument ensued between Mr. Arlen and Mr. Gessler regarding accusations.
- Scott Gessler acknowledged that he had been accused of many items. He discussed and provided an explanation of the accusations presented by Mr. Arlen. He stated a few examples of ways in which he has worked on behalf of the City of Lakewood. He mentioned that his relationship with other developers in the community are not a problem. He recalled each Board members position on the settlement of the case during the time in which he was involved as co-counsel.
- Charles Torres stated that the Board is near the end of the Big Sky litigation and that there is no reason to make a change in representation. He noted confidence in Ms. Timmins and her communication to the Board. He expressed concern about other

issues that could arise by the hiring of a different counsel for litigation. He described the qualifications of Ms. Timmins and expressed appreciation for Mr. Gessler's comments. Ms. Timmins discussed contributions that were noted by Mr. Gessler. An argument ensued by many members of the public and the Board. He concluded that there are many things to consider but that the Board should hold the line with Ms. Timmins.

Rich Boulder asked for people to calm down.

Mr. Muller expressed his disdain for the Board and would like for all Board members to resign. He stated that he would give the rest of his public comment period to Rita.

Deborah Romero stated that she had been at most meetings since 2017. She requested that no vote be made tonight on a change in counsel. She noted that her interpretation of the agenda meant that there might be new information tonight. She is frustrated that there was a Lakewood City Council meeting this evening and felt the Board was taking advantage of the scheduling conflict.

Rita Batolli stated that the three directors up for recall were attempting to change litigation counsel for their own benefit. She is concerned that the constituents of the District would need to foot the bill for new representation to get up to speed on the state of litigation.

She played a 2-minute recording of the Board discussing Ms. Timmins that she believed confirmed the Board previously wished for her to remain as litigation counsel for the Big Sky case. Following the recording she read the bylaws as it related to Board member decisions in executive session. She described cases that she believed showed that Mr. Gessler was not acting in the best interest of the District. She further noted that Mr. Gessler's consideration by the Board was not properly noticed. She mentioned that in a previous meeting Mr. Woods recommended against changing counsel. She described any decision by the Board to change counsel would conflict with several issues she read aloud to the Board.

Brenda Bronson reiterated that the proposed change of counsel is not in the financial best interest of the District and that the three directors under recall are responsible for the change. She claimed that the Directors scheduled a meeting intentionally to avoid public comment and concern. She further described Mr. Gessler's past accusations of ethics violations and requested that there be

additional proposals reviewed by the Board for qualified candidates. She pleaded with the Board to not hire Mr. Gessler noting that the Board should not knowingly hire unethical representation.

Carol Baum asked the Board if there was a problem between the Board and Ms. Timmins. She asked for a public process but noted that if there is a conflict it might warrant a change.

Linnea Hauser stated that a majority of the Board has lost confidence in Ms. Timmins. She noted that she had confidence in Director Plotkin, Morgan and Baker. She confirmed that if there has become a lack of confidence a change is warranted.

Joshua Comden stated that ultimately this change felt ill-fated and not properly noticed or in good faith.

Director Hanagan closed the public hearing.

Director's Matters

Director Hanagan introduced the agenda item and opened the floor to discussion.

- a. Consideration of/Approval of/Disapproval of waiving attorney-client privilege regarding potential attorney conflicts of interest

Mr. Woods stated that he was not familiar with the question at hand and would need time to research to give proper advice to the Board on item 5.a.

Director Morgan noted an email that surfaced on social media and requested the Board discuss the email but asked that attorney client privilege be waived.

Mr. Woods advised not to waive attorney client privilege regarding emails that have surfaced on social media sites. He stated that recent communication with Mr. Gessler would not be privileged but that communication with Ms. Timmins and Mr. Woods could be a privileged conversation. He further advised that the Board continue discussion and that he would advise the Board to enter executive session if the need arose.

Director Morgan asked to move on to the next agenda item.

- b. Discussion with Scott Gessler regarding potential engagement, including discussion of

Mr. Gessler described the problems he has with being accused of unethical behavior. He stated that he is willing to represent the Board and would like an end to the small talk that impairs his ability to represent the District.

acquisitions by Jo Timmins

Director Morgan asked Mr. Gessler how much he would need to be brought up to speed on the case and his experience with the appellate court.

Mr. Gessler mentioned the movement of the case to the appellate court would make it a smooth transition and described his qualifications.

The Board allowed Ms. Timmins to speak. Ms. Timmins stated she would get the information regarding donations received by Mr. Gessler's previous political campaign that she believed created a conflict for Mr. Gessler's representation of the District. She concluded by saying that she had done the best she could to represent the District and got a court ruling that was in the best interest of the District.

Director Hanagan invited a member of the public Charles Torres to speak. He asked who all contributed to Mr. Gessler's Secretary of State and gubernatorial campaign.

Mr. Gessler stated that disclosure is not required in these situations.

Director Morgan asked if Mr. Gessler would still act on the best interest of the Board and represent all Directors. Mr. Gessler affirmed he would.

Director Peters stated that she is concerned about lack of information that has been presented and wanted to ensure that she was presented all information prior to voting on a change.

Director Baker described his desire to let the recall vote take its course.

Ms. Timmins described her case to remain as counsel for the litigation matters and denied any role proposing a settlement and described her dismay of the accusation that she was only interested in a settlement.

Director Plotkin read communications describing times in a public setting that Ms. Timmins has made accusations about the Board acting in bad faith.

Mr. Plotkin described previous correspondence between himself and District counsel that he believed did not properly defend him.

Ms. Timmins described how she defended all Board members and ensured that none of them were sued personally and that the litigation and personal claims are no longer on the table. She further described that the Board won on summary judgement and that it is very rare and a great victory for the Board. She described that a change in counsel could possibly change future rulings on the outstanding cases that should be decided in the next week or two.

Director Peters asked Mr. Woods about his opinion based upon Ms. Timmins comments.

Mr. Woods described his concern about the workload of Judges and their reliance on appellant courts to rule and reiterated that there is a chance that the case could continue through the court system but acknowledged that he is not as knowledgeable as Ms. Timmins.

Ms. Timmins described discussions with the judge and expects a decision within the next month or so.

Mr. Torres made comments regarding Mr. Gessler's qualifications.

Ms. Timmins concluded that she would like to see this case to the finish line and noted that she recently won a victory reducing the breadth of the appeal. She continued to explain the process that would take the Board through the appellate courts.

Director Peters asked about the possible withdrawal of the appeal.

Ms. Timmins stated she was unaware of any withdrawal. Furthermore, she stated that following the court decision there are already motions in place to attempt to keep further challenges out of court.

The Board took a break at 8:23 p.m.

The Board reconvened at 8:33 p.m.

c. Consideration
of/Approval
of/Disapproval of
retaining new legal
counsel for
litigation purposes

Director Morgan expressed that she was not compelled to keep Ms. Timmins.

Director Morgan **MOVED** to remove Ms. Timmins as Big Sky litigation counsel, Director Baker seconded.

Mr. Woods noted that Mr. Gessler's engagement letter was an at will relationship and there were no objectionable terms within the contract.

Director Hanagan asked about all outstanding appeals. Ms. Timmins clarified that there is one appeal on the table.

Mr. Woods defended his email that Director Hanagan read regarding the proposed cost of \$30,000 to \$40,000 per appeal. He acknowledged that in his opinion it would likely be a little over Ms. Timmins estimate of \$25,000.

Director Hanagan stated her desire to retain Ms. Timmins over concerns of costs to bring Mr. Gessler up to speed.

Director Baker expressed that mediation could have impacted the decision. Director Plotkin reiterated concerns with ongoing communication with Ms. Timmins.

Director Peters stated that many of the complaints regarding both parties were consistent but that when she has requested updates Ms. Timmins has given great information. She spoke about mediation and concerns regarding possible conflicts of the mediator.

Director Baker acknowledged there were other Board members that did not want to pursue pro-bono mediation.

Director Peters expressed her support for all Board members regardless of the way they vote or feel about her. She noted that she has listened to Mr. Woods about not switching counsel. Director Peters reiterated that she would like to support Ms. Timmins to complete the Big Sky litigation process. She explained that with the addition of Mr. Woods the Board members will get updates on the litigation process and noted the reasonableness of Ms. Timmins billing.

Director Plotkin responded to Director Peters that he and Director Baker have continually had the best interest of the District at heart and that their concerns with Ms. Timmins have been made very clear.

Director Peters reiterated that she hopes the relationships of the Board members can be repaired.

Director Hanagan requested a vote.

Upon vote the motion **PASSED 3-2** with Directors Peters and Hanagan dissenting.

The Directors generally discussed other legal matters to which Ms. Timmins was working on and if the Board should consider any decisions associated therewith.

Mr. Woods asked for the engagement letter that was sent to the Board by Mr. Gessler. He reviewed and confirmed it was the most up to date letter received by the Board.

Director Hanagan refused to sign the engagement letter.

Director Baker after advice received from Mr. Woods signed the engagement letter noting a title of Vice President.

Other Business

None

Adjourn:

Director Hanagan **MOVED** to adjourn the meeting. Director Baker seconded the motion. The motion **PASSED** by unanimous consent, and the meeting was adjourned at 9:03 p.m.

voted nay

Adrienne L. Hanagan, President

Alex Plotkin

Alex Plotkin, Secretary

voted nay

Rhonda Peters, Director

Jeffrey A. Baker

Jeffrey A. Baker, Vice President

Karen Morgan

Karen Morgan, Treasurer