

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

January 11, 2022

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, January 11, 2022.

The audio recording of this meeting is available on the District’s 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:

Jeff A. Baker, President (Teleconference)
Alex Plotkin, Secretary (Teleconference)
Karen Morgan, Vice President (Teleconference)
Todd Hooks, Treasurer (Teleconference)
David Garner, Director (Teleconference)

Also present were:

Kristan Buck, Interim District Manager
Sam R. McKay, District Information Technology
Jesse Davenport, District Information Technology
Doug Pavlich, District Accounting
Dillon Woods, Coaty Marchant Woods P.C.
Terry Kenyon, Merrick Engineering
Alex Carlson, Centennial Consulting Group

Members of the Public in Attendance

David Wiechman

Imara

Jjblk

Angie Baker

Call to Order / Declaration of Quorum: Director Baker, 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 Baker read the agenda to the Board.

Directors & Disclosure Matters: None

Approval of/Deletions from the Agenda:

Director Plotkin **MOVED** to remove agenda item 10.b. Director Hooks seconded. Upon vote, the motion **PASSED** unanimously.

Director Plotkin **MOVED** to add the legal ethics complaint under 11.a. Director Baker seconded. Upon vote, the motion **PASSED** unanimously.

Public Comment

David Wiechman brought to the attention of the Board that there might be an investment opportunity for the District in U.S. Treasury Bonds. Director Baker noted that this would be discussed further in item d. under Financial Matters.

Approval of the Minutes

- a. Approval of December 14, 2021, Regular Meeting Minutes

Director Plotkin submitted edits to Ms. Buck in advance of the meeting and asked if the Board approved of the changes. Director Baker **MOVED** to approve the December 14, 2021, regular meeting minutes as submitted by Director Plotkin. Director Garner seconded, and upon vote the motion **PASSED** unanimously.

Maintenance Report

Ms. Buck stated that Mr. Pantano was excused from the meeting and that they continue to work through the endpoints and that Mr. Pantano is awaiting some assistance from Badger Meter to complete the process. Ms. Buck noted that there was one main break reported within the last month. Furthermore, she described that it was an exceptionally old line and was repaired within about 2 hours of interruption.

Ms. Buck reported that there was a communications tower that recently sustained damage. The tower has been stabilized and the District will be meeting with the contractor to discuss next steps and appropriate solutions. The property damage claim has been filed with CSD Pool.

Engineering Matters

Mr. Kenyon Presented:

- a. 2021 Capital Improvements Projects Updates

Mr. Kenyon noted that American West responded to the district and had edited the contract as requested to remove the scope of work for water improvements and add additional sewer lines to the lining scope of work. He mentioned the contract amount was reasonable but wanted to review pricing for the 21- and 27-inch sewer mains that need to be lined. He will research the costs further and report his findings back to the Board. Mr. Kenyon has a

voicemail into the golf course to coordinate timing and noted that the information regarding qualifications and references had been received. He recommended proceeding with the project.

b. Red Zone Tank Warranty
– Matergenics Updates

Mr. Kenyon described the Matergenics findings that the topcoat was thicker than specified and that the concrete contained a higher than normal moisture content. He described the multiple tests that were performed to make this determination. Mr. Kenyon noted that he has a few further questions regarding their findings and will report back to the Board accordingly.

Director Morgan asked for examples of Mr. Kenyon's questions. Mr. Kenyon noted that all concrete has moisture in it and desired more specific detail. Another question he has is if the vapor pressure from the concrete would be able to overcome the static pressure of a full tank. He briefly elaborated as to why this would be an important point and other questions that would be related.

Director Plotkin asked if the previous surface was prepared correctly. Mr. Kenyon stated that yes it was and the best measures possible were taken to protect the investment. Director Plotkin asked about the amount of time the previous coating lasted (7 years). Mr. Kenyon explained that a coating should last much longer than 7 years' time.

Mr. Garner asked which contractor (Coblaco Services, Inc.) was selected and how they were chosen. Mr. Kenyon described that the work was bid publicly and that the District picked the lowest bid based upon research that it was a highly qualified contractor. Director Garner asked if a major water event could have influenced the failure. Mr. Kenyon could not recollect a major water event that could have affected the application.

Director Morgan noted a few concerns. She asked Mr. Kenyon about next steps. Mr. Kenyon stated that the next process is to discuss the phrasing in the report to eliminate any professional misunderstandings or questions regarding the findings. Director Garner requested that Mr. Woods be a part of these discussions with Matergenics. Director Plotkin asked about the Districts' position as a result of these findings. Mr. Kenyon reiterated that his intent was to strengthen the position of the District.

Director Baker **MOVED** to create a committee to authorize and contract a third-party SME for the Red Tank issue and nominated himself and Director Morgan to sit on the committee. Director Garner seconded. Upon vote, the motion **PASSED** unanimously.

Director Garner advised that collegial conversation could be subject to discovery and asked that all parties be aware of this fact.

Director Morgan reiterated that the issue with the tank was found and reported during the one-year warranty period. Director Baker asked Ms. Buck to explore any notification requirements for the tank getting back online.

c. 10700 W Exposition

Mr. Kenyon stated that the District has had conversations with Denver Water. He noted that changes have been made to the stormwater plan but not the sewer or water design. He recommended approval but stated that he would wait to disseminate the drawings until they had Denver Water's approval in hand.

Considering the required construction work going on in this area Director Baker asked about notification to residents. Ms. Buck replied that she was unsure if notifications have been supplied previously for work that is not being performed by the District.

Director Morgan inquired about flow and pressures within the area in question. She asked for clarification regarding the flow rates and whether additional service would have impact on long term pressure and flow rates.

The Board discussed whether they were comfortable with the plans as presented. Director Morgan specifically noted the Wastewater Master Plan presentation in the previous Board packet seemed to imply that the District was at capacity prior to any proposed expansion. Mr. Kenyon described the robust aspects of the model as well as its downfalls. Generally, they agreed that they would like more time to review.

Director Morgan requested additional information and Mr. Kenyon stated that he would provide additional detail about the preliminary report.

Director Plotkin asked about the factor of safety associated with the GMWSD system. The Board acknowledged that the delay in approval will have implications but that they must have more information prior to taking formal action.

d. Construction Project
Status Spreadsheet
Updates

Mr. Kenyon noted that there have been updates to the GIS system to reflect as-builts.

e. Alameda Water and
Sanitation District

Mr. Kenyon stated that 454 future customers could be served, and that Colorado Christian University is considering adding to their campus which could increase the scope of a possible agreement with Alameda Water and Sanitation District.

f. Ravine Sewer Crossing

Flatirons and King Surveyor bids were very close. Ms. Buck acknowledged the bids were broken out differently based upon cost of service.

Director Plotkin asked about an additional legal description that could include the removal of the “bridge” and relocation of the sewer crossing. Mr. Kenyon noted some of the complexities associated with the possible crossing relocation. He advised that the surveyors could add scope to collect data to provide a legal description for the new location, should that option be selected.

Director Baker asked Mr. Woods if the City of Lakewood should place signage noting that the pipe hangers are not pedestrian bridges. Director Baker requested that staff contact the City of Lakewood to install signs accordingly or allow the District to install themselves. Director Baker further asked if a P.R. firm might be necessary to alleviate local backlash to the signage.

Back to Engineering Report item e.

Director Morgan asked for specific report on the Alameda Intergovernmental Agreement. Mr. Woods stated that the number of obligatory taps is far less than the number requested as part of a future agreement. The Board generally discussed the history of the agreement to determine the legitimacy of the current proposition from Alameda Water and Sanitation District. Mr. Woods will prepare a memorandum that delineates the obligations of

the District in accordance with the existing and potential new agreement.

The Board requested a ranking of the capital improvements needed in accordance with the recent Water and Wastewater Master Plans stating that this information had been requested on multiple occasions. Mr. Kenyon acknowledged that he and staff are working on this list and will provide it by the next meeting.

The Board took a break at 7:40 p.m.

The Board reconvened at 7:45 p.m.

Financial Matters

- a. December 2021/January 2022 Daily/Monthly Operation Expenses & Capital
Ms. Buck asked for questions. Director Hooks **MOVED** to approve the December 2021/January 2022 Daily/Monthly Operation Expenses & Capital Expenditures. Director Plotkin seconded. Upon vote, the motion **PASSED** unanimously.
- b. December 2021 Unaudited Financial and Investment Report
Ms. Buck asked for questions. Director Baker **MOVED** to approve the December 2021 Unaudited Financial and Investment Report as well as the Audit Engagement Agreement as presented. Director XX seconded. Upon vote, the motion **PASSED** unanimously.
- c. Audit Engagement Letter
Included in previous motion as part of discussion.
- d. Investment Options
Ms. Buck acknowledged that it might make sense to wait until the Federal Reserve actually raises rates to act on any CD or Bank Rate options. The Board acknowledged Mr. Wiechman's point about short term U.S. Treasury Bills and would investigate further if it is allowable by State Statute.

Director Morgan noted that bank rates are currently hovering around 1% and that the Federal Reserve would likely only increase rates by about 1% by the end of the year. Generally, the Board agreed that they would look into allowable investment options with higher rates of return as they become available.

District Manager Report

Ms. Buck Presented:

- a. Employee Accomplishments and Compliments Noted that the Christmas holiday was quiet and hope everyone enjoyed their time away.
- b. Office HVAC Project Update Ms. Buck described that the contractor's quote was above \$76,000 which is in excess of the previous Board authorization and requested that the Board approve the slight additional amount to continue forward on the HVAC repairs.
- Director Baker **MOVED** to approve the HVAC contract to \$80,000 acknowledging that the bid came in about \$2,000 over the originally approved amount. Director Garner seconded. Upon vote, the motion was **PASSED** unanimously.
- c. Raftelis Rate Study Update Ms. Buck reported that work continues and that they are building the rate model. The plan is for Ms. Buck and Mr. Pavlich to meet with Raftelis within the next two weeks. A report to the Board is expected for the March Regular Meeting.
- Director Baker asked for the report to be expedited. Ms. Buck agreed to investigate this for District rate setting purposes.
- d. CDM Smith Update Ms. Buck informed the Board that the proposal has been reviewed and was within budget. Director Morgan asked for six places in the Wastewater Master Plan to be reviewed. Ms. Buck acknowledged and will be expecting an email from Director Morgan discussing the proposed locations.
- e. Election Services Agreement Ms. Buck stated the agreement was ready for signature. Director Baker will be in the office to execute tomorrow.
- f. Job Opening Post: Maintenance Technician Ms. Buck noted the District is prepared to post the position with the salary range as required by Colorado Law.
- The Board discussed a community resource page to include information on wildfires as well as any other information that would be important for emergency services for constituents to understand.

Director's Matters

a. District Manager Hiring Process

Director Baker explained that questions had been sent to down-selected candidates, only two candidates responded within the required timeline and one requested additional time.

Director Morgan stated that she is not inclined to provide more time for any candidate but would be interested in filling the two manager candidates that withdrew their applications with additional applicants. The hiring committee informed the Board that of the number of candidates selected and presented to the Board only five names were agreed upon by the five directors from a choice of 15.

Director Hooks stated that the top two standing were his top two choices. He elaborated that expanding the search as Director Morgan stated was not a bad idea for a few reasons.

1. You might like the answers given.
2. Someone who is not the most qualified on paper, following an interview could rise to the top.

Director Morgan **MOVED** for the Board to accept more candidates for first round written interviews which would include submitting an additional three names to the committee that would result in letters sent to the top three candidates and responses would need to be received by January 18th. The Committee could then narrow down three more candidates from the additional candidates provided by Board members. Director Hooks seconded. Upon vote, the motion **PASSED** unanimously.

Director Plotkin asked about a special meeting to interview candidates. The Board agreed this was appropriate.

Director Garner inquired about the definition of a finalist. Mr. Woods responded that the Board's proposed path forward was legally appropriate.

The Board discussed the interview process at a special meeting. It was proposed that 45 minutes would be allotted for questioning. Director Baker requested an hour per candidate with a ten-minute buffer between.

The Board discussed whether the interviews should be held in person or via Zoom. The Board requested Ms. Buck to keep an eye on COVID-19 local regulations as they relate to in-person interviews. Mr. Woods noted that a 14-day notice for the finalist must be published. The Board discussed the timing of interviews and selection in accordance with State Statute.

Mr. Woods explained that after the Board chooses their finalist from the last round of down selection that a formal acceptance or agreement cannot be made without 14 days advance notice per State Statute.

Director Morgan Proposed a special meeting for February 3rd. The Board agreed.

b. Newsletter

Removed from agenda.

c. Discussion regarding System Development Fees

Director Plotkin raised concern about current System Development Fees (SDFs). He described the current economic conditions including but not limited to inflation. His recommendation to the Board was to increase the fees but acknowledged it might be best to wait for the completion of the Raftelis study. Director Plotkin asked for Board input noting it was a question of “when” and “how” but certainly not “if.”

The Board discussed a rate study committee consisting of Director Plotkin and Director Hooks including the possible need for a special meeting. Directors discussed the concerns of delaying revenue generating opportunities and shortening the deadline for the Raftelis report.

Director Plotkin **MOVED** that the Board consider raising the SDFs at the March Regular meeting. Director Garner seconded. Upon vote, the motion **PASSED** unanimously

Director Plotkin **MOVED** that a rate study committee be made of Directors Plotkin and Hooks. Director Garner seconded. Upon vote, the motion **PASSED** unanimously

Legal Matters

Mr. Woods Presented:

Mr. Woods stated that most items have been discussed previously in the meeting.

Director Plotkin asked Mr. Woods to update the CORA Policy following the new manager hire.

Mr. Woods explained that he sent a memo updating the Board on pending litigation. Director Woods recapped other legal issues facing the Board and District currently. He will advise if any issues need to be brought in front of the Board during future regular or special meetings of the Board.

Director Morgan asked for a course of action on the erosion issue on the Ravine Crossing and if the District would be responsible or if the structure could be removed and relocated to improve the District's ability to safely serve its residents.

Director Garner proposed working with the City of Lakewood to control the erosion to keep the perceived pedestrian path. An agreement is possible but also unlikely.

Legal Ethics Complaint (added per a prior motion in this meeting)

Mr. Woods gave background on the issues and a conversation he had with Director Plotkin.

Director Plotkin **MOVED** that the Board authorize Mr. Woods to make a formal ethics complaint against prior counsel. Director Baker seconded. Director Morgan asked about the complexity of the proposal.

Director Hooks asked about the upside for the District and Directors. Mr. Woods discussed both with the Board.

Upon vote, the motion **PASSED** unanimously.

The Board discussed the Matergenics report being analyzed by the District Engineer and Board regarding any legal ramifications. The Board could possibly enter executive session at a future meeting to discuss.

Director Garner asked about receiving a Director tablet. Mr. Davenport confirmed he would coordinate with Director Garner.

Executive Session

None.

- a. Executive Session pursuant to §24-6-402(4)(d) and §24-6-

402(4)(b), C.R.S. for the purpose of conferencing with an attorney to receive legal advice

- i. Litigation
 - 1. Any litigation issues related to Big Sky Matters
 - 2. Legal Advice Regarding Pending Attorney Malpractice Suit

New Business – Notifications for Next Board Meeting

Executive Session noted for the Regular Meeting. The Board will host a Special Meeting on February 3rd and February 22nd. Regular meetings will be held on February 8th and March 8th.

Adjourn:

Director Baker **MOVED** to adjourn the meeting. Director Plotkin seconded. The motion **PASSED** by unanimous consent, and the meeting was adjourned at 9:40 p.m.



Alex Plotkin, Secretary