

MINUTES OF A REGULAR MEETING  
OF THE BOARD OF DIRECTORS OF THE  
MOUNT WERNER WATER & SANITATION DISTRICT  
HELD AT THE FISH CREEK WATER FILTRATION PLANT  
STEAMBOAT SPRINGS, CO 80487  
8:00 A.M. Friday-July 21<sup>st</sup>, 2023

DIRECTORS PRESENT: John Shively, Gavin Malia, Don White, Wade Gebhardt, Alan Koerner  
(in-person)

DIRECTORS ABSENT: None

STAFF PRESENT: Frank Alfone, General Manager  
Tyler Gilman, Operations Manager  
Cat Smith, Business Manager  
Tom Sharp, General Counsel  
(in-person)

OTHERS PRESENT: None

**I. ESTABLISHMENT OF QUORUM AND CALL TO ORDER**

Director Malia stated that a quorum was present and called the meeting to order at 8:02 A.M.

**II. ACKNOWLEDGE PUBLIC**

There was no public present.

**III. APPROVAL OF AGENDA FOR MEETING**

Director Malia asked if there were any changes to the agenda. Mr. Alfone suggested moving the Executive Session to the end of the meeting, that way if there are members of the public that join the meeting, they could exit before the Executive Session convenes. Mr. Alfone informed the Board that he will provide an update about the Crawford Development which involves an easement matter and suggested adding this topic to the Report of General Manager time slot.

MOTION: To approve the agenda with the proposed changes of moving the Executive Session and adding the Crawford Easement topic to the Report of General Manager.

APPROVED: Vote 5-0

**IV. PUBLIC COMMENT**

There was no public comment.

**V. APPROVAL OF SUBMITTED MINUTES OF PREVIOUS MEETING**

A. From the June 15, 2023, Special Board Meeting

MOTION: To approve the minutes from the June 15, 2023, Special Board Meeting

APPROVED: Vote 5-0

**VI. TREASURERS REPORT- APRIL 30, 2023, REPORT**

As of May 31, 2023, total operating revenues equaled \$868K which is roughly 24% of the total budget. Operating costs equaled \$1M which makes up approximately 39% of total budget.

Non-operating revenues equaled \$97K excluding the CDPHE loans. In May, YTD Plant Investment Fee (PIF) revenue equaled \$71K and in June, it was equal to \$140K. Capital Improvement Plan (CIP) expenses equaled \$497K.

As of May 31, 2023, the Districts total reserves equaled approximately \$2.56M.

Customer(s) Accounts Receivable as of May 31, 2023, was roughly \$5K. There are only two owners that are two quarters past due. Mrs. Smith and Mrs. Kuntz will continue to work with the other past-due customers to collect the fees.

Mr. Alfone noted that the Evergreen Apartments being built across from the La Quinta Hotel has applied for a building permit and a substantial PIF revenue payment should be made soon from them.

## **VII. COMMITTEE REPORTS**

### **A. Budget and Audit Committee**

1. Financial Statements and Single Audits Summary – per Colorado State Statute, the budget for 2024 must be submitted to the Board before October 15<sup>th</sup>. The first draft '24 budget will be presented to the Board at the October 13<sup>th</sup> Board meeting. Mr. Alfone e-mailed 2022 audit information to the Board including the auditor's review, opinion, and governance letter. According to the opinion letter, the financial statements have been presented fairly, there's no material defects, all general accounting principles have been followed, and there were no material financial misstatements. There were a few recommendations in the governance letter; one to clarify in the Employee Handbook that the District cannot forfeit vacation that is accrued/earned. If an employee terminates prior to 90 days of employment, they will still get paid out for vacation accrued. The auditor also recommended preparing a revenue adjustment/write-off report for the GM to review monthly, since Mrs. Smith prepares the checks and has access to the general ledger, there could be potential for her to make a fraudulent adjustment. This report would provide an additional check and balance that all adjustments are verified and legitimate. Mr. Alfone will also review any credits applied to accounts to ensure accuracy. Since all documents have been completed by the auditor, the audit will be submitted to the State Auditor's office before July 31<sup>st</sup>.

MOTION: To approve and accept the District's 2022 audit

APPROVED: Vote 5-0

2. Consumer Price Index/Employee Compensation Review – Mr. Alfone reviewed recent CPI history and past wage increases for District employees. In July 2022, the Board approved a 6% mid-year increase due to the CPI increases. A \$2,000

retention bonus was also approved for the team, and a 6% pay increase on January 1<sup>st</sup> of 2023. The Board approved the 2023 budget that included a possible 3% increase on July 1<sup>st</sup>, 2023. The Board agreed to consider the 3% increase in July 2023. Mr. Alfone analyzed both the US-based CPI and the CPI for the Denver-Aurora-Lakewood area. The nationwide CPI year over year, from June of 2022 to June of 2023 increased 3% and the Denver region CPI increase was about 5%. There are funds budgeted for the 3% increase and unallocated funds available due to not filling the engineering role as of this meeting. After reviewing the CPI increase, Mr. Alfone recommended to the Board a 3% payroll increase for all employees effective July 1<sup>st</sup>.

Director Malia asked about the status of replacing the engineering position. Mr. Alfone explained that the staff has taken some time to better understand the scope of work that is being done in this position. The time also provided insight as to what work might be transferred to the Operations Manager and how best to integrate the op's team more efficiently into the utility review, inspection, and close-out processes. The Project Management portion of the former engineer position will continue to be a shared responsibility between the GM and OP's Manager. However, the design review (City Planning) tasks will be a major focus of the new proposed role – Project Development Coordinator (PDC). The main goal of the PDC will be to coordinate and manage projects with contractors, District staff and the City of Steamboat Springs. The PDC will also facilitate projects performed by MWW. Mr. Alfone hopes to fill the new position by January 1<sup>st</sup> at the latest.

The Board questioned whether it was important to hire someone with an engineering license. Mr. Alfone noted that there are very few MWW projects that require a license, and if necessary, these services are contracted to an Engineering/Consulting firm. An important responsibility of the PDC would be to understand both the District specifications about utility infrastructure and the rules and regulations and be able to communicate them to contractors. Council Sharp informed the Board that very few water and sewer utilities have in-house engineers on staff, and unless they are a very large utility, they would contract these services as needed. Director White mentioned it could affect liability and insurance rates and responsibilities if a licensed engineer was employed by the District.

**MOTION:** To approve a retroactive 3% wage, increase for all employees effective July 1, 2023.  
**APPROVED:** Vote 5-0

3. 2024 Draft Budget- October Board Meeting Submittal – the draft 2024 budget will be presented to the Board at the October 13<sup>th</sup> Regular Board meeting.

B. Water Matters Committee Report – the Committee, staff and engineers have been working on two main items:

1. Direct flows in Fish Creek versus FC Reservoir releases and allocated water diversions of each at the Rollingstone Golf Course intake.
  2. Division 6 Water Rights Accounting – substantial progress has been made with the Division 6 Lead Water Commissioner with respect to the annual accounting spreadsheet. The District and City of SBS await final confirmation from Bryan Romig (lead water commissioner) that the “diversions” accounting with respect to direct flow rights in the creek versus the reservoir are acceptable. The District has been working with both the City’s and the District’s Water Resource Engineers to ensure that everything is being accounted for correctly. Mr. Romig signed off verbally last month to the spreadsheet and plan, now his final review and confirmation of approval is outstanding.
- C. Succession Committee Report – Mr. Alfone will work with the Committee in the next couple of weeks to look at salaries/wages and budget projections for 2024.

### **VIII. REPORT OF GENERAL MANAGER**

- A. Executive Summary Review – Director Malia asked about the status of the City Agreements. Mr. Alfone and Counsel Hamilton have completed a 98% revised draft of the agreement. Several revisions were discussed to incorporate into the Skyline Trail parking lot and co-use property with respect to the Skyline Tank portions of the Tenancy in Common Agreement. Once these revisions are complete it will be forwarded to the City representatives and hopefully a meeting can be scheduled in September.

Director Malia asked if any private ortho-phosphate systems were recently being contemplated for installation. Mr. Alfone noted that Bear Claw Condominiums was considering installing a system. District staff met with the Bear Claw GM and maintenance manager and recommended postponing installing a system pending the completion of the District-wide system (2b) and final determination if the City will allow existing systems to remain active after 2b is operational at the plants. The City has not received their new wastewater effluent permit and this permit will dictate treatment requirements of orthophosphate at the Wastewater Treatment Plant. But currently, it is unknown how much ortho. (or what start date) will have to be treated, and the limit amount allowed to remain, before being released back to the Yampa River. Director Koermer mentioned the West Condominiums may contact the District regarding installing an orthophosphate system.

The new stand-by generator for the Fish Creek Plant was discussed, and the importance of having a regular annual maintenance program/agreement in place after installation. It is important to keep the warranty valid and determine what maintenance MWW staff can perform versus what the generator supplier or independent contractor would complete. Mr. Alfone will follow up with contractors bidding the jobs to relay the maintenance program and warranty needs.

Director White reviewed the letter from James Harris Engineering regarding interior concrete coating of the new infiltration gallery vault. He suggested that asking Native

Excavating to re-seal the joints on the inside may not be beneficial and suggested that Baseline Engineering and Native Excavating submit their procedure to Mr. Harris and have him review the process they plan to implement to ensure it is appropriate.

B. Crawford Development Update – Abandon Water Main/Vacate Easement

Mr. Alfone showed the aerial photo of the lot that is being developed near Burgess Creek Road – due west of the Ski Time Square Condominiums. Mr. Alfone reviewed the water line that runs through the Crawford Project which currently services a fire hydrant and provides water for the fire suppression system in the now-condemned underground parking garage. Part of the agreement between the District and the Crawford project was that Crawford would re-locate the water line (exists under their proposed new building) and install it in a new area and create a new easement (MWW executed the easement). The project sequencing did not go as planned and the contractor should have abandoned the water tap at the main first, moved the water line and then started excavating for their foundation and large retaining wall. Instead, they excavated a 20-foot-high dirt cut from Burgess Creek Road down to their site. Mr. Alfone and Mr. Gilman were concerned that the 8” water main in BC road might shift and many people raised concerns that the east lane, or portion of, of Burgess Creek Road was going to slough off and or move also. Crawford explained that they needed to get the footer wall in to build the retaining wall and building foundation and that is why the cut was made first. Mr. Alfone and Mr. Gilman determined the existing water line supplying the fire hydrant is not necessary and after speaking with the fire department, the fire hydrant cannot be easily used due to fire truck access limitations, and it was originally installed to service buildings that have since been torn down. This item, coupled with the fact that the garage has been condemned and the fire suppression system not needed, allows this water main to be removed. Thus, the existing water line will now be abandoned, the fire hydrant removed, and the contractor will cap the fire suppression intake water line and eliminate this main and FH from the District-owned infrastructure portfolio. When the time is appropriate, the District and the developer will abandon the new easement that would have been utilized for the new water line. The electric needs/portion of the project will now be easier for the developer as power rerouting is necessary and the new water main will not be an obstacle for YVEA to work around.

Director White asked about monitoring the location of the water line along Burgess Creek Road near the “cut” and mentioned that once you break the “natural hold”, settlement might occur afterward. Mr. Alfone reached out to building department officials regarding the project when the cut was made. The project was put on notice that the retaining wall would have to be done ASAP. The building inspectors were alerted to keep an eye on the project. The District’s water line is approximately 8-10 feet away (to the north) from where the cut occurred. Director White suggested preparing a center line survey of the water main’s elevation and location now and the same survey data gathered on the guardrail to get benchmark data. Soon, another survey could be completed to determine if there was movement, i.e., compared to the benchmark data. The water line in the road is about 50 years old and when the retaining wall backfill is mechanically compacted, the water main could also move again. The District might piggyback the survey request along with the City’s ask

of the Developer that they provide a written report detailing their means and methods about how the wall will be built. The report will be added to Geo-tech reports from Northwest Colorado Consultants and Routt County building department inspection reports pertaining to the retaining wall. Moving forward, Director White asked how the District might be included earlier regarding internal design review processes regarding similar-type construction challenges at future building sites. Mr. Alfone will contact Todd Carr, Chief Building Official at the Building Department.

MOTION: To require the developer to abandon the existing water main line, and associated appurtenances, on the east side of the Crawford lot and vacate the executed easement describing the new water main location on a timeline directed by MWW staff.

APPROVED: 5-0

#### **IX. REPORT OF GENERAL COUNSEL**

Council Sharp provided legal assistance regarding the new Snow Country Nursery Fence License Agreement. The fence travels along the north lot line of the Snow Country Nursery property (south lot line of MWW property); west from the entry gate to the Yampa River. There is a section between the new fence and the District existing wellfields fence that needs to remain open as the River Place Homeowners Association has the legal right to access the City Core Trail from their property. Council Sharp provided an opinion about the Crawford project water main and monitored the Ski Corp. Metro. District petition process on behalf of the District.

#### **X. UNFINISHED BUSINESS**

A. Hanley Parcel – Request for Out of District Service(s) Agreement – Mr. Alfone showed a map of the Hanley parcel and gave an overview of the request made by Mr. Hanley and Mr. Magill to the District to provide Out-of-District water and wastewater collection services to their parcel. The parcel is outside the District boundary, City limits, and the urban growth boundary. At the June 15<sup>th</sup> meeting presentation, Mr. Alfone recommended postponing the decision until Mr. Gilman, Counsel Sharp, and he could perform more research. Since then, Mr. Alfone reviewed previous Out of District Service Agreements and the rules and regulations. Based on the research, his recommendation is the District does not provide services to the parcel. He stated there is no clear benefit to the District or to District customers. If approved, Mr. Alfone is concerned about setting a precedent since there is no clear benefit to the District. Mr. Alfone will draft a letter to Mr. Hanley stating the board's decision based on the staff recommendation not to provide services to the parcel. Counsel Sharp noted that Mr. Hanley can still get water and provide sewer collection to his parcel without help from the District, thus the District is not preventing him from doing the level of development that he wants to do. The recommendation is also consistent with District practice and decisions in the past regarding similar requests.

MOTION: To deny the request from Mr. Hanley to provide water and wastewater collection services to the Hanley parcel.

APPROVED: Vote 5-0

**XI. NEW BUSINESS**

A. Officers and Committees Assignments – Review – Mr. Alfone reviewed the slate of board officers and when each member’s term expires. He also shared committee assignments since Director Koermer missed the last meeting.

**XII. EXECUTIVE SESSION- UNDER C.R.S. 24-6-402(4)(b) REGARDING LEGAL ADVICE ON SPECIFIC LEGAL QUESTIONS AND C.R.S. 24-6-402(4)(e)(I) RELATING TO SKI CORP. SERVICE FEES**

MOTION: To adjourn the Regular Meeting and go into Executive Session at approximately 9:29 A.M. under §24-6-402(4)(e), C.R.S., for matters regarding specific legal questions related to Ski Corp. Out-of-District Service Fees.

APPROVED: Vote 5-0

MOTION: To come out of Executive Session and reconvene the Regular Meeting at 9:43 A.M. with no action having been taken.

APPROVED: Vote 5-0

**XIII. ADJOURN**

The next Regular Board meeting Date is October 13, 2023, at 8:00 A.M.

There being no further business, the meeting was adjourned at 9:44 A.M.

Respectfully submitted,

Frank Alfone, Secretary/General Manager

**STATEMENT FROM ATTORNEY REGARDING ATTORNEY-CLIENT PRIVILEGE**

The undersigned Thomas R. Sharp hereby attests, pursuant to CRS Section 24-6-402 (4) (b) and (e-I), that the executive session that was not recorded because, in his opinion, his participation in answering legal questions and discussion of negotiations constituted a privileged attorney-client communication.

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Thomas R. Sharp, Counsel

Date:

**STATEMENT FROM CHAIR OF EXECUTIVE SESSION REGARDING ATTORNEY-CLIENT PRIVILEGE**

The undersigned chairperson hereby attests, pursuant to CRS Section 24-6-402 (4)(b) and (e-I), that the executive session was not recorded and were confined to the topics authorized for discussion in an executive session pursuant to subsection (4) of CRS Section 24-6-402.

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Gavin Malia, President, and Chair

Date: