

MINUTES OF A SPECIAL 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
2:30 P.M. Thursday-June 15th, 2023

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

DIRECTORS ABSENT: Alan Koermer

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

OTHERS PRESENT: Michelle Carr, Distribution & Collection Manager, City of Steamboat Springs
(via Microsoft Teams)
Robert G. Rogers, Shareholder, White Bear Ankele Tanaka & Waldron
Attorneys at Law
Rob Perlman, President and CEO, Steamboat and Ski Corporation (SSRC)
Walter Magill, Four Points Engineering
Jay Hanley

I. ESTABLISHMENT OF QUORUM AND CALL TO ORDER

Director Malia stated that a quorum was present and called the meeting to order at 2:30 P.M.

II. ACKNOWLEDGE PUBLIC

III. APPROVAL OF AGENDA FOR MEETING

Director Malia asked if there were any changes to the agenda.

MOTION: To approve the agenda

APPROVED: Vote 4-0

IV. PUBLIC COMMENT

V. APPROVAL OF SUBMITTED MINUTES OF PREVIOUS MEETING

A. From the May 19, 2023, Regular Board Meeting

MOTION: To approve the minutes from the May 19, 2023, Regular Board Meeting

APPROVED: Vote 4-0

VI. TREASURERS REPORT- APRIL 30, 2023, REPORT

As of April 30, 2023, total operating revenues equaled \$870K which is roughly 24% of the total budget. Operating costs equaled \$694K which makes up approximately 25% of the total budget.

Non-operating revenues equaled \$20K excluding the loans. Plant Investment Fees (PIF) equaled \$6,200 of the non-operating revenue and after April 30, there have been more substantial PIF payments received. Capital Improvement Plan (CIP) expenses equaled \$358K.

As of April 30, 2023, the Districts total reserves equaled approximately \$2.9M.

Customer(s) Accounts Receivable as of April 30, 2023, was \$8,800. About ten customers are two quarters past due. Mrs. Smith will focus her efforts on getting payment from those ten customers and work with the remaining customers to get the rest of their balances paid.

VII. CONSIDER 2023 BOARD OF DIRECTORS ELECTION RESULTS RESOLUTION

MOTION: To approve the resolution cancelling the May 2nd, 2023, election and deeming the candidates elected to the Board of Directors.

APPROVED: Vote 4-0

VIII. STEAMBOAT SKI AND RESORT CORP. – METRO. DISTRICT(S) PROPOSAL: IGA AND MWW-CONSENT- ROBERT ROGERS, SHAREHOLDER- WHITE, BEAR, ANKELE, TANAKA & WALDRON –

Mr. Alfone gave an introduction of the topic and introduced Rob Perlman, the President and CEO of SSRC and Robert Rogers who is the attorney for the Metro. Districts. Mr. Roberts will present an overview of their proposal about the Metro. Districts at the Ski Base Area. Mr. Alfone displayed a slide showing where the six proposed Metro. Districts are located. Prior to the meeting, a Stipulation and Agreement and an Overlap Consent Agreement was delivered to the Board members for their review. The last correspondence from Mr. Rogers indicated that on behalf of SSRC, they agreed with the language drafted by Counsel Sharp. The Board will hear from Mr. Rogers who will provide the overview and allow for questions and then the Board will consider a motion for approval or denial of the Agreement.

Counsel Sharp stated that the six Metro. Districts are initially created in a small area in the parking lot owned by SSRC next to Vectra Bank. They then expand each District and include each of the respective pieces (shown on the map) to encompass the areas for each District.

Mr. Rogers introduced himself and stated his goal is to leave the meeting with the consent of the Board for the organization of the mountain area Metro. Districts 1-6. Two agreements have been drafted, a Stipulation and Agreement and an Overlap and Consent Agreement. Mr. Rogers and Counsel Sharp have exchanged several drafts of each document. Mr. Rogers explained that the Districts would be governed under Title 32 of the Colorado Revised Statutes and by a Service Plan that must be approved by the City of Steamboat Springs Council, hopefully in August 2023. Mr. Rogers stated that the Service Plan is a document negotiated between the proponent for the Districts (in this case SSRC) and the City and County where the Districts are being organized. Once approved by the City, it is considered by the Routt County District Court. The assigned Judge is asked to order a Tabor election in November, it then goes back to the Court and the Court is asked to approve an order and decree creating each of the Metro Districts. It is a separate order for each District and once

the order and decree for each of the Districts is recorded it allows the Districts to be implemented via an initial organizational meeting. Typical industry practice is that you start with a small initial District boundary, and as projects are brought online and the land platting process is approved with the City, that property is included into the District(s) and then after development approval, bonds are issued to pay for the development. Normally a Service Plan includes all powers allowed within Title 32 and then you let the City determine specific services to be provide, e.g., an overlapping water and sewer provider, as is the case with the Mount Werner Water & Sanitation District (MWW); these services would not be needed as MWW already provides them, thus an agreement (IGA) would be instituted with the Districts and MWW.

The Service Plan submitted to City Council was almost identical to the most recent Service Plan approved by City Council in town. Mr. Rogers audited the last four Districts approved by the City and all of them included substantially identical language regarding water and sewer powers. Thus, he included the same language within the draft that was submitted to the City in November 2022. He knew there would be a concern with the Water and Sanitation District (MWW), so he included a provision in those sections stating they would negotiate and secure the Water and Sanitation District's approval as required by the Statute. This would be in the form of an Intergovernmental Agreement (IGA) negotiated after the November election, but before the Metro. Districts inaugural meeting.

Counsel Sharp and Mr. Rogers have exchanged e-mails with draft language identifying limitations on water and sewer powers as initially the language was overly broad. Counsel Sharp's concern was that if the Metro. Districts were organized with the full scope of powers, including water and sewer service authority, it could create a scenario/issue with a competing service provider for MWW. Various language changes were discussed to protect MWW's interest without unduly limiting the flexibility of the Metro. Districts mainly to provide financing for private potable water lines, sanitary sewer lines, non-potable water lines and associated private infrastructure. To protect the interests of MWW, Counsel Sharp asked the Board at the May 19th meeting to approve a resolution objecting to both the creation of the Metro. Districts and approval of the Service Plan with the language as written in it, thus allowing for additional negotiations between the proponents of the Metro. Districts (via their attorney) and MWW. The approved resolution was delivered to the City of Steamboat Springs (COSS) along with a letter notifying the COSS that until terms are reached that are satisfactory to MWW, they will continue to object to the proposal.

Since then, Counsel Sharp has prepared a Stipulation and Agreement that included language to be added/modified to the Service Plan and after Mr. Rogers' asked for minor revisions, consensus about the language in the Stipulation Agreement was agreed to; contractual privity between MWW and the proponents of the Metro District. Attached to that agreement is the form of an intergovernmental agreement (Overlap Consent) which Mr. Rogers' firm prepared and the document establishes contractual privity between MWW and the 6 future Metro Districts. Counsel Sharp noted that one issue is the Metro. Districts have not been formed yet so there is no Board to approve the IGA on behalf of the Metro Districts. Thus, and as stated, MWW's consent is provided but conditioned upon subsequent execution by the Districts of the IGA, meaning that if the Metro. Districts do not sign the IGA then MWW reserves the right to decline and to not provide its consent to the organization of the

Metro Districts. Regarding the Stipulation and Agreement, MWW requested a language revision from the proponents; the language suggested would have prohibited the Metro. Districts to exercise their potable water and sewer sanitation financing and construction powers outside the boundaries of the Districts. Mr. Rogers objected due to the anticipated future boundaries of the Districts as there are several roundabouts and other related traffic improvements planned and that he is expecting the City to insist upon improving them as a condition of the proposed Metro. Districts development plans. This will potentially require the relocation and building of water and sanitation infrastructure improvements. Mr. Rogers' firm added a requirement to the agreement that before any Districts exercise powers outside of their boundaries they must get written consent from MWW. Counsel Sharp agreed with the language and that language is included in the draft Agreements presented to the Board for consideration.

Regarding the IGA, Counsel Sharp added several revisions including language changes to the Service Plan that will limit the Metro. Districts water and sanitation authority, as well as similar language in the Stipulation and Agreement to maintain consistency. Mr. Rogers would like a motion to approve the Stipulation and Agreement, and asked MWW to provide a letter to the City rescinding the initial resolution objecting to the organization of the Districts. This would provide communication to the City that the issues have been resolved. The IGA would then be an attachment to the Stipulation and Agreement and the next step would be for the Metro. Districts revise the language in the Service Plan to reflect what is included in the Stipulation and Agreement. Mr. Rogers would then work with the COSS and notify MWWSD if the COSS had any concerns with the language. Mr. Rogers did not anticipate the City having any issue with limiting the authority of the Metro. Districts regarding providing water and sanitation services. Mr. Rogers is hoping for City Council approval of the Service Plan by the end of August, then they would move forward with the Tabor election in November. Once the election takes place and it passes, they would ask the Court to approve the Service Plan via an order and decree and then the organizational meeting of each District would likely take place in January of 2024. The IGA would then be executed and sent back to MWW for signatures.

Counsel Sharp mentioned that the Stipulation and Agreement is drafted including self-executing stages and the Amendments to the Service Plan carry all the way through, starting with the consent by MWW to the creation of the Metro. Districts, but all contingent upon those items occurring as identified. The next step is for Mr. Alfone to deliver to the City the Stipulation and Agreement and attached Exhibit A (IGA), that states everything is approved by MWW contingent upon execution of the agreed upon items. Counsel Sharp reiterated that the initial Service Plan had broad language due to copying previous Service Plan language approved by the City, however in those instances that property was outside of the Mount Werner Water and Sanitation District boundary. Counsel Sharp stated the agreement is in a format suited to accomplish the objective of not having a competitive situation with respect to water and sewer services within the MWW district boundary. The goal of the Metro. Districts formation is to allow for bond financing to install water and sewer infrastructure improvements. Counsel Sharp answered a few more Board questions including that the Metro. Districts could not be a sub-supplier of water, the same MWW service rates would apply to the owners located in the new Metro. District's areas, plant investment fees must be paid and if the

District wanted to implement a Mil Levy in the future, they have that authority to do so and collect taxes in these new Metro. District areas.

IX. MOTION: Approve the Stipulation and Agreement and Exhibit A, the Overlap and Consent Agreement.

APPROVED: Vote 4-0

X. HANLEY PARCEL (40 ACRES-LAUREL LANE) – REQUEST FOR WATER AND WASTEWATER COLLECTION SERVICES- JAMES HANLEY AND WALTER MAGILL

Mr. Alfone provided an overview of the request by the applicant. He previously sent items to the Board including three plans that were submitted by the applicant. Mr. Alfone displayed a map of the lot that depicts where it sits in relation to City and District boundaries and the US Forest Service lands. He noted the meeting today was for informational purposes only. Prior Out of District Services Agreements (OODSA) executed by the District have been historically reviewed and approved on a case-by-case basis. There are a lot of considerations for the property and request being presented today. Mr. Alfone noted the SSRC parcel to the north of Mr. Hanley's parcel is where the Christie 2 future tank site is planned and the District negotiated for an easement on the land for the future tank, the access road and infrastructure easements servicing the tank as part of the OODSA for the Greenhorn Ranch development with SSRC. When the existing tank under the Christie Ski Lift is retired, the new tank would be built on this parcel, which might prohibit SSRC from doing much development on their property.

Walter Magill gave an overview of the history of the applicant's property. David Baldinger Sr. owns a piece of land adjacent to the applicant's lot which is north of Laurel Lane. SSRC also abuts Mr. Hanley's lot. SSRC would like to utilize access from Mr. Hanley's planned road to access snowmaking equipment. Mr. Hanley and Mr. Baldinger have agreed to an access easement and road design that would satisfy both parties. The City and Fire District have not seen the road design yet. An easement for utilities and access has been agreed upon between Mr. Hanley, Mr. Baldinger and SSRC. Mr. Hanley is proposing development on his land and is planning to submit his plans to the County for a building permit. Mr. Magill mentioned that Mr. Hanley does not want a septic system and leach field for the facilities or to have to drill water wells, and it would be easier to join the District for water and sewer services.

Mr. Hanley stated that the lot is zoned for a single-family residence with agriculture status. Currently, he only wants to build an Accessory Dwelling Unit (ADU) which is allowed by the County as well as a barn with a bathroom. The area at the top left of the lot would eventually be the site for a house which would be a total of three sites for water and sewer service. Mr. Hanley mentioned his 40-acre parcel (adjacent to the City Limits) is one of the few not currently annexed within the City. One of his concerns is the existing high-density development below the lot and having a septic and leach field above that density carries risk. He considers it to be less of a risk to have MWW water and sewer services running to his planned dwellings. There are existing easements through the original land filings to the west of his parcel and that is where the potential water and sewer lines would run instead of having to go further up the switchbacks of the planned

access road off Laurel Lane. There is also an easement across the lower portion of Mr. Baldinger's property to run the potential water and sewer lines. Mr. Hanley showed the site plan, and the access road does not have any planned variances, it has adequate fire truck standard turning radiuses, and has a fire truck turnaround area. To receive a building permit, Mr. Hanley must show sanitation services and depending on what the Board decides he will either have to install a water well, septic and leach field or tie into the District's water and sewer services. The goal is to have the project completed in the next three years. Mr. Hanley seemed to think SSRC would be the only other potentially interested party that may want to tap into a water or sewer line if installed. If additional infrastructure is needed (new manhole in Laurel Lane) to be constructed, he would work with the District on those items. He discussed being open to all options and wanting to work with the District. He would construct a 10,000-gallon water storage tank for fire suppression. He stated he is open to the idea of having an additional water tank, other infrastructure, or fire hydrant on his property to benefit surrounding properties to help suppress a wildfire(s) in this area. Existing service elevations and water pressure issues were reviewed, and he is aware that he may have to install booster pump(s). He is working with the USFS to secure permits to log and clear his land for wildfire protection. Duckels Construction would be the excavation contractor for the project. Mr. Alfone asked if any of his planned dwellings and or uses would require Routt County Planning or BOCC approval. Mr. Hanley stated they would not.

Mr. Gilman noted that this parcel is well above the highest elevation for MWW water service, and the elevation previously mentioned was a pump zone elevation (highest in the District). Mr. Gilman said they would have to study the feasibility of providing water to that elevation, especially for fire suppression needs. Mr. Gilman asked what the flow rates would be for a booster/pump station. Mr. Hanley stated he had not investigated that item yet.

Counsel Sharp mentioned that the District cannot annex land outside of the District boundaries without consent of the City and that the parcel is in the County and not within the Urban Growth Boundary of the City or within District boundary. He asked if it would make sense to approach the City first. Counsel Sharp asked that if the District gave a favorable opinion, how would the City view it. Since the lot is outside of the Urban Growth Boundary, Counsel Sharp thought it might raise a red flag with the City since the District is not in the land planning business. If the Board approved services to the parcel it would be in the form of an OODSA and not an annexation into the City. The District would require that the design be sufficient for a fire suppression system. Counsel Sharp stated the District would want to create limited approval within the 40 acres and nothing else outside of said approval would be granted. The service lines would have to be paid for, constructed, and maintained by Mr. Hanley. Mr. Hanley stated he might have to apply for a building permit to get input from the City.

Director Shively mentioned that providing protection for the properties located below during construction of the service lines would be critical. Mr. Hanley mentioned that building a berm with a large rock fence to catch boulders and rocks would be implemented.

Mr. Alfone mentioned the need to discuss the request further with the Board, General Counsel and Staff, as well as identifying the pros and cons of the proposal. There will be further discussion about

this topic at the July Board meeting. In the meantime, it was suggested to have Mr. Hanley approach the City and get an opinion from them about the OODSA.

XI. UNFINISHED BUSINESS

A. Officers and Committees Assignments

Mr. Alfone discussed current assignments and asked the Board if they wanted to make any changes after the recent Board Members election in May.

MOTION: To maintain the existing slate of Board Officers.

APPROVED: Vote 4-0

The existing committee assignments were discussed and whether to alter existing committees regarding Board Member participation.

MOTION: To maintain the existing committees with the existing Board Members serving on each committee.

APPROVED: Vote 4-0

B. Yampa Meadows Infiltration Gallery Project – Vault and Third-Party Opinion

Mr. Alfone provided some background stating the recent discussions have been whether the concrete vault needed to be coated on the inside and outside. Mr. Alfone asked Native Excavating and Baseline Engineers if they would help pay for both a third-party opinion and the cost and installation of coating both the interior and exterior surfaces, if deemed necessary. Mr. Alfone discussed the issue with Baseline, who has spoken with several structural engineers, and it is their opinion that they do not think the outside of the vault needs to be coated. Baseline is now waiting for a letter from a structural engineer that outlines the reasons that it would not need to be coated. As opposed to getting a third party involved now, Mr. Alfone wants to review the letter and its content. The project well inspector that Mr. Alfone spoke to agreed that coating the outside of the vault is not required. The original specs. identified that both surfaces be coated, however it was not done at installation, thus why the issue is now being discussed. Mr. Alfone will advise the Board after the letter is reviewed. Baseline suggests coating the interior walls be completed along with coating the ductile iron pipe in the vault. Native Excavating will perform this work and negotiate with Baseline to pay for the associated costs. Baseline has also accepted responsibility for lack of planning and oversight regarding a few other items and has agreed to fund those missed items. Once the “coating” letter is received and verified, the District can submit the final technical memorandum/approval request document to CDPHE that will allow CDPHE to sign off on the construction and it be recorded as part of the Districts Record of Waterworks Approvals document. Mr. Alfone will have an update for the Board at the next Board meeting. Director White suggested consulting with a concrete materials expert to review the concrete mix design for the construction of the vault and see if the ratio of cement and water was appropriate, thus providing more information to help decide if it needs coated or not.

C. City Agreements Status

Mr. Hamilton and Mr. Alfone recently met and have a substantially completed draft to send back to the City. Mr. Hamilton is currently working on reviewing existing agreements to make sure there is no conflicting or redundant language in those agreements versus the Tenancy in Common IGA. Mr. Alfone hopes to send the Draft to the City in July.

D. There was no additional unfinished business to discuss.

XII. NEW BUSINESS

A. There was no new business to discuss.

XIII. ADJOURN

The next Regular Board meeting is July 21, 2023, at 8:00 A.M.

There being no further business, the meeting was adjourned at 4:27 P.M.

Respectfully submitted,

Frank Alfone, Secretary/General Manager