

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE NORTH WELD COUNTY WATER DISTRICT

Held: Monday, the 14<sup>th</sup> day of June, 2021, at 1:00 P.M.

*Due to the threat posed by the COVID-19 coronavirus, and pursuant to Resolution No. 20201214-26 Declaration Emergency Procedures and Authorizing Teleconferencing for Regular and Special Meetings, the public participated via teleconferencing.*

**ATTENDANCE**

The meeting was held in accordance with the laws of the State of Colorado. The following directors were in attendance:

Gene Stille, President  
Ron Buxman, Treasurer  
Scott Cockroft, Secretary  
Tad Stout, Assistant Secretary

Also present were: Eric Reckentine, General Manager of the District; Colleen McGehee, Officer Manager (for a portion of the meeting) Jennifer Gruber Tanaka, Esq., and Zachary P. White, Esq., WHITE BEAR ANKELE TANAKA & WALDRON, District general counsel; Alyson Scott, Esq., Alyson Scott Law, LLC, District special water rights counsel (for a portion of the meeting); Leslie Farnsworth-Lee, Casey Mahoney, Darin Pytlik, and Lee Lindeen, Terry McEnany, Providence Infrastructure Consultants, District Engineers; George Oamek, Headwaters Co.; Eryn Tolooee, BDO, Auditors (for a portion of the meeting); Richard Raines, Water Resources Manager, Tri-Districts (for a portion of the meeting); and Todd Bean, customer.

**ADMINISTRATIVE MATTERS**

Call to Order

The meeting was called to order.

Declaration of Quorum and Confirmation of Director Qualifications

Mr. Stille noted that a quorum for the Board was present and that the directors had confirmed their qualification to serve.

Reaffirmation of Disclosures of Potential or Existing Conflicts of Interest

Ms. Tanaka advised the Board that, pursuant to Colorado law, certain disclosures might be required prior to taking official action at the meeting. Ms. Tanaka reported that disclosures for those directors that provided WHITE BEAR ANKELE TANAKA & WALDRON with notice of potential or existing conflicts of interest, if any, were filed with the Secretary of State's Office and the Board at least 72 hours prior to the meeting, in accordance with Colorado law, and those disclosures were acknowledged by the Board. Ms.

Tanaka inquired into whether members of the Board had any additional disclosures of potential or existing conflicts of interest with regard to any matters scheduled for discussion at the meeting. All directors reviewed the agenda for the meeting and confirmed that they have no additional conflicts of interest in connection with any of the matters listed on the agenda.

Approval of Agenda

Mr. Reckentine presented the Board with the agenda for the meeting. Upon motion of Mr. Stout, seconded by Mr. Buxman, the Board unanimously approved the agenda as presented.

Excusal of Absence

The Board noted the absence of Mr. Cook. Upon motion of Mr. Stout, seconded by Mr. Buxman, the Board unanimously excused Mr. Cook's absence.

2020 Audit

Ms. Tolooee reviewed the draft audit with the Board noting that there are no material weaknesses that were discovered and the auditor is prepared to issue a clean, unmodified opinion, which is the highest opinion that can be obtained. It was noted that legal counsel provided comments with regard to the notes which will be incorporated into the final audit. The Board will review the draft and ask any questions and consider acceptance at the July meeting.

Resolution No. 20210614-01: Adopting Excess Water Usage Penalty Fee

Mr. Oamek presented the Board with a memorandum regarding the penalty rate assessment and recommendation regarding the same. Mr. Oamek noted that the penalty fee is intended to address concerns with customers who supplement their water usage with agricultural wells and exceed their annual water allocation. Mr. Oamek noted that the penalty fee is cost based and tied to the cost of the water to the District. He noted that the cost per cow per day is high but it is tied to the costs and is intended to discourage excess water usage. This issue was generated from well release requests for those wanting to install wells for agricultural use to supplement their water usage instead of allocating additional water to the District. The Board adopted a policy permitting such agricultural wells, but stated in the policy that such customers would not be permitted to rely on surcharge fees if their water use exceeded allocations. The agricultural well release policy anticipated that the District would impose a separate excess water usage penalty fee in place of surcharge fees. Upon adoption, the penalty fee will be effective immediately and will be incorporated into all water service agreements going forward. Mr. White reviewed Resolution No. 20210614-01: Adopting Excess Water Usage Penalty Fee with the Board. It was noted that the resolution needs to be updated to reflect the same rate as proposed in Mr. Oamek's memorandum.

Upon motion of Mr. Stout, seconded by Mr. Buxman, the Board unanimously adopted Resolution No. 20210614-01: Adopting Excess Water Usage Penalty Fee, subject to updating the resolution to tie to the memorandum showing the fee as \$18.51 per 1,000 gallons.

**CONSENT AGENDA  
MATTERS**

Mr. Reckentine presented the Board with the consent agenda items.

Upon motion of Mr. Buxman, seconded by Mr. Stout, with the abstention of Mr. Cockroft, the Board took the following action:

- a. Approved the Meeting Minutes from April 12, 2021, as Revised, and May 10, 2021 Board Meeting

Upon motion of Mr. Stout, seconded by Mr. Buxman, the Board unanimously took the following actions:

- b. Approved the Meeting Minutes from April 12, 2021, as Revised, and May 10, 2021 Board Meeting
- c. Accepted the Unaudited May 2021 Financial Statements
- d. Approved the Payment of Invoices as of June 14, 2021
- e. Ratified the Approval of the Vermilyea Permanent Water Easement Agreements (Nunc Pro Tunc)
- f. Approved the Buxman Request to Re-Assign Water Allocations
- g. Ratified the Approval of the 90 Day Extension and Amendment to AGIG/ Landhuis Raw Water Dedication Agreement (Nunc Pro Tunc)
- h. Approved the Larimer County No. 2 One-year Carriage Agreement
- i. Approved the Letter Authorizing the Division 3/16 New Mercer Share Certificate Between Tri-Districts
- j. Approved the Providence Infrastructure Consultants Work Order Task 5 Amendment and Contracting Redbot Consultants
- k. Ratified the Approval of the Bid Selection and Notice of Award for the Town of Severance Master Meter #2
- l. Approved the following Letters of Intent:
  - a. City of Greeley
  - b. Wiedeman
  - c. Everitt
  - d. Brinkman
  - e. Mika
  - f. Clayton Homes – 3 LOIs

**OPERATIONAL  
MATTERS**

Agricultural Well Release Request (Rothe)

Mr. Reckentine presented the Board with an Agricultural Well Release Request from Mrs. Rothe allowing her to have a well release for agricultural purposes. Mrs. Rothe has updated the

application pursuant to District policies and it is now being represented to the Board for consideration. If there is a violation in the use, the State would red tag the well. Mr. Reckentine recommends approval given the Board previously approved a similar request but noted that policies such as this will be incorporated into the updated rules and regulations and revisited by the Board at that time to determine whether these policies should continue into the future.

Upon motion of Mr. Cockroft, seconded by Mr. Stout, the Board unanimously approved the request.

Statement of Opposition for  
Case 21-CW-3056  
Augmentation Flows Cache  
la Poudre River

Mr. Reckentine requested authorization from the Board to enter into a Statement of Opposition for Case 21-CW-3056. Mr. Raines reviewed his memorandum regarding the change case and Ms. Scott provided her advice regarding the matter. The Board inquired into the estimated cost for the District to enter into the Statement. It was noted it would likely be around \$20,000 - \$30,000.

Upon motion of Mr. Stout, seconded by Mr. Cockroft, the Board unanimously authorized staff to proceed with the filing of a Statement of Opposition.

Water Service Agreements  
and Intergovernmental  
Agreements

Letter Agreement with  
Town of Severance for  
Installation of Master  
Meter #2

Mr. Reckentine presented the Board with a letter agreement with the Town of Severance addressing the District's installation of Master Meter #2 for the Town and the agreement to memorialize the installation through an interim Water Service Agreement in the near term. Further, the Town will be required to enter into an Amended and Restated Water Service Agreement by the end of 2021.

Upon motion of Mr. Buxman, seconded by Mr. Stille, the Board unanimously approved the Letter Agreement.

NEWT III Pipeline  
Intergovernmental  
Agreement with East  
Larimer County Water  
District

Mr. Reckentine presented the Board with an Intergovernmental Agreement with East Larimer County Water District regarding the design and construction of the NEWT III Pipeline. The District will be responsible for 70% of the project costs with ELCO being responsible for 30% of the costs, except for easements which will be split 50%/50%. Further, ELCO will reimburse the District for soft costs incurred to date on the project. Mr. Reckentine noted that time is of the essence because Ft. Collins is planning to start a 1041 permit process. The hope is that the District is grandfathered

so that these additional regulations will not be required for this project.

Upon motion of Mr. Stout, seconded by Mr. Cockroft, the Board unanimously approved the Intergovernmental Agreement.

American Infrastructure Act Risk and Resiliency Study

Mr. Reckentine provided an update regarding the American Infrastructure Act Risk and Resiliency Study noting that this matter will be discussed in executive session.

**EXECUTIVE SESSION**

Upon motion of Mr. Cockroft, seconded by Mr. Stout, and upon an affirmative vote of at least two-thirds of the quorum present, the Board convened in executive session at 2:15 P.M. for the purpose of receiving legal advice and to determine positions relative to matters that are subject to negotiation related to the American Infrastructure Act Risk and Resiliency Study and the Amended and Restated Water Service Agreement with the Town of Windsor pursuant to §§ 24-6-402(4)(b) and (e), C.R.S.

Pursuant to § 24-6-402(2)(d.5)(II)(B), C.R.S., no record will be kept of the portion of this executive session that, in the opinion of the District’s attorney, constitutes privileged attorney-client communication pursuant to § 24-6-402(4)(b), C.R.S.

Also pursuant to § 24-6-402(4), C.R.S., the Board did not adopt any proposed policy, position, resolution, rule, regulation or take formal action during execution session.

The Board reconvened in regular session at 3:15 P.M.

**DISTRICT MANAGER’S REPORT**

Mr. Reckentine presented his Management Report to the Board.

COVID Report for District

Mr. Reckentine reported that the District had 4 employees with confirmed cases of COVID. They are starting to return to work now after the required quarantine period.

Thornton Litigation with Weld County USR Denial

Mr. Reckentine reported that Thornton has filed litigation against Weld County over the pipeline permit.

Rules and Regulations Document Work Sessions

Mr. Reckentine reported that an update to the rules and regulations is in process and will be a longer process. This will include a review of prior heritage policies and adopted policies to incorporate them into the same document.

Sanitary Survey

Mr. Reckentine reported that the survey has been completed and provided to the CDPHE. The walk through with the CDPHE is later this month.

**PUBLIC COMMENT**           None.

**OTHER BUSINESS**

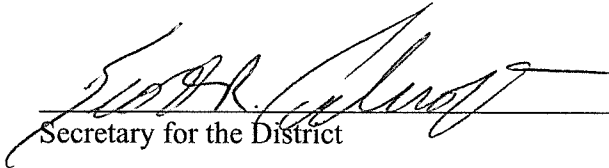
Summary of 2021 Ms. Tanaka reviewed with the Board the legislation enacted during  
Legislation Session the 2021 legislation session noting, in particular, the passage of HB  
21-1278 enabling districts to continue to conduct meetings  
electronically, SB 21-064 making it a crime to harass public  
officials, and SB 21-262 regarding transparency for special  
districts.

Water Dedication Mr. Stout inquired into the Water Dedication Agreement and  
Agreements and Water Water Service Agreement and the current requirements for the  
Service Agreements order and substance of each. Mr. Reckentine noted that the current  
requirement is for a Water Dedication Agreement to be entered into  
prior to a Water Service Agreement and noted that the District now  
permits phasing of water dedications.

Next Meeting                   The next regular meeting of the Board is scheduled for July 12,  
2021, at 1:00 P.M.

**ADJOURNMENT**               There being no further business to be conducted, the meeting was  
adjourned.

The foregoing constitutes a true and correct copy of the minutes of  
the above-referenced meeting

  
Secretary for the District

**Attorney Statement  
Regarding Privileged Attorney-Client Communication**

Pursuant to § 24-6-402(2)(d.5)(II)(B), C.R.S., I attest that in my capacity as the attorney representing the North Weld County Water District (the "District"), I attended the Executive Session on June 14, 2021, for the sole purposes of conferencing with the District's Board of Directors for the purpose of giving legal advice on specific legal questions and discussing negotiations with third parties as authorized by §§ 24-6-402(4)(b) and (e), C.R.S. I further attest that it is my opinion that all or a portion of the executive session discussion constituted attorney-client privileged communication as provided by § 24-6-402(4)(b), C.R.S., and based on that opinion, no further record, written or electronic, was kept or required to be kept pursuant to § 24-6-402(2)(d.5)(II)(B), C.R.S.



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Jennifer Gruber Tanaka, Esq.  
WHITE BEAR ANKELE TANAKA & WALDRON  
General Counsel to the District