

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

Held: Monday, the 14<sup>th</sup> day of March, 2022, at 1:00 P.M.

*The meeting was conducted via teleconference.*

**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  
Brad Cook, Assistant Secretary  
Tad Stout, Assistant Secretary

Also present were: Eric Reckentine, General Manager of the District; Zachary P. White, Esq., WHITE BEAR ANKELE TANAKA & WALDRON, District general counsel; Matt Fries, Mayor, Town of Severance; Nick Wharton, Town Manager, Town of Severance; Lindsay Radcliff-Coombes, Deputy Town Manager, Town of Severance; Members of the Public via teleconference.

**ADMINISTRATIVE MATTERS**

Call to Order

The meeting was called to order at 1:00 P.M.

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

Mr. White advised the Board that, pursuant to Colorado law, certain disclosures might be required prior to taking official action at the meeting. Mr. White 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. Mr. White inquired into whether members of the Board had any additional disclosures of potential or existing conflicts of interest about 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. Cockroft,

the Board unanimously approved the agenda, as amended to move consideration Agenda Item 10 “Water Tap Sales Matters” before Agenda Item 4.

## **WATER TAP SALE MATTERS**

Update Regarding Water  
Taps

Mr. Reckentine updated the Board that 50 water taps have been sold since February 2022.

Consider Tap Sale Proposed  
Increase in Sales for March  
2022

Mr. Reckentine requested to increase the number of water taps permitted to be sold in March 2022 from 10 to 25. Mr. Reckentine reported that since February 2022 the Line 1 repairs and the pump station tests have been completed. As a result of the Line 1 repairs, the District realized an increase in capacity sufficient to manage the current contracted demand on the system. Following discussion, upon a motion of Mr. Cockroft, seconded by Mr. Stout, the Board approved the sale of up to 25 water taps in March.

Variance Requests:  
Consider Approval of  
Variance Request for  
Plant Investment  
Sales to the Town of  
Severance

Mr. Reckentine presented a letter from the Town of Severance (the “Town”) requesting a variance from the District’s tap sale policy in order to purchase 100 plant investments from the District. Mr. Reckentine also reported that the District has received correspondence from D.R. Horton, a homebuilder in the Town regarding the impact of the moratorium and the Town’s moratorium. Finally, Mr. Reckentine reported that the District has received from the Town twenty-seven CORA requests, which will require a significant amount of time for respond.

Mr. Nick Wharton addressed the Board regarding the request and indicated that the purchase of 100 plant investments will allow the Town to meet all of its committed demand. Following purchase of the 100 plant investments, the will be willing to meet to negotiate a new water service agreement. Mr. Wharton explained that the purchase of 65 plant investments will allow the Town to address current pressure issues, and the purchase of all 100 plant investments will allow the Town to issue building permits for all committed development in the Town.

Mr. Matt Fries address the Board and discussed the impact of the District’s moratorium on the Town. Mr. Fries discussed the Town’s desire to be a partner with the District and help find solutions to problems. Mr. Fries addressed the CORA requests and indicated that he would be in favor of suspending the CORA requests if the Town can partner with the District and purchase the requested plant investments. Finally Mr. Fries indicated that he believes that if the variance is not approved and the plant



investments cannot be purchased by the Town, the Town will be sued and the District will likely be sued too.

The Board and Mr. Reckentine engaged in a dialog with Mr. Fries and Mr. Wharton regarding the existing water service agreement and the District's obligation to sell plant investments. Mr. Buxman expressed his desire to be as fair to all customers as possible. Mr. Cockroft expressed that he feels the Board has worked hard to solve problems and has disseminated information to the public and customers as soon as the Board receives the information.

Following discussion, Mr. Reckentine recommended the sale of 100 plant investments to the Town pursuant to a to be negotiated Second Amendment to Amended and Restated Water Service Agreement, and then the negotiation of a new water service agreement.

Upon a motion of Mr. Cockroft, seconded by Mr. Buxman, the Board approved the sale of 100 plant investments to the subject to executing a Second Amendment to the Amended and Restated Water Service Agreement followed by negotiation of a new water service agreement. Mr. Stout abstained.

Mr. Stille asked the Mayor to suspend the CORA requests, and to impress on the Town Council the District's desire to work together.

Consider Approval of  
Variance Request  
from Jason Jones

Mr. Reckentine presented a request to the Board from Jason Jones to extend the period of time under a LOI to complete the required actions to purchase a water tap. The property owner indicated that they were not able to complete the requirements due to the moratorium and requested an extension. Following discussion, upon a motion of Mr. Buxman, seconded by Stout, the Board approved a 5 month extension with the requirement that the property owner pay for a full plant investment.

CORA Requests  
Town of Severance

Mr. White reported to the Board regarding the receipt of twenty-seven CORA requests from the Town. Mr. White will speak with the Town's attorney regarding suspending the CORA requests in light of the Board's discussions with the Town and approval of the sale of 100 plant investments.

Chris Wood –  
BizWest

Mr. White reported to the Board regarding the receipt of a CORA request from Chris Wood at BizWest. Mr. White will coordinate with staff and consultants to respond to the request.

Update re Eagle View Farms, LLC Litigation

Mr. White updated the Board regarding the status of litigation. Special counsel prepared a motion to dismiss which is being filed on March 14, 2022.

**CONSENT AGENDA MATTERS**

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

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

- a. Minutes from February 14, 2022 Regular Meetings
- b. Acceptance of Unaudited February 2022 Financial Statements
- c. Approval of Invoices through March 14, 2022
- d. Amendment to Master Service Contract Providence Infrastructure
- e. Independent Contractor Agreement with Stantec for Consulting Services
- f. Longs Peak Dairy Reallocation of 5 Plant Investments
- g. Ryan Woodland Relocate Water Tap
- h. Teal Creek Valuation
- i. Easements County Road Project

WCR 66/41 Project

- i. Permanent Water Easement Agreement – Five M Farm Co
- ii. Temporary Construction Easement Agreement – Five M Farm Co
- iii. Permanent Water Easement Agreement – Hungenberg RD Farms LLLP
- iv. Temporary Construction Easement Agreement – Hungenberg RD Farms LLLP
- v. Temporary Construction Easement Agreement – Hungenberg BOH Farms LLLP
- vi. Temporary Construction Easement Agreement – Tomoi Farms LLC

WCR 35

- vii. Permanent Water Easement Agreement – Hungenberg

Back Flow and Cross Connection Non-Compliance Meter Turn Offs

Variance Requests  
Alex Karrol

Mr. Reckentine presented a request from Mr. Alex Karrol for a variance from the District's back flow and cross connection

testing policy. Mr. Stout discussed with the Board that the District's testing requirement is required by the State. Following discussion, upon a motion of Mr. Stout, seconded by Mr. Buxman, the Board denied the variance request.

Alkire Lake Farm,  
Inc.

Mr. Reckentine presented a variance request from the District's testing requirement because the property owner has inspected and signed off on a double-check on the system. Staff recommended approval. Following discussion, upon a motion of Mr. Stout, seconded by Mr. Cockroft, the Board approved the variance subject to confirming the frequency for inspection of the double-check and inclusion of the same in a variance agreement.

Meter Shut Off Locations for  
Noncompliance with BFPCC

Mr. Reckentine reported that the District has sent certified letters for non-compliance with the District's back flow prevention and cross connection policy and reported on customer accounts proposed for water shut-off. The Board discussed shutting off three accounts who have not responded to the certified letters. Upon a motion of Mr. Stout, seconded by Mr. Cook, the Board approved the meter shut offs for locations not in compliance with the back flow prevention and cross connection policy.

Consider Adoption of  
Resolution No. 20220314-  
01: Resolution Adopting a  
Commercial Drought Policy

Mr. Reckentine presented a Resolution Adopting a Commercial Drought Policy to the Board and discussed the proposed policy to limit commercial customers to their actual water allocations in the event of a drought. The Board discussed the trigger to call a drought and sought further clarification from the District's water consultants. Upon a motion of Mr. Cockroft, seconded by Mr. Buxman, the Board tabled the resolution until its April meeting. Mr. Stout opposed the motion.

Consider Adoption of  
Resolution No. 20220314-  
02: Resolution Adopting a  
Residential Drought Policy

Mr. Reckentine presented a Resolution Adopting a Residential Drought Policy to the Board and discussed the proposed policy to limit residential customers water used in the event of a drought. The policy allows for three stages of drought to be determined by the Board, with corresponding watering restrictions. Upon a motion of Mr. Cook, seconded by Mr. Cockroft, the Board tabled the resolution until its April meeting.

Consider Adoption of  
Resolution No. 20220314-  
03: Resolution Adopting a  
Commercial Flow Control  
Policy

Mr. Reckentine presented a Resolution Adopting a Commercial Flow Control Policy to the Board and discussed the proposed policy to flow control commercial customers to their peak 2021 flows. The Board discussed water usage by commercial customers and acknowledged that this policy will not fix the District water resource issues, but it is a good first step in the right direction. Upon a motion of Mr. Stout, seconded by Mr. Cockroft, the Board approved the resolution.



Consider Adoption of Resolution No. 20220314-04: Resolution Adopting a Residential Plant Investment Policy

Mr. Reckentine presented a Resolution Adopting a Residential Plant Investment Policy and discussed the proposed policy to require payment of the full plant investment rate regardless of whether a residential customer is purchasing a ¾ or ½ tap. Upon a motion of Mr. Stout, seconded by Mr. Buxman, the Board approved the resolution.

**EXECUTIVE SESSION**

Not Needed.

May 2022 Director Election Update

Mr. White reported that the director election is proceeding forward.

**DISTRICT MANAGER'S REPORT**

Mr. Reckentine reported the following to the Board:

a. CMAR Bid Process Newt III – Bidding is expected to start in the next few weeks.

b. SPAR Permit City of Fort Collins Accepted – The City has accepted the SPAR application and approval is expected in April

c. DFA Meeting April 26, 2022 – Conference will be held in April and Mr. Reckentine will be presenting.

**PUBLIC COMMENT**

None.

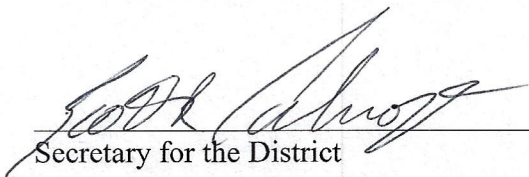
**OTHER BUSINESS**

Mr. Stout expressed his desire to look at ways to recognize staff's efforts during a very difficult time for the District. Mr. Stille, Mr. Stout, and Mr. Reckentine will conference and make a recommendation.

**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