MINUTES
FOR THE BOARD OF DIRECTORS
OF THE SOUTH ADAMS COUNTY WATER AND SANITATION DISTRICT
MAY 12, 2021
REGULAR MEETING AT 6:00 P.M.

Regular Board Meeting
A duly called Regular Meeting of the Board of Directors of the South Adams County Water and Sanitation District (the "District") was held on May 12, 2021, at 6:00 p.m. in the District's Aragon Boardroom at 6595 E. 70th Avenue, Commerce City, Colorado, in accordance with the applicable statutes of the State of Colorado. There was no option for members of the public to attend this meeting virtually or via telephone. All Board members received the Agenda and meeting packet in advance of or at the meeting, and the non-confidential portions of those materials were incorporated by reference into the public portion of the meeting and these meeting minutes.

Board Members Present (thereby constituting a quorum):
Mizraim Cordero, President
Heidi McNeely, Vice President
Vicki Ennis, Secretary
William Frew, Treasurer
Michael Scanlon, Director

SACWSD Staff/Legal Present:
Jim Jones, District Manager
Kipp Scott, Water Systems Manager
JM Grebenc, Wastewater Systems Manager
Abel Moreno, Distribution & Collections Manager
Byron Jefferson, Administrative Services Manager
James M. Mock, General Counsel
Dawn Fredette, District Clerk/Legal Assistant
Betty Kring, Business Support at Klein Plant

Consultants/Others Present
Steve Hibble, Muller Engineering Company
Glenn Hamilton, Muller Engineering Company
Viola Pryor, property owner of 10730 Brighton Road
Ryan Anderson of The Anderson Group, representative for Ms. Pryor
Two additional representatives from The Anderson Group

1 CALL TO ORDER
2 President Cordero called the meeting to order at 6:00 p.m. and then led everyone in the Pledge of Allegiance. Due to COVID-19, the Board members and all others in attendance were socially distanced and wearing masks.
DISCLOSURES OF CONFLICTS OF INTEREST

President Cordero called for Disclosures of Potential Conflicts of Interest. Mr. Mock noted that the Board had received and staff had filed with the Secretary of State’s office more than 72 hours prior to the meeting certain disclosures of potential conflicts of interest statements for the Directors indicating their conflicts or potential conflicts as shown below.

President Cordero has submitted a standing potential conflict of interest letter stating that he is an employee of United Airlines. United Airlines has significant business with the City and County of Denver. The District has a potential adversarial relationship with the City and County of Denver related to water contamination.

Director Frew has submitted a standing potential conflict of interest letter stating that he is an employee and part-owner of Sunshine Plumbing Heating and Air. The Company provides various plumbing, heating, and air conditioning services throughout the Metro Denver Area, including within the boundaries of the District.

Director Scanlon filed an updated disclosure of potential conflict of interest noting that he is organizing 20/20 Growth, an organization that will explore the intersection of innovation and public policy where he will be a paid employee. He is also a Director of the Adams 14 Education Foundation, a non-profit that supports education and literacy programs.

Director Ennis is an employee of Brighton School District 27J and from time to time the School District has business before the District.

AGENDA REVIEW

President Cordero asked if there were any changes to the Agenda. The Board determined to add personnel matters to the discussion during the Executive Session portion of the meeting. The Board further directed that Action Item 9 be addressed before Action Item 8.

APPROVAL OF MINUTES

President Cordero called for a MOTION to approve the Minutes from the Regular Meeting held on April 14, 2021. Director McNeely moved and Director Frew seconded. The MOTION passed unanimously.

PUBLIC COMMENT

President Cordero called for Public Comments and stated that members of the public have three minutes to address the Board. There were none.

CONSENT AGENDA

President Cordero inquired whether any Board member would like to discuss any particular item. No Board member expressed a desire to discuss or move an item from the Consent Agenda and Director Cordero then read the following Consent Agenda items:

1. Approve Partial Pay Request #25 for the amount of $1,463,345.55 to Moltz Construction Inc. for the WSP
2. Approve Partial Pay Request #6 for an amount of $15,033.75 to Moltz Construction Inc. for the Klein generator replacement
3. Approve Electronic Payments
4. Approve the Bill Paying Process

President Cordero then called for a **MOTION** to approve the Consent Agenda items. Director Frew moved and Director Ennis seconded. The **MOTION** passed unanimously.

**ACTION ITEMS**

**ACTION ITEM 1 – Variance Request regarding property located at 10730 Brighton Road, Commerce City, Colorado**

Mr. Moreno introduced Viola Pryor, the homeowner, and Ryan Anderson, real estate agent for Ms. Pryor. Mr. Moreno explained the details of Ms. Pryor’s request for a variance from the District’s Rules and Regulations Section I. 5.5.1, which requires property owners to connect to a District owned water and/or sewer main if the property is within 400 feet of a District line. He further discussed Ms. Viola’s home on the property as being over 500 feet from the District’s sewer main and the costly estimate she’s received to connect ($50-75,000) versus repairing the septic system ($8,000).

Mr. Moreno indicated that Ms. Pryor is in the process of selling her property. He discussed the current septic tank system that is failing and the much lower cost to replace it vs. the cost to connect. Mr. Moreno also provided some background on when the house was purchased and the sanitary sewer system in the area at the time.

Ms. Pryor then addressed the Board and discussed her septic system. She noted that she became aware of the failing septic tank only after putting her property up for sale. Ms. Pryor also addressed some of the factors as to why compliance would constitute a hardship for her. Discussion ensued regarding the process of working through this matter with Staff.

Mr. Moreno then discussed the language in the draft Variance Agreement and the role of Tri-County Health Department if the system fails, which could be an obstacle for future owners. He also talked about future changes in the use of the property and other scenarios that may require connection. He noted that the City is looking at eliminating septic systems altogether and requiring connection to District facilities.

In conclusion, Mr. Moreno indicated that Staff supports the variance requested by Ms. Pryor.

Mr. Mock reviewed the Rules and Regulations requirements for a variance and stated that in his opinion the Board could reasonably find that this variance request meets the requirements. He also noted that if the Board elects to grant the variance, Tri-County Health Department will continue to be responsible for ensuring public health with regard to the septic system.

President Cordero called for a **MOTION** to approve the variance and corresponding Variance Agreement to be recorded against the property at 10730 Brighton Road, Commerce
City, Colorado. Director Scanlon moved and Director Frew seconded. The MOTION passed unanimously.

**ACTION ITEM 2 – Public Hearing on Petition for Inclusion of Property from Hector Saucedo Chavez, and Board Order of Inclusion and Inclusion Agreement**

Mr. Moreno discussed the Petition received by Hector Saucedo Chavez to include property located at 6801 E. 80th Avenue, Commerce City, Colorado, into the District’s boundaries. He noted that the owner intends to build an industrial manufacturing building on the property.

Staff has reviewed the documentation received and the Petitioner is in compliance. Mr. Moreno further noted that a notice of a hearing was properly published and staff recommends the Board conduct a Public Hearing.

President Cordero called for a MOTION to open the Public Hearing. Director McNeely moved and Director Ennis seconded. The MOTION passed unanimously.

President Cordero called for public comments. There were none.

President Cordero called for a MOTION to close the Public Hearing. Director Scanlon moved and Director Frew seconded. The MOTION passed unanimously.

Mr. Moreno then stated that staff recommends the property at 6801 E. 80th Avenue, Commerce City, Colorado, be included into the District, and for the Board to enter an Order for the property inclusion and to approve the corresponding Inclusion Agreement.

President Cordero called for a MOTION to approve the inclusion of property at 6801 E. 80th Avenue, Commerce City, Colorado, and to approve the corresponding Order and Inclusion Agreement. Director McNeely moved and Director Scanlon seconded. The MOTION passed unanimously.

**ACTION ITEM 3 – Public Hearing on Petition for Inclusion of Property from Jagjeet, Inc., and Board Order of Inclusion and Inclusion Agreement**

Mr. Moreno discussed the Petition received by Jagjeet, Inc. to include property located at 8900 E. 88th Avenue, Commerce City, Colorado, into the District’s boundaries. He noted the owner intends to install a gas station on the property at the intersection of E. 88th Avenue and Highway 2.

Mr. Moreno indicated that Staff has reviewed the documentation received and the Petitioner is in compliance. Mr. Moreno further noted that notice of a hearing was properly published and recommends the Board conduct a Public Hearing.

President Cordero called for a MOTION to open the Public Hearing. Director Scanlon moved and Director Ennis seconded. The MOTION passed unanimously.

President Cordero called for public comments. There were none.
President Cordero called for a **MOTION** to close the Public Hearing. Director McNeely moved and Director Ennis seconded. The **MOTION** passed unanimously.

Mr. Moreno then stated that Staff recommends the property at 8900 E. 88th Avenue, Commerce City, Colorado, be included into the District, and for the Board to enter an Order for the property inclusion and to approve the corresponding Inclusion Agreement.

President Cordero called for a **MOTION** to approve the inclusion of property at 8900 E. 88th Avenue, Commerce City, Colorado, and to approve the corresponding Order and Inclusion Agreement. Director McNeely moved and Director Scanlon seconded. The **MOTION** passed unanimously.

**ACTION ITEMS 4 AND 5—Engineering Design Contracts with Muller Engineering Company, Inc. for the 2021 Water R&R Program and the 2021 Wastewater R&R Program**

Mr. Moreno explained the general vicinity for both the water and wastewater projects and discussed the cost proposals received from Muller Engineering Company, Inc.

Mr. Moreno indicated it is Staff’s recommendation to award the Engineering Design Contract to Muller Engineering Company, Inc. in an amount not to exceed $412,783 for the 2022 Water R&R Program.

He further indicated it is Staff’s recommendation to award the Engineering Design Contract to Muller Engineering Company, Inc. in an amount not to exceed $103,478 for the 2022 Wastewater R&R Program.

President Cordero called for a **MOTION** to approve the contracts with Muller Engineering Company, Inc., as recommended, for the 2021 Water R&R Program and the 2021 Wastewater R&R Program. Director Frew moved and Director Ennis seconded. The **MOTION** passed unanimously.

**ACTION ITEM 6 – Bid from Vortex Services, LLC for the Irrigation System Transmission Line Project, and Contract Amendment #2 with Muller Engineering Company, Inc.**

Mr. Moreno discussed the importance of the District’s irrigation system, noting this project will complete the line. He reminded the Board of the contract awarded to Winwater Company for procurement of the pipe, which will be assigned to the awarded contractor for the project.

Mr. Moreno indicated that Vortex Services, LLC (“Vortex”) was the lowest responsive and responsible bidder. He discussed a couple of corrections that Vortex made to fix inadvertent tabulation errors. Mr. Mock indicated that correcting this type of error is not unusual and it’s okay to move forward with awarding Vortex the contract.

Mr. Moreno indicated it is Staff’s recommendation to approve a contract with Vortex Services, LLC for $6,373,323.67 for the base bid and $3,485,937.82 for procurement, for a total contract amount of $9,859,261.49 for the Irrigation System Transmission Line Project from
Belle Creek Boulevard to the Landmark Pump Station, and to approve Contract Amendment #2 with Muller Engineering Company, Inc. in an amount not to exceed $583,760 for construction phase services for a total contract amount not to exceed $1,520,120.

President Cordero called for a MOTION to approve the contract with Vortex Services, LLC, and Contract Amendment #2 with Muller Engineering Company, Inc., as recommended. Director Scanlon moved and Director Frew seconded. The MOTION passed unanimously.

ACTION ITEM 7 – Engineering Design Contract with Muller Engineering Company, Inc. for a Potable Water Loop for the Wastewater Treatment Plant

Mr. Moreno explained that the Wastewater Treatment Plant is looking to obtain a potable water line to serve the plant. He discussed the location of the plant and how water is currently received. He also discussed the County’s water storm system improvement plans for the area and the District’s construction plans for the water loop. Mr. Moreno indicated that the hope is to begin construction later this year for completion by the end of the year or the beginning of next year. Discussion ensued regarding detention ponds.

Mr. Moreno stated that it is Staff’s recommendation to award the Engineering Design Contract to Muller Engineering Company, Inc. in an amount not to exceed $138,603 for the design of a Potable Water Loop for the Wastewater Treatment Plant.

President Cordero called for a MOTION to approve the contract with Muller Engineering Company, Inc., as recommended, for a Potable Water Loop for the Wastewater Treatment Plant. Director Scanlon moved and Director Ennis seconded. The MOTION passed unanimously.

(As directed by the Board, Action Item 9 preceded Action Item 8.)

ACTION ITEM 9 – Memorandum of Understanding and Consent regarding Assignment of ERUs from Clayton Properties Group II, Inc. (d/b/a Oakwood Homes) to Reunion Metro District

Director Ennis recused herself from this discussion due to a potential conflict of interest related to her employer, Brighton School District 27-J.

Mr. Mock noted this topic is a continuation from last month’s meeting. He discussed Reunion MD’s plans for issuing bonds to purchase the ERUs and how the bonds would be paid off.

Mr. Mock indicated that since last month’s meeting, comments have been made to the MOU to clarify the number of ERUs being transferred and those for development. Oakwood Homes has accepted those comments. Mr. Mock stated that related documents are still being worked on but that the MOU is sufficiently final, with the addition of certain contingencies that he’s recommending. Mr. Mock and Mr. Jones will provide approval of the finalized documents. Discussion ensued regarding the referenced contingencies and final ERU numbers.
Mr. Mock referenced the “no objection statement” that has been requested from the City. He also indicated that he has spoken with the District’s Water Counsel regarding this transaction.

Mr. Mock recommends the Board approve execution of the MOU by the President or Vice President or District Manager and delivery subject to the Conditions to Delivery set forth in the Board packet for this meeting; and to approve, after delivery of the MOU, the District Manager’s (or designee’s) execution and delivery of the Consent and the Acknowledgement; with all such forms to be in a form substantially similar to the forms presented.

President Cordero called for a **MOTION** to authorize execution and delivery of an MOU and approve execution and delivery of the Consent and the Acknowledgement as recommended. Director Scanlon moved and Director Frew seconded. The **MOTION** passed unanimously with Director Ennis abstaining.

**ACTION ITEM 8 – Agreement to Sell Prospect Valley Water Rights to Miller’s Landing**

Mr. Jones discussed being approached by water brokers representing Millers Landing, a developer in Castle Rock. He explained the details of the offer.

Mr. Jones recommends that the Board direct the District Manager to reject the current offer from Miller’s Landing but to continue discussions if there appears to be a solution that benefits the District and the Prospect Valley ERU holders.

President Cordero called for a **MOTION** to authorize the District Manager to respectfully deny the offer from Miller’s Landing and to continue discussions as recommended. Director Frew moved and Director Ennis seconded. The **MOTION** passed unanimously.

**ACTION ITEM 10 – Resolution and/or Letter to the City of Commerce City regarding Board Member Comments**

Mr. Mock was asked to discuss recent comments made by Director Scanlon to City Council that could be construed as being made on behalf of the District. Mr. Mock also was asked to present possible Board actions to address the matter, including adoption of a resolution and/or a letter to the City of Commerce City.

Mr. Scanlon apologized to the Board for his comments to City Council. Discussion ensued regarding the options presented by Mr. Mock and the best course of action to address the matter.

President Cordero called for a **MOTION** for the action to be taken. Director McNeely moved to approve a resolution and a letter to the City of Commerce City. Director Frew seconded and the **MOTION** passed unanimously.

**DISCUSSION ITEMS**

**DISCUSSION ITEM 1 – Elimination of Sand Creek Lift Station**

Mr. Moreno discussed the location of the station, which is located in the Denver Water master meter service area. He referred to and explained diagrams showing the water flow.
also indicated that the District needs to make improvements to the site, for which it makes more
sense to use that money for elimination instead of improvements. Mr. Moreno further noted that
the environmental impact due to proximity to Sand Creek will need to be considered and that
Muller Engineering has already prepared an analysis to tap into Metro Wastewater.

Mr. Jones provided some history on the lift station and indicated this is an opportune time to
take care of the situation.

DISCUSSION ITEM 2 – Presentation on Board Member Duties
Mr. Mock was asked to review Board member duties, and he indicated he typically provides
a periodic refresher to the Board around this time of the year. He discussed the various
categories of responsibilities, which include Board attendance, eligibility, compliance with rules
and ethics laws, disclosing conflicts of interest, fiduciary duties, acting in the best interest of the
district, and working with the District Manager on employee issues.

EXECUTIVE SESSION

Mr. Mock suggested the Board enter into Executive Session under §24-6-402(4)(b) and (e),
C.R.S., for the purpose of receiving legal advice and instructing negotiators on a proposed
agreement to sell Prospect Valley water rights to Miller’s Landing, and under §24-6-402(4)(e)
and (f) to discuss instructions to negotiators and personnel policies related to compensation.

A MOTION was made by Director Scanlon for the Board to enter into Executive Session
under §24-6-402(4)(b) and (e), C.R.S., for the purpose of receiving legal advice and instructing
negotiators on a proposed agreement to sell Prospect Valley water rights to Miller’s Landing,
and under §24-6-402(4)(e) and (f), C.R.S., to instruct negotiators and to discuss personnel
policies related to compensation. Director Frew seconded. The MOTION passed unanimously
and at 7:19 p.m. the Board entered into Executive Session.

At 8:00 p.m., a MOTION was made by Director Scanlon for the Board to return to Regular
Session. Director McNeely seconded and the MOTION passed unanimously.

Mr. Mock then noted for the record that in his opinion the portions of the Executive Session
not recorded constitute privileged attorney-client communications.

In conclusion, the Board discussed future meetings without face masks based on the State’s
upcoming plan to relax COVID-19 guidelines.

ADJOURNMENT
President Cordero called for a MOTION to adjourn at 8:02 p.m. Director Frew moved and
Director Scanlon seconded. The MOTION passed unanimously.

Respectfully submitted,

Vicki Ennis
Secretary

May 12, 2021
Attorney Attestation as to not recording portions of an Executive Session:

I, James M. Mock, hereby attest that the portion of the Executive Session discussion not recorded constituted privileged attorney-client communications.

[Signature]

James M. Mock