MINUTES
OF THE SOUTH ADAMS COUNTY WATER AND SANITATION DISTRICT
AUGUST 11, 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 August 11, 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. 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):  SACWSD Staff/Legal Present:
Mizraim Cordero, President Jim Jones, District Manager
Heidi McNeely, Vice President  Kipp Scott, Water Systems Manager
Vicki Ennis, Secretary JM Grebenc, Wastewater Systems Manager
William Frew, Treasurer Abel Moreno, Distribution & Collections Manager
Michael Scanlon, Director Byron Jefferson, Administrative Services Manager – via telephone

Consultants/Others Present:  James M. Mock, General Counsel
Steve Hibbeler, Muller Engineering Company  Dawn Fredette, District Clerk/Legal Assistant
Gary Barber, HydroSource, Inc.
Gregg Campbell, HydroSource, Inc.
Evelyn G. Reategui-Zirena, GIS Environmental Inc.
Dave Fox, Property Owner/Resident

CALL TO ORDER
President Cordero called the meeting to order at 6:01 p.m. and then led everyone in the Pledge of Allegiance.
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. Frew will recuse from backflow hearing.

Director Scanlon has submitted a 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.

President Cordero asked if the Board members had any additional potential conflicts of interest to disclose. There were none.

AGENDA REVIEW

President Cordero asked if there were any changes to the Agenda. The Board determined to move Action Item 1 to Discussion Item 1.

APPROVAL OF MINUTES

President Cordero called for a MOTION to approve the Minutes from the Regular Meeting held on July 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 no public comments.

CONSENT AGENDA

President Cordero inquired whether any Board member would like to discuss any particular Consent Agenda 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 Payment Request from All Phase Landscape Construction in the amount of $83,593.34 for landscaping around the new Water Softening Facility.

2. Approve Partial Pay Request #2 in the amount of $418,360.59 to Brannan Construction Company for the 2021 Water System R&R Project.

3. Approve payment of Pay Application #3 from Insitiform Technologies, LLC in the amount of $301,349.41 for the 2021 Wastewater System R&R Project.

4. Direct staff to file statements of opposition in Water Court Case Nos. 21CW3092 and 21CW3103.

5. Approve Electronic Payments

6. Approve the Bill Paying Process

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

ACTION ITEMS

ACTION ITEM 1 – Intergovernmental Agreements between SACWSD and the City of Commerce City’s E-470 Commercial Area and E-470 Residential Area General Improvement Districts

Mr. Mock discussed the IGA’s provided in the Board packet. He explained that they will be used by the City to fund major infrastructure in the E-470 area. Mr. Mock also explained in general how GIDs work, noting that the relationship is such that the GIDs will finance improvements and the District will accept the facilities and agree to permitting and inspection. Mr. Mock further noted that the IGAs will include boundary maps once received from the City.

Mr. Mock recommends Board approval of the Intergovernmental Agreements between SACWSD and the City of Commerce City’s E-470 Commercial Area and E-470 Residential Area General Improvement Districts, and authorization for the District Manager to attach the maps for finalizing the IGAs once the maps are received.

President Cordero called for a MOTION to approve the IGAs between SACWSD and the City of Commerce City’s E-470 Commercial Area and E-470 Residential Area General Improvement Districts in substantially final form, with any additional changes approved by the District Manager and General Counsel. Director Ennis moved and Director McNeely seconded. The MOTION passed unanimously.

ACTION ITEM 2 – Resolution to Condemn Property owned by MMI Aberdeen, LLC and Crown Enterprises, Inc. for the District’s 104th Avenue Irrigation System Transmission Line Project

Mr. Mock indicated there are a couple of property owners who own small slivers of land through which the District needs easements in order to run an irrigation water main for the 104th Avenue Irrigation Main project. He discussed the offers and outreaches made to the property owners in March, June, July and August, noting that there has been some productive communication with MMI Aberdeen but not with Crown Enterprises. Mr. Mock further noted that the contractor is mobilized and has pipe ordered, so it’s important to have these property owners be responsive to our outreach in order to avoid delaying the contractor’s schedule.
Mr. Mock went on to explain that the general practice in this type of situation is to start a condemnation action. Many times this results in the property owner becoming more responsive. Mr. Mock also discussed the Resolution being considered for Board approval and what the Resolution authorizes.

Discussion ensued regarding fair market value of the properties in question. Mr. Mock explained that an appraisal is not required because the fair market dollar amounts are so low, and that the offers made to the landowners were based on the opinion of H.C. Peck & Associates, Inc., the District’s ROW consultant. Mr. Mock further noted that these parcels are right next to other public utility easements. Mr. Moreno added that the land is apparently undevelopable due to all the surrounding easements.

Director Scanlon made a **MOTION** to approve the Resolution reaffirming that the 30”/36” Irrigation Transmission Line from Belle Creek to Landmark is for a public purpose, authorizing acquisition by negotiation or other legal action, including eminent domain, of permanent and temporary easements as set forth in Exhibits A and B of the Resolution, and authorizing District Staff, General Counsel, and condemnation counsel to sign pleadings and take other actions necessary to prosecute an eminent domain action necessary to acquire the property within project timelines and ratifying any of the preceding actions that have already occurred. Director Frew seconded and the **MOTION** passed unanimously.

**ACTION ITEM 3 – Ratification of Heiberg Settlement Agreement**

Mr. Mock indicated this was a last-minute agenda item due to Staff being contacted on short notice that the agreement had been signed.

Mr. Moreno discussed the sewer backup on Monaco Street, noting that the Board had received legal advice regarding claims arising from the backup during Executive Session at the last meeting. Mr. Moreno further indicated that the insurance companies were able to negotiate a settlement at a reasonable cost to the District.

Mr. Mock stated that the signed release makes it very clear the District is not admitting any liability, but to the contrary takes the position that the District was not at fault. Mr. Mock further noted the unique circumstances in this particular instance and that no precedent is being set.

President Cordero then called for a **MOTION** to ratify the Heiberg Settlement. Director Scanlon moved and Director McNeely seconded. The **MOTION** passed unanimously.

**DISCUSSION ITEMS**

**DISCUSSION ITEM 1 - PV Bondholder Proposal to Purchase PV Water Rights from the District for $1.98 million**

Mr. Barber of HydroSource, Inc. indicated that he previously addressed the Board during the Public Comment portion of the meeting in June. He’s here today to discuss a proposal prepared by HydroSource, who is the water broker for the PV-ERU Holding Trust.
Mr. Barber indicated that they’ve been working to clean up this matter for four years on behalf of the Trustee. He discussed some of the key events over those last four years. Mr. Barber further discussed that the Invesco portion of the bondholder ERU’s is interested in having the District sell the water associated with their ERU’s to a Castle Rock developer, Miller’s Landing.

Mr. Jones stated that PV ERU holders do not have an interest in the underlying water, and that the 2019 Amended Water Resources Agreement with the PV-ERU Holding Trust clearly states that the Trust acquired only water connection ERU’s, not any ownership interest in the water. The amended agreement also clearly states that the ERU’s must be used on properties that are able to be included into the District’s service area.

Mr. Jones went on to explain how the water dedication process works. He also then summarized HydroSource’s proposal. Mr. Barber added that they would be open to a different agreement if the District prefers. He indicated that they’d welcome whatever the Board might suggest.

Mr. Mock indicated that the Board may want to further discuss this matter in Executive Session and the Board moved on to the next agenda item.

**DISCUSSION ITEM 2 – Purchase of FRICO ERUs from Oakwood Homes**

Mr. Jones discussed the recent inquiry from Oakwood Homes about the District possibly having a potential interest in purchasing 1,200 FRICO ERUs, which they’ve determined to potentially be in excess of their current development needs. Mr. Jones again briefly talked about the water dedication requirements and proceeded to discuss the District’s 2001 Water Resource Agreement with several developers, and the 2006 amended agreement with FRICO and Denver Water. He explained the payment schedule and noted that all FRICO payments have been made, making the District the full owner of all 5,000 acre-feet of the FRICO water rights provided for in the two agreements.

Mr. Jones further discussed that Shea Homes had previously transferred a significant portion of their interests in the Reunion lands and the FRICO Water Resources Agreement to Oakwood Homes, noting that both Shea Homes and Oakwood Homes have made all the payments contemplated in the original Shea Homes FRICO Water Resources Agreement. Oakwood Homes currently feels that they may have up to 1,200 FRICO ERU’s in excess of their current needs.

Discussion ensued and the Board determined to further discuss this matter in Executive Session.

**DISCUSSION ITEM 3 – Emerging Contaminants (PFAS and 1,4-dioxane) Update**

Ms. Reátegui-Zirena from GSI Environmental joined the meeting via telephone for this portion of the meeting.

Mr. Scott indicated the purpose of this discussion is to provide an update and to discuss the Brown and Caldwell report evaluating treatment efficiencies with the granular activated carbon
(GAC) facility. He also noted that there isn’t a lot of change from the original report done two years ago.

Mr. Scott proceeded to discuss the report, noting that Brown and Caldwell were asked to reexamine the treatment efficiencies with carbon and ion exchange technologies. A new carbon was tested to see if that carbon is more effective than the historically used F300 carbon. The results showed that F300 is still the most effective treatment methodology considering the current concentration levels coming into the facility. The report also includes information on possible future costs for F300 treatment.

Mr. Scott went on to discuss increased water demand, including peak demands, and increasing PFAS levels in some of the District’s wells, noting that some of the wells in the middle well field have increased from approximately 150 parts per trillion combined PFOA and PFOS in 2019 now to approximately 350-450 ppt. He talked about where the District is in the 2-5 year time period referenced in the report, that the demand is much greater than the demand considered in the report, that the influent levels are greater than the report assumes, and further discussed the need to determine future cost-effective treatment.

Additional items discussed by Mr. Scott included the RSCCT referenced in the report, the time frame for replacing carbon and the related budget and time commitments on staff. He also talked about the recommendations of Brown and Caldwell for various PFAS level scenarios.

Discussion ensued regarding the PFAS levels, future water demands, conservation programs, and the challenges of implementing water conservation restrictions.

Mr. Mock then introduced Ms. Reategui-Zirena, toxicologist at GSI Environmental, who is presenting on behalf of Janet Anderson. A slide show providing an update on PFAS and 1,4-Dioxane regulations was presented.

Ms. Reategui-Zirena first discussed drinking water PFAS values in different states and countries, noting that not too much has changed in Colorado. However, California has become a trend setting state to watch.

There were questions about whether there is any new health information since GSI last presented to the Board, and Ms. Reategui-Zirena stated there have been no significant changes, but California is interpreting the science in a different, very conservative way.

Mr. Mock discussed the status of legislation in Colorado regarding a PFAS Enterprise Fund. He noted the fund is not yet operational but is currently in the public comment period.

Ms. Reategui-Zirena proceeded to talk about Colorado water quality standards and what the EPA is doing and not doing. She discussed things to watch regarding trends in legislation. Discussion ensued.

Ms. Reategui-Zirena then discussed updates on 1,4-Dioxane, providing an overview of three main points: the finalized ITRC guidance document; drinking water state regulations; and
Canada’s final guidelines for Canadian drinking water quality for 1,4-Dioxane. She also talked about things to watch in California and New Jersey. Discussion followed.

Mr. Mock thanked Ms. Reategui-Zirena for stepping in for Ms. Anderson to present the update. Mr. Mock then talked about treatment funding developments on the federal level. He also noted that the District has an upcoming meeting with CDPHE. Mr. Mock further discussed that the state’s PFAS Enterprise Fund probably will not be sufficient, but it will give CDPHE the opportunity to become more active.

Board discussion ensued.

EXECUTIVE SESSION

Mr. Mock suggested a motion for the Board to enter into Executive Session under §24-6-402(4)(b, e, and f), C.R.S., for the purpose of receiving legal advice from the District’s legal counsel, determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators, and for personnel matters regarding replacing the District Manager; under §24-6-402(4)(a, b, and e), C.R.S., for the purpose of discussing the purchase, acquisition, lease, transfer, or sale of any real or other property interest, receiving legal advice from the District’s legal counsel, and for determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators (i) relative to the proposal made by PV Bondholders to purchase PV water rights and (ii) relative to discussions with Oakwood Homes for the possible purchase of FRICO ERUs; and any other matters that are properly authorized to be discussed in Executive Session.

A MOTION was made by Director Scanlon at 7:25 p.m. for the Board to enter into Executive Session pursuant to the above motion as stated by Mr. Mock. Director Frew seconded. The MOTION passed unanimously, and the Board entered into Executive Session.

At 8:53 p.m., a MOTION was made by Director Scanlon for the Board to return to Regular Session. Director Frew seconded and the MOTION passed unanimously.

Following Executive Session, Mr. Jones asked that the Board consider a motion for providing an answer to the Trustee for the bondholders of the PV ERU's that the District is not interested in selling its water resources to entities outside of the District’s service area. Discussion ensued about needing to ensure there is sufficient water to fulfill the needs of Commerce City and the other portions of Adam County that are served by the District.

President Cordero then called for a MOTION to approve the recommended response to the Trustee of the PV-ERU Holding Trust. Director Scanlon moved and Director Frew seconded. The MOTION passed unanimously.

Mr. Jones also confirmed that it is the Board’s direction for Staff to continue discussions with Oakwood Homes.

Mr. Mock discussed a contract for consideration with HR Advantage Group for services related to running a District Manager search. The Board approved the Search Committee engaging HR Advantage Group.

August 11, 2021
Page 7
There was also discussion regarding water pressure in the Reunion area. Mr. Moreno indicated the District is in regular communication with Mr. Raul of the Reunion Metro District. He noted that Reunion MD is trying to fill their lake and that the District is working with them on the amount of water being used and when to take the water from the District’s system.

In addition, there was discussion about Staff providing the Board with a concise illustration of all the District’s water. It was requested that this information be in a more friendly format than that which is already in the Master Plan.

In conclusion, the Board discussed the agenda for the Anniversary Celebration/EWSF Grand Opening event on September 1.

ADJOURNMENT

President Cordero called for a MOTION to adjourn at 9:03 p.m. Director Frew moved and Director McNeely seconded. The MOTION passed unanimously.

Respectfully submitted,

[Signature]
Vicki Ennis
Secretary