

MINUTES OF A SPECIAL MEETING  
OF THE BOARD OF DIRECTORS OF THE  
BMR METROPOLITAN DISTRICT  
HELD April 12, 2011

A special meeting of the Board of Directors of the BMR Metropolitan District was held on Tuesday, April 12, 2011 at 6:00 p.m. at Med Ved AutoPlex (Ford Bldg.) located at 1404 S. Wilcox Street, Castle Rock, Colorado 80104. The meeting was open to the public.

Attendance

In attendance were Directors:

Jeanne Dassel  
Alan Cobb  
Bob Brabec  
Russell Grant  
Kirk Fischer

Residents and others in attendance:

Ron Bulmer  
Al Hawkins  
Bob Zimmerman  
Lynn Norwood

Also in attendance:

Tim Flynn, Esq.; Collins Cockrel and Cole  
John Simmons, Simmons & Wheeler, P.C.  
Howard McCarthy, TetraTech  
Jeff Sucher; Treatment Technology, Inc.  
Bob Blodgett R.S. Wells LLC  
Phillip Sack, Tetra Tech

Call to Order

Director Dassel called the meeting to order at 6:00 p.m. and verified a quorum present.

Conflicts of Interest

Mr. Flynn reported that all of the directors had previously filed Disclosure of Potential Conflict of Interest Statements with the Board and with the Secretary of State in accordance with statutory requirements. Such conflicts arise because each Director is also a Director on the Consolidated Bell Mountain Ranch Metropolitan District. The Consolidated Bell Mountain Ranch Metropolitan District has entered into and may from time to time enter into additional agreements with the BMR Metropolitan District. Director Brabec disclosed that in addition to the foregoing he sits on the Board of Directors of the Bell Mountain Ranch Homeowners Association.

All Disclosure of Potential Conflict of Interest Statements, whether filed for this meeting or previously filed are deemed continuing in nature and are incorporated into the record of this meeting. All Directors stated that the participation of at least three of them in the meeting was necessary to obtain a quorum of the Board or otherwise enable the Board to act.

After each Director had summarily stated for the record the fact and nature of his or her respective private interest and stated that the determination to participate in voting or take any other action on any contract or other matter in which he or she may have a private interest would be made in compliance with Section 24-18-201(1)(b)(V), C.R.S., on an *ad hoc* basis, the Board turned its attention to the remaining agenda items.

#### Approval of Agenda

Mr. Sucher recommended that Item 6E – Seismic Testing of Distribution System Pipes Agreement be moved to Engineer Items. The Board concurred.

Following discussion, and upon a motion duly made by Director Brabec seconded by Director Grant, and upon vote unanimously carried, the Board approved the agenda as amended.

#### Administrative Matters

- A. Review and Consider Approval of Minutes from the March 1, 2011 Special Meeting Minutes

Upon a motion duly made by Director Brabec, seconded by Director Cobb and upon vote unanimously carried, the Board approved the March 1, 2011 special meeting minutes as amended.

- B. Review 2010 Audit

Mr. Simmons reviewed the highlights of the 2010 audit. Following discussion, Director Dassel asked that the Board review the audited financial statements and provide comments to Director Cobb. Director Cobb will forward these comments to Mr. Simmons. The audit was tabled for review and approval at the May board meeting.

- C. Review February 28, 2011 Financial Statements

Mr. Simmons reviewed the statements with the Board. Following discussion, and upon a motion duly made by Director Brabec, seconded by Director Cobb, and upon vote unanimously carried, the Board approved the February 28, 2011 Financial Statements.

- D. Review and Consider Approval of Cash Position as of April 12, 2011

Mr. Simmons reviewed the April 12, 2011 Cash Position report with the Board. Following discussion, and upon a motion duly made by Director Grant, seconded by Director Cobb, and upon vote unanimously carried, the Board approved the April 12, 2011 Cash Position report.

- E. Review and Consider Approval of Claims for March 2011 Represented by Checks Number 2084 through 2099 Totaling \$25,388.11

Following discussion, and upon a motion duly made by Director Brabec, seconded by Director Grant, and upon vote unanimously carried, the Board approved the Claims for March 2011, represented by checks number 2084 through 2099, totaling \$25,388.11 with the addition of an IREA direct pay in the amount of \$1,294.19 for total claims in the amount of \$26,082.30.

- F. Review and Consider Ratification of Requisition Number 3 in the Total Amount of \$312,097.54 for the Alternate Well

Following discussion, upon a motion duly made by Director Cobb, seconded by Director Brabec, and upon vote unanimously carried, the Board ratified Requisition Number 3 in the total amount of \$312,097.54 for the Alternate Well Project Loan.

- G. Water Meter Monitor Usage Plan

Mr. Sucher reviewed the plan with the Board. Mr. Blodgett reported there is a \$25 administrative fee to be charged by National Meter for the set up and delivery of the monitors. He reported National Meter is requesting an administrative fee of \$50 for extracting the data profile information from the customers' transmitter. The Board decided this should be a District expense and not an expense of the homeowner, if required. Mr. Sucher will discuss this fee with National Meter to see if it needs to be incurred by the District or not.

The Board also directed Mr. Sucher to work with R.S. Wells, LLC to revise the meter monitor usage plan information sheet to add the administrative fee to the listing.

- H. Approve Consumption and Charges Report

After discussion, and upon a motion duly made by Director Cobb, seconded by Director Brabec and, upon vote, unanimously carried, the Board approved the Consumption and Charges Report. Mr. Blodgett reported the usage for February and March for the house that had the water leak is not included. Mr. Blodgett will have Mr. Urkoski amend the report and add this consumption information. Director Brabec will contact the owner to inform him that he will be receiving a bill for the entire usage and informing him of the District's appeal process based on the leak that occurred.

The Board asked that R.S. Wells, LLC work with Treatment Technology, Inc. so that any time there is an unusual meter read and there is not a response from the homeowner regarding reviewing the meter to address any problems, that Treatment Technology, Inc. go to the home and attempt to make direct contact with the homeowner and determine if there is a leak or any other evidence of damage from water use that should be relayed to the homeowner.

The Board also discussed informing residents to provide R.S. Wells, LLC with emergency contact phone numbers when they are on vacation or gone for an extended period of time and need to be reached regarding a water issue.

I. Approve Shutoff and Late Fee Policy

Mr. Flynn reviewed this policy with the Board. Director Dassel suggested amendments to Section 8.8.4.1 and Section 8.8.4.2.

In addition, regarding Section 8.8.7 payment plans, the Board determined that the payment plans would only be provided for homeowners once in a three year period. In addition, there must be a minimum \$500 of actual consumption charges that are unpaid to qualify for a payment plan. The Board concurred.

After discussion and upon a motion by Director Brabec, seconded by Director Fischer and, upon a vote unanimously carried, the Board approved the Shutoff and Late Fee Policy as amended.

J. Discuss Bulk Water Permit

Mr. Sucher reported that it was his understanding McDonald Farms would prepay the town for any future water that needs to be trucked to Bell Mountain. The Board stated that the District may have already paid the town last year a deposit for future water use. Director Brabec will contact

the Town of Castle Rock regarding the permit to determine whether or not the District has already paid or McDonald Farms can pay on behalf of the District.

The Board tabled action on the bulk water permit to the May 2011 meeting.

Engineer

A. Well Status Update

Mr. McCarthy provided an update on the well construction. He asked that a board member walk the site with him and Tetra Tech tomorrow to review the grading, landscaping and drainage. Director Brabec agreed to meet Tetra Tech on site on Thursday, April 13<sup>th</sup> at 10:00 a.m. to review these issues.

Mr. McCarthy reported that if the District determines to use blankets to reduce the possibility of erosion and assist in the growth of the seed on a slope less than 4 to 1, this would require a change order and additional cost for the contractor.

B. Status of Pending Approvals From State on Construction Design

Mr. McCarthy reported the State is still reviewing the well construction equipment issues. This is still pending approval.

C. Status of Bid Package for Construction

Mr. McCarthy reported comments regarding insurance have been provided by T. Charles Wilson. Director Fischer will review these comments and provide them to Mr. McCarthy and Mr. Flynn. Mr. Flynn reported he had additional comments as well on the insurance issue.

Mr. McCarthy reported that the water quality results are in and being reviewed also by the State for their approval.

He reported that the District is withholding 10% from the payment to the well contractor pending acceptance and advertisement for final payment.

He also reported Layne Christensen Company has provided the Davis-Bacon payroll information required by the State. Director Dassel signed the authorization. R.S. Wells, LLC will submit this to the State.

D. Water Distribution System Construction Material

Mr. Sucher reported that Mr. McCarthy's report is still unclear as to whether the system was built with PVC or ductile iron. Three separate potholing/repair efforts by C&L resulted in PVC. However, another potholing job resulted in ductile iron pipe. Mr. Blodgett stated he spoke with Rick Lawrence of Lawrence Construction who built most of the system. Mr. Lawrence recalled PVC. However, Mr. Lawrence noted AUI built the first phase of the project along Bell Mountain Drive and he is not certain what material they used. Mr. Blodgett attempted to contact AUI, but has received no response.

The Board asked Mr. Simmons to locate the files containing the developer reimbursement bond documents which may contain all of the invoices for the water distribution system costs which were used to authorize the reimbursement from bond proceeds to the developer. Mr. Simmons will determine what information he has, and contact Director Dassel to determine the most cost effective way to review the information. The Board would still like to obtain a definitive determination of the water distribution system material before proceeding with testing.

E. Seismic Testing of Distribution System Pipes – Consider Approval Agreement With Olson Engineering - \$10,500 (2 days) or \$15,750 (3 days)

The Board tabled a decision on this agreement pending additional research as to whether the system has PVC or ductile iron.

Water  
Operator

A. Monthly System Report

Mr. Sucher reviewed his March 2011 report with the Board.

Mr. Brabec suggested that the District place in the newsletter additional information about sedimentation in the water system and what to do and to whom to report the information.

Director Dassel suggested the Board review the previous article and update it. Mr. Sucher will review and also provide recommendations on this information.

The Board accepted the Treatment Technology, Inc. report.

B. Presentation and Request to Approve Transponder Change Out Plan

Mr. Sucher reviewed his April 12, 2011 meter replacement process plan and schedule with the Board. After discussion, the Board decided that if the homeowner does not contact C&L within 30 days to schedule the needed change out of the transponder and potentially the meter, the District will send another letter to the homeowner indicating they have 48 hours to contact C&L or the suspension of service process will begin.

All this information will be in one letter sent to the homeowners with the transponder schedule for replacement. Mr. Sucher will work with R.S. Wells, LLC to draft the letter. The letter will be sent to the residents.

C. Exercising of Valves

Mr. Sucher provided an update on this effort.

D. Water Quality Issues

Previously addressed.

Discussion  
Items

A. Quality Controls and Efficiencies Audit Status

After discussion, and upon a motion duly made by Director Grant, seconded by Director Cobb, and upon vote unanimously carried, the Board approved the revised report. The Board authorized Mr. Flynn to inform Wright Water Engineers to finalize the report and provide copies to the District's manager, engineer and treatment operator.

B. Water Distribution System Construction

This item is addressed under Engineering Items.

C. Evacuation Plan

Director Dassel recommended the Board develop a plan which provides for another access point out of the Ranch in addition to the entrance on Bell Mountain Drive. She recommended that the access west of the Larrick parcel through Crystal Valley and Sellers Creek in Castle Rock is probably the most logical point. She noted Mr. Coontz of Douglas County provided some of the contact agencies to be involved in the evacuation plan. This will be further discussed at the May 2011 board meeting. She

also noted an IGA with Castle Rock would be necessary to provide access through Crystal Valley and Sellers Creek since they are within in the Town of Castle Rock.

D. Approve Resolution for District Manager's Signature on Requisitions

After discussion, the Board authorized Mr. Flynn to contact the State to determine if the requisition could include both Director Dassel and Mr. Blodgett as authorized signatories on the resolutions. This will be returned at the May 2011 board meeting.

E. Douglas County Water Conservation Program

Director Dassel reported there has been no feedback from Commissioner Board yet. This was tabled to the May 2011 board meeting.

F. Rural Water Authority (RWA) of Douglas County Membership

Mr. Blodgett reported he has received no feedback from RWA since the last meeting. This was tabled to the May 2011 board meeting.

G. Colorado Agricultural Leadership Foundation Donation

After discussion, and upon a motion duly made by Director Brabec, seconded by Director Cobb, and upon vote unanimously carried, the Board authorized a donation of \$250 from the District.

Attorney Items

A. Indemnification Resolution

Mr. Flynn distributed copies of Resolution Number 2011-4-2 regarding indemnification of directors, officers and employees of the District. Upon discussion, the Board tabled approval to the May 2011 board meeting.

B. Chatfield Watershed Authority Phosphorus Exemption

Director Dassel reported she is reviewing this information with Mr. McCarthy and Mr. Sucher. Mr. Sucher reported the District will attempt to have the necessary information to apply for the exemption prior to the May 2011 board meeting. Action was tabled to the May 2011 board meeting.

C. Amended Treatment Technology Contract

Action was tabled to the May 2011 board meeting.

D. Accept Denver Post Inquiry Response Regarding Water System

The Board acknowledged responses on the District's well system provided to the Denver Post.

Other Business

Director Dassel asked that Mr. Sucher provide information on the test results of the District's fire hydrants to the Larkspur and Castle Rock Fire Departments.

Director Dassel's suggested there be an open house at the treatment plant in late May for the residents. The Board tentatively targeted Saturday morning, May 21, 2011. Mr. Sucher will get back to the Board regarding the date and ensure that time works for Treatment Technology.

Community Items

Mr. Hawkins provided information regarding the color coding of the fire hydrants indicating the amount of flow rate from the different hydrants within the District.

Executive Session

None.

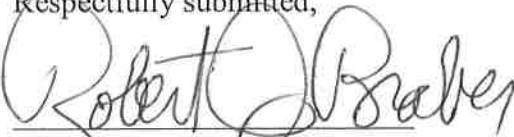
Adjournment

Upon a motion duly made by Director Brabec, seconded by Director Cobb, and upon vote unanimously carried, the Board adjourned the meeting at 7:50 p.m.

The foregoing minutes were approved by the Board of Directors on the 5 day of May, 2011.

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

Respectfully submitted,

  
Secretary for the Meeting