

MINUTES OF A REGULAR MEETING
OF THE BOARD OF DIRECTORS OF THE
BMR METROPOLITAN DISTRICT
HELD JULY 5, 2011

A regular meeting of the Board of Directors of the BMR Metropolitan District was held on Tuesday, July 5, 2011 at 6:00 p.m. at Lowell Ranch located at 2330 South I-25, 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:

Lynne Norwood; 3590 Winterhawk Circle
Bob Zimmerman; 1240 Glade Gulch

Also in attendance:

Tim Flynn, Esq.; Collins Cockrel and Cole
Jeff Sucher; Treatment Technology, Inc.
Matt Urkoski; Clifton Gunderson, LLP
Howard McCarthy; Tetra Tech, Inc.

Call to Order

Director Dassel called the meeting to order at 6:01 p.m. and verified a quorum was 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.

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

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

Administrative
Matters

- A. Review and Consider Approval of Minutes from the June 7, 2011 Regular Meeting Minutes

After review, the resident name of Mr. Bulmer in attendance is to be revised to the correct spelling of his name; Administrative Matters Item D should reflect "for this billing cycle" at the end of the last sentence; and Water Operator Item A, Paragraph 11 should reflect "They will determine whether or not the District has responsibility for these claims".

Following discussion, and upon a motion duly made by Director Brabec, seconded by Director Fischer, and upon a vote, unanimously carried, the Board approved the June 7, 2011 regular meeting minutes as amended.

- B. Review and Consider Approval of Cash Position as of June 30, 2011

Mr. Urkoski distributed copies of the June 30, 2011 Cash Position Report prepared by Mr. Simmons.

Following discussion, and upon a motion made by Director Grant, seconded by Director Brabec, and upon a vote, unanimously carried, the Board accepted the Cash Position Report as of June 30, 2011.

- C. Review and Consider Approval of Claims for May 2011 Totaling \$44,255.21, Represented by Check Numbers 2135 through 2145 and Direct Pays to IREA Totaling \$8,187.95, Grand Total of \$52,443.16

Upon a motion duly made by Director Fischer seconded by Director Grant, and upon a vote, unanimously carried, the Board approved the May 2011 Claims totaling \$44,255.21 represented by checks number 2135

through 2145 and Direct Pays to IREA totaling \$8,187.95 for a grand total of \$52,443.16.

- D. Review and Consider Ratification of Requisition Number 7 in the Amount of \$7,551.69 Represented by Check Number 2146 for the Alternate Well

Following discussion, and upon a motion duly made by Director Cobb, seconded by Director Grant, and upon a vote, unanimously carried, the Board approved Requisition Number 7, represented by check number 2146 in the amount of \$7,551.69 to Tetra Tech for the alternate well expense.

- E. Status of Water Meter Monitor Usage Plan Test with Directors Brabec and Fischer

It was noted that the monitors are going into their homes this week and Directors Brabec and Fischer plan to give feedback to Mr. Sucher.

- F. Approve Consumption and Charges Report

Mr. Urkoski discussed the Consumption and Charges Report.

Upon a motion duly made by Director Grant, seconded by Director Fischer, and upon a vote, unanimously carried, the Board accepted the June Consumption and Charges Report.

- G. 2011 Preliminary Assessed Value for Collection in 2012

No report.

- H. Discuss Meter Change Out Schedule in Future Years

Mr. Urkoski stated he would do more research and will discuss in future meetings. In addition, there was a brief discussion concerning an FCC rule that may require the District to update the radio technology it uses to transmit information from the well and meter systems to a higher efficiency technology by January 1, 2013. Mr. Flynn will look into this matter further and advise the Board as to how the existing FCC rule may affect the District.

Engineer

A. Alternate Well Update

Mr. McCarthy stated he is waiting to bid the installation of the well pump, piping and related equipment until the Board approved the expenditure of additional funds under Tetra Tech's existing contract. He also advised the Board that he will be submitting a proposal for construction observation services for the completion of this project. Mr. McCarthy then explained that in obtaining the design approval for the alternate well project significantly more time was spent on regulatory matters than had originally been projected, both at the County and State level. As a result, Tetra Tech is requesting an additional \$10,000 in compensation.

Upon a motion duly made by Director Dassel, seconded by Director Grant, and upon a vote, unanimously carried, the Board approved the First Amendment to Agreement with Tetra Tech for Alternate Well Design, which Amendment increased the total contract price by \$10,000.

Howard McCarthy indicated that he will provide the Board with a new construction schedule and that at the present time he estimates the project is approximately 60 days behind the scheduled completion date.

Water
Operator

A. Monthly System Report

Mr. Sucher distributed copies of his May 2011 System Report and reviewed it with the Board.

He reported the Consumer Confidence Reports (CCR's) were sent to each of the District's customers with June billing, and certificate of delivery will be sent to the Colorado Department of Public Health and Environment.

B. Status of Transponder Replacements

No discussion.

C. Hydrant Flushing Program

No discussion.

D. High Pressure Issues

1. Status of Claims

Claims received to date have been forwarded to Insurer. Response and outcome not yet received.

E. Vault Cleaning and Repair Status

1. Ratify Approval of Agreement with C& L Water Solutions For Replacement of Valve at PRV Vault No. 3 – NTE \$6,000

Upon a motion duly made by Director Brabec, seconded by Director Cobb, and upon a vote, unanimously carried, the Board ratified approval of Agreement with C&L Water Solutions for replacement of valve at Pressure Reducing Valve Vault No. 3 for a contract price not to exceed \$6,000.

- F. Consider Approval of Purchase of Cooling Fan For the Well – NTE \$3,500

Upon a motion duly made by Director Grant, seconded by Director Cobb, and upon a vote, unanimously carried, the Board approved the purchase of cooling for the well, not to exceed \$3,500.

- G. Confirm Distribution of Consumption Aging Report

Not discussed.

Director
Discussion Items

None.

Attorney Items

- A. Chatfield Watershed Authority Phosphorus Exemption. Status of Data and Report for Delivery to Authority

Mr. Flynn reviewed with the Board.

- B. Status of Amendment to SDPHE Letter Approving Alternate Well Design

SDPHE will send a letter to Mr. Flynn by the end of the week.

- C. Consider Approval of First Amendment to Agreement with Tetra Tech for Alternate Well Design - \$10,000

Previously discussed.

Other Business

Upon a motion duly made by Director Grant, seconded by Director Brabec, and upon a vote, unanimously carried, the Board agreed to adjourn the meeting at 6:37 p.m. to briefly discuss other business.

The Board reconvened at 6:41 p.m.

Director Dassel discussed monetary fines in place of shut offs for meter change outs; this to impose at \$500 fine and Mr. Flynn also discussed the process involved for bankruptcy. In addition, the Board authorized the filing of a Notice of Lien against property that has a significant outstanding balance and which may ultimately go into bankruptcy.

Upon a motion duly made by Director Brabec, seconded by Director Fischer, and upon a vote, unanimously carried, the Board agreed to impose a \$500 fine in place of shut offs for those homeowners' failure to comply with the District's request for access for meter change outs.

There was also a brief discussion concerning the need to track the legal fees for water right litigation costs relating to certain Bromley wells. Director Dassel noted that pursuant to the Settlement Agreement previously entered into with Bromley interests and the developer, Bromley is to reimburse the District up to \$60,000 for certain costs incurred in connection with the effort to relocate various well sites on the Ranch. Clifton Gunderson was instructed to create a cost code for this matter as a separate expense tracking item to record fees incurred and enable the District to provide documentation to Bromley for costs incurred in connection with the terms of the Agreement. Legal counsel was instructed to review the Settlement Agreement and to report to Clifton Gunderson and the Board on how to best accomplish the reimbursement of legal fees from Bromley.

Community Items

None.

Adjournment

Upon a motion duly made by Director Fischer, seconded by Director Brabec, and upon a vote unanimously carried, the Board adjourned the meeting at 6:48 p.m.

The foregoing minutes were approved by the Board of Directors on the 7 day of Aug, 2011.

The foregoing record constitutes a true and correct copy of the minutes of the above-referenced meeting. 8-2-11

Respectfully submitted,


Secretary for the Meeting