

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE  
**BACA GRANDE WATER AND SANITATION DISTRICT**

**January 17, 2024- 9:00 A.M.**

District Office – 57 Baca Grant Way South

Crestone, Colorado 81131

Meeting held via Zoom

**ATTENDANCE**

Directors in Attendance:

Vivia Lawson

John Loll

Mike Smith

Rick Hart

David Karas

Also in Attendance:

Marcus Lock, District Legal Counsel

Diego Martinez, District Manager

Natalie DeBon, District Administrative Manager

Cathy Fromm, District Accountant (for a portion of the meeting)

Nicholaus Marcotte, Element Engineering  
 (for a portion of the meeting)

Gary Potter, Director of Utilities

Community Members and Guests:

Bruce Becker

Dan Gray

Baca Grande Tech Solutions

Lori

Cheryl W.

**CALL TO ORDER**

President Lawson called the meeting to order at 9:02 A.M.

Board Roll Call: All Directors were present.

**DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST**

*Members of the Board were requested to disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting.*

**AGENDA**

MOTION: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR HART,  
 SECONDED BY DIRECTOR SMITH AND UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD APPROVED THE  
 AGENDA.

**CONSENT AGENDA**

The Board considered the following consent agenda items:

- Approve Minutes from the December 13th, 2023 Regular Meeting.

MOTION: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR HART,  
 SECONDED BY DIRECTOR SMITH AND UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD APPROVED THE  
 CONSENT AGENDA.

**PUBLIC COMMENT (ITEMS NOT ON THE AGENDA ONLY. NO ACTION MAY BE TAKEN).**

*In accordance with the Colorado Open Meetings Law, no Board action will take place until a later date, if necessary. Please limit your comments to three minutes or less.*

Mr. Gray expressed his concerns regarding his perceived lack of public notice for the proposed fee resolution. He suggested affirmatively sending Board packets and agendas to the public. Additionally, he spoke of the potential construction of a \$13 million wastewater plant. Mr. Gray also spoke about his belief of a problematic association between government and the press. He mentioned Director Hart's role on the Board of Directors for The Crestone Eagle, and criticized the newspaper's neglect of water and sanitation matters.

**FINANCIAL MATTERS**

Check Register: The Board considered approval of the check register through the period ending December 22, 2023 as follows:

General	\$	0.00
Capital	\$	0.00
<u>Enterprise</u>	\$	8,935.23
	\$	8,935.23

Check Register: The Board considered approval of the check register through the period ending January 17, 2024 as follows:

General	\$	9,495.31
Capital	\$	0.00
<u>Enterprise</u>	\$	25,892.94
	\$	35,388.25

**MOTION:** FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR SMITH, SECONDED BY DIRECTOR KARAS AND, UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD APPROVED TWO CHECK REGISTERS FOR THE PERIODS ENDING DECEMBER 22, 2023 AND JANUARY 17, 2024.

**Board of Director Matters:**

President Lawson asked legal counsel about the requirements for public notice when adopting/raising fees, considering it was on the agenda and had been brought up in public comment.

Mr. Lock explained the legal requirement for public notice when increasing or changing fees. According to statute, the governing body of a Special District providing water and sewer services must give notice of intent to fix or increase fees, stating the date, place, and time of the meeting. This notice should be posted on the official website of the Special District 30 days before the meeting. Mr. Lock demonstrated that the notice on the District's homepage was published on December 5th, exceeding the required 30-day notice period. He assured the Board that the statutory notice requirements were fulfilled.

President Lawson acknowledged Mr. Lock's clarification, affirming that Mr. Gray's comment was incorrect. President Lawson addressed the public, expressing gratitude to those present and indicating that she was taking time to address this matter for those present who may be unfamiliar with meeting practices.

President Lawson invited Director Hart to comment. Director Hart clarified the non-profit status of Crestone Eagle and his involvement as Treasurer of the Board. Director Hart underscored the distinct separation between the business operations of the Crestone Eagle Board and editorial decision-making, the latter of which Director Hart has no control over or involvement in. Director Hart encouraged those with inquiries to reach out to the editor for further information.

President Lawson thanked Director Hart and opened the floor for any additional comments. The Directors made no further comment.

## **STAFF REPORTS**

The Board reviewed and discussed the reports incorporated in the Board packets.

### **Engineer's Report**

**District Discharge Permit:** Mr. Marcotte reported on the District's wastewater discharge permit, which expires on November 30, 2024. A new permit application must be submitted six months prior to expiration, by May 30, 2024. Mr. Marcotte recommends applying for a general permit, which is quicker to receive and more flexible than an individual permit. Mr. Marcotte noted that CDPHE could take several months to approve a new permit, and the current permit could be administratively extended, if necessary.

President Lawson expressed concern about the timeline for obtaining a General Permit. Mr. Marcotte clarified that the State can administratively extend a permit for up to five years, and acknowledged this practice as normal.

President Lawson sought clarification on the distinction between Individual and General Permits. Mr. Marcotte explained that a General Permit provides more flexibility and is based on a pre-established framework.

### **Water Loss Prevention Project:**

Mr. Marcotte informed the Board the project plans have been finalized and approved by the District. The following bid schedule for this project is as follows:

- Advertisement Published Week of January 22<sup>nd</sup>
- Plans/Specifications Available January 26<sup>th</sup> at 4:00 PM
- Bids Due (via email to Element) February 19<sup>th</sup> at 4:00 PM
- Review Bids at Board Meeting February 21<sup>st</sup>
- Notice of Award February 23<sup>rd</sup> (estimated)

### **Wastewater Treatment Plant Project:**

Mr. Marcotte highlighted the most recent wastewater plant data, which indicates less biological loading on the Aspen wastewater plant than previously assessed. In response to this, Mr. Marcotte submitted a proposal to update his prior analysis regarding alternatives to building a new wastewater treatment plant.

**MOTION:** FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR HART,  
SECONDED BY DIRECTOR SMITH AND, UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD APPROVED ELEMENT  
ENGINEERING PROPOSAL FOR ENGINEERING SERVICES TO PREPARE WASTEWATER TREATMENT PLANT

(WWTP) ALTERNATIVES ANALYSIS UPDATE WITH THE PROPOSED AND APPROVED FEE FOR THE WORK IN THE AMOUNT OF \$4,500.00

**Water Treatment System Improvements:**

Mr. Marcotte discussed the uncertainties in funding due to potential cuts in the Colorado Department of Public Health and Environment's (CDPHE) capitalization grants. The proposed budget from the US Congress is significantly cutting the EPA capitalization grants to the various State Revolving Fund programs. Therefore, CDPHE is unsure if they will have grants available and may not know the available amount until September of 2024. Mr. Marcotte presented the Board with two options to move forward with.

1. Self-fund the design of the water project and reimburse yourself with funds from the construction loan when the project design is completed and goes to construction. In this case we could potentially apply to DOLA for a 50/50 match grant for design.
2. Wait to see if design and engineering grant funds become available later in the year and proceed accordingly if one is awarded. If those funds are not available, re-consider item number 1 above.

Director Loll inquired about Operations Manager and District Manager perspectives. Mr. Martinez noted the absence of urgency, because the project is not essential to function but included in case of failure in another component. Mr. Martinez expressed a willingness to wait for better funding opportunities. Mr. Potter agreed with the lack of urgency and preferred to wait until more funding was available.

Director Hart asked about the typical allocation of funds from CDPHE. Mr. Marcotte acknowledged the possibility of partial funding and highlighting the significant decrease in funding opportunities.

**590 CR Line Extension:**

The final payment advertisement and final payment processing is complete.

**District Manager Report**

In addition to his written report Mr. Martinez shared the following highlights from his report. The water loss prevention project is in process, and the upcoming bidding process is scheduled to start in February. Mr. Martinez emphasized the importance of efficiency and cost reduction in addressing water loss. The US Fish and Wildlife Service water lease negotiations were discussed, with negotiations ongoing, and plans for an in-person meeting in March, 2024. The 2024 budget, mill levy filing, personnel updates, and fee resolution were also covered. Some budget variance was noted regarding Vector truck repairs. Changes in the employee manual, formalization of certification and changes in connection fees, and update on the Admin Building project were shared. Progress on the new boundary map was noted. Mr. Martinez publicly expressed gratitude

to Mr. Potter and Mrs. DeBon for their efforts in ensuring a seamless transition for him within the District.

President Lawson inquired whether the repairs for the Vactor truck could be incorporated into the 2024 Budget. Mr. Lock affirmed, and Ms. Fromm remarked that the Vactor truck repair could be included through an amendment. Mr. Lock clarified the process for a budget amendment is the same process for adopting the initial budget, public notice must be published but there is no requirement for 30 days prior the meeting.

Ms. Fromm proposed sending the current draft of budget to the Board, followed by adopting an amendment to reflect the final AV and Vactor truck repair. This approach, she believed, would provide clarity on their actions.

President Lawson asked about the expected timeline, to which Ms. Fromm responded it will be presented to the Board before the next Board of Director meeting.

#### **Administrative Manager Report**

Mrs. DeBon provided key updates from her written report. She noted that 1099's have been completed electronically for the first time this year. Additionally, Mrs. DeBon highlighted changes in the health insurance benefits, introducing a personalized mental health platform effective January 1, 2024, available for eligible full-time employees at no cost.

Mrs. DeBon also shared an announcement about her graduation from the 2023 Special District Leadership Academy, and details on the successful safety grant approval, utility billing, and property sales activities.

#### **Operations Manager Report:**

Mr. Potter presented his report, highlighting concerns about a recurring main break on Spanish Creek Road. He discussed the challenges in repairing the water main pipes and the subsequent damage to roads and infrastructure. Mr. Potter also provided updates on equipment status, including the Vactor truck needing extensive repairs.

President Lawson inquired about backup plans for the Vactor truck, and Mr. Potter mentioned borrowing equipment from the POA.

Additionally, Mr. Potter reported zero accidents in 2023 and discussed operator certification training. He touched on water loss projects and shared a graph indicating consistent data below the 50% mark in organic capacity at the treatment plant.

President Lawson explained to the public the state requirement to plan for a new wastewater treatment plant, prompted by exceeding 80% capacity. Recent data that has consistently shown that the plant is operating at around 50% capacity has led the District to take a second look at the plan. This more recent data is what has prompted the Board to direct Element engineering to present a complete an updated evaluation of the alternatives.

**Legal Matters:**

Mr. Lock, highlighted various resolutions in the Board of Director's packet. The first and third resolutions are routine housekeeping matters to be adopted annually in January. He emphasized their procedural nature and welcomed questions. The second resolution, related to a fee increase, was confirmed earlier in the meeting, with legal notice provided; the annual transparency notice. Mr. Lock also mentioned extensive changes made to the employee handbook, now ready for the Board's consideration.

After Board and Staff discussions, the Board approved the following:

**MOTION:** FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR HART, SECONDED BY DIRECTOR SMITH AND, UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD APPROVED RESOLUTION NO. 202401-01: ANNUAL ADMINISTRATIVE RESOLUTION.

**MOTION:** FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR LOLL, SECONDED BY DIRECTOR SMITH AND, UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD APPROVED RESOLUTION No. 2024-01-02 NINTH AMENDED AND RESTATED RESOLUTION CONCERNING THE IMPOSITION OF VARIOUS FEES, RATES, TOOLS, PENALTIES AND CHARGES FOR WATER AND SEWER SERVICE AND FACILITIES.

**MOTION:** FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR LOLL, SECONDED BY DIRECTOR HART AND, UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD APPROVED RESOLUTION No. 2024-01-03: DESIGNATION THE DISTRICT'S 24-HOUR POSTING LOCATION.

**MOTION:** FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR LOLL, SECONDED BY DIRECTOR HART AND, UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD APPROVED THE FINAL VERSION OF THE BGWSD EMPLOYEE MANUAL BOOK

**EXECUTIVE SESSION**

Motion: Pursuant to C.R.S. § 24-6-402(4) (a), (b), and (c), upon motion duly made by Director Hart, seconded by Director Smith and, upon an affirmative vote of at least two-thirds of the quorum present, Adjourn to Executive Session pursuant to C.R.S. § 24-6-402(4) (a), (b), and (c), which respectively concern the purchase or lease of real property, specific legal advice from counsel, and determining positions relative to matters subject to negotiation regarding the lease rate for the next 20-year term of the Water Service Agreement and the terms and conditions for continued provision of sewer service to the Town of Crestone as well as negotiations related thereto.

**MOTION:** DIRECTOR LAWSON MOVED; DIRECTOR HART SECONDED TO ADJOURN EXECUTIVE SESSION AND RECONVENE TO REGULAR SESSION AT 11:15 A.M.

**ADJOURNMENT:**

THERE BEING NO FURTHER BUSINESS TO DISCUSS, UPON MOTION DULY MADE DIRECTOR HART , SECONDED BY DIRECTOR SMITH AND UPON VOTE, UNANIMOUSLY CARRIED, THE MEETING WAS ADJOURNED AT 11:15 A.M.

THE NEXT REGULAR MEETING IS SCHEDULED FOR  
February 21, 2023

Drafted by Natalie DeBon

  
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Respectfully submitted,

  
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Diego Martinez

THESE MINUTES ARE APPROVED AS THE OFFICIAL JANUARY 17th, 2024 MINUTES OF THE BACA GRANDE WATER AND SANITATION DISTRICT BY THE BOARD OF DIRECTORS SIGNING BELOW:

*Vivia Lawson*

Signed with DocuSign — 6720e4ad57b5

Vivia Lawson

*JAL*

Signed with DocuSign — 45f7436f589d

John Loll

*Mike Smith*

Mike Smith

*rh*

Signed with DocuSign — 649688aa7049

Rick Hart

*David Karas*

Signed with DocuSign — 7d04483aaf54

David Karas



**ATTORNEY STATEMENT**

**Regarding Privileged Attorney-Client Communication**

Pursuant to §24-6-402(2) (d.5) (II)(B), C.R.S., I attest that, in my capacity as the attorney representing the Baca Grande Water and Sanitation District, I attended the executive sessions on January 17, 2024, and it is my opinion that the portion of the executive session that was not recorded constituted attorney-client privileged communications.



Marcus J. Loek

General Counsel

Baca Grande Water and Sanitation District