

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

July 17, 2020

9:00 AM

District Office – 57 Baca Grant Way South
Crestone, Colorado 81131

Meeting held via Zoom due to COVID-19

ATTENDANCE

Directors in Attendance:

John Loll
Robert Salmi
Gregg Conlee
Mike Smith
William Peck

Also in Attendance:

Marcus Lock, Law of the Rockies
Cathy Fromm, Fromm and Company (for a portion of the meeting)
JoAnn Slivka, District Manager
Nicholas Marcotte, Element Engineering
Bryan Howard, Operations Staff (for a portion of the meeting)

Members of the Public:

Kevin Flewell, BGPOA
Jim Vanderpool, BGPOA
Dan Gray, Community Member
Michael Scully, Community Member

CALL TO ORDER

President Loll opened the meeting at 9:26 AM. Actions by Director Peck caused the meeting to be started late.

DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

Attorney Lock has discussed with the Board the requirements pursuant to Colorado law to disclose any potential conflicts of interest or potential breaches of fiduciary duty to the Baca Grande Water and Sanitation District Board of Directors and to the Secretary of State. It was noted that a quorum was present and members of the Board were requested to disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting. No new disclosures were made.

AGENDA

MOTION: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR SALMI SECONDED BY DIRECTOR CONLEE AND UPON VOTE, CARRIED, THE BOARD APPROVED THE AGENDA AS AMENDED. PRESIDENT LOLL REQUESTED THE AGENDA BE AMENDED TO INCLUDE A STATEMENT FROM LEGAL COUNSEL REGARDING THE REGULATIONS AND LAW AS IT RELATES TO COVID-19 AND MASK WEARING IN A PUBLIC PLACE. FOUR DIRECTORS IN FAVOR, DIRECTOR PECK OPPOSED.

Mr. Lock addressed the current circumstances; it is now 9:28, the meeting was noticed to commence at 9:00 AM via Zoom. The meeting started late because Director Peck chose not to participate in the Zoom meeting, he wanted to participate in public. Mr. Lock further noted that the Colorado Governor issued a mask mandate last night that is currently in effect that requires masks in any public indoor space. Any individual that endangers the health of others by knowingly entering or remaining in that public indoor space, violates the terms of the executive order may be subject to criminal activities and prosecution of trespass. To protect workers and customers in the community, no owner or manager may provide services to individuals who do not follow the mask mandate.

There are exceptions but Mr. Peck's behavior creates potential criminal activity and puts the district in a bad place because we are obligated not to provide services if the rules are not followed. The District as a local government can impose our own rules and regulations on our facilities. If Mr. Peck doesn't want to follow our rules, he does not have to enter the facility; if he refuses to follow the rules or to leave the premises, the sheriff can be called to escort him out. To be clear, he does not have any special rights as a board member different than the public. If he does not like it, he can file a law suit and argue that it is unconstitutional to the court and have the court decide.

Finally, a reminder that any board member can be removed for cause by a court of competent jurisdiction; this constitutes similar penalties by the state of Colorado by not only disrupting the board meeting but by violating an executive order of the governor of the state of Colorado. We are a nonpartisan board; our job is to supply water and wastewater services to our constituents in an efficient and productive manner. To the extent that his behavior has disrupted the operations of the district and conduct of our meeting, he should leave the politics aside and conduct the business of the board.

Mr. Peck reported that he has health issues when he wears a mask and under HIPPA it is his constitutional right not to have to wear a mask.

CONSENT AGENDA

The board considered the following consent agenda items:
 Approve Minutes from the June 17, Regular Meeting.

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

PUBLIC COMMENT (ITEMS NOT ON THE AGENDA ONLY. NO ACTION MAY BE TAKEN). *The District is subject to the Colorado Open Meetings Law, which states that no Board discussion or action will take place until a later date, if necessary. You must sign in before speaking. Please limit your comments to three minutes or less.*

Dan Gray questioned the final costs of the manhole project.

BOARD AND STAFF REPORTS

The board reviewed and discussed the reports incorporated herein by this reference.

FINANCIAL MATTERS

Check Register: The board considered approval of the check register through the period ending July 17, 2020 as follows:

General	\$	9,011.03
Capital Projects	\$	3,920.00
Enterprise	\$	<u>19,802.46</u>
	\$	32,733.49

MOTION: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR CONLEE, SECONDED BY DIRECTOR LOLL, AND, UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD APPROVED THE CHECK REGISTER FOR THE PERIOD ENDING JULY 17, 2020.

Financial Statements: Ms. Fromm reviewed the unaudited financial statements with the board, noting the ColoTrust interest rates continues to go down. Our average percentage in June was .5%, this time last year we were at 2.47%.

DISCUSSION AND/OR ACTION ITEMS

COVID-19 Public Health Crisis

President Loll, states that it is incumbent on every director and every employee to continue to take precautions and follow the mandates as set forth by the state; without water people cannot live in this community. He is extremely disappointed in the actions that he had to take to come down to the office to conduct today’s meeting. The negative actions of Mr. Peck were disruptive to the meeting and has a negative effect on the district.

Mr. Peck wanted it noted that believes the sign on the door is unconstitutional, he does not support the sign on the door.

Baca Grande POA Golf Course Watering

Mr. Lock began the discussion on the legal status of the golf course well. In 2010 we received authority from the Division of Water Resources (“Division”) to irrigate the golf course from the golf course well, the motel well or well 17/18. We did this because the golf course well is as an alternative point of diversion for the Baca Grande irrigation ditch #7 located on N. Crestone creek. Water has to be legally and physically available at the original point of diversion. When the creek goes dry, the Division calls and says we have to quit using the golf course well. When this has happened in the past, the motel well was used to irrigate the golf course. At some point, when the golf course well was called out, we began irrigating exclusively out of Well 17/18 which is our potable water source. Right now there is a lot of pressure on this well because of the potable water demand. JoAnn and the operations staff were concerned that using this well would put the potable water supply in jeopardy. When the Golf Course well was called out about a week ago, Marcus and JoAnn coordinated with the Division to make a request for approval for use of an emergency substitute water supply plan. Mr. Lock wrote a

letter to the State Engineer of Division of Water Resources, Kevin Rein to request emergency usage of the golf course well as an alternative point of diversion for the motel well. If approved this will allow us to use the well. The request was submitted July 13 and we have not heard back. Typically, these requests are granted for public health reasons not emergency irrigation. If approved we can use it for 91 days, so we will still need another long-term solution such as getting the motel well up and going.

Ms. Slivka then reported on related activities she and staff performed. They met with POA maintenance immediately upon hearing of the problem to assess the situation. It was discovered that the pump was not hooked and the electrical needed work; the electrician came out, fixed the electrical problem and restored the power; it was then discovered that the VFD (Variable Frequency Drive) was not operational. A new VFD will cost approximately \$2300. This needs to be in place before we can fire up the pump. It appears there are a lot of expenses to get the motel well running again, our goal right now is just to get water to the tank so that the BGPOA can have a source of non-potable water.

Director Salmi is concerned about this change in direction from the District's current projects. The POA uses a lot of water and there has not been a conversation about sharing costs associated with this project. The POA is not willing to assist with expenses at this point. Mr. Flewell feels this is the District's infrastructure and we should bare the burden of these costs right now.

MOTION: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR CONLEE, SECONDED BY DIRECTOR LOLL, AND, UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD AUTHORIZED PRESIDENT LOLL AND ANOTHER BOARD MEMBER TO WORK WITH THE DISTRICT MANAGER TO APPROVE COSTS ASSOCIATED WITH THE MOTEL WELL AND GOLF COURSE.

LEGAL MATTERS

1. The Board b discussed reviewed and briefly discussed the Element Engineering Proposals for the following projects:
 - Ratify Work Order #1- on call engineering
 - Work Order #2-Water Distribution System Hydraulic Model
 - Work Order #3-Wastewater treatment Plant Aeration Upgrades
 - USDA Water and Wastewater Preliminary Engineering Report

MOTION: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR LOLL, SECONDED BY DIRECTOR CONLEE, AND, UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD APPROVED THE AGREEMENTS WITH ELEMENT ENGINEERING:

2. Water Matters
No response from USFW as of July 17, 2020.

EXECUTIVE SESSION MATTERS - §24-6-402(4) (a), (b), and (e)(I), C.R.S.

There were no Executive Session Matters for discussion

ADJOURNMENT:

THERE BEING NO FURTHER BUSINESS TO DISCUSS, UPON MOTION DULY MADE DIRECTOR PECK, SECONDED BY DIRECTOR SMITH AND UPON VOTE, UNANIMOUSLY CARRIED, THE MEETING WAS ADJOURNED AT 10:51 AM.


THE NEXT REGULAR MEETING IS SCHEDULED FOR
August 21, 2020

Respectfully submitted,



JoAnn Slivka
Secretary for the meeting

THESE MINUTES ARE APPROVED AS THE OFFICIAL July 17, 2020 MINUTES OF THE BACA GRANDE WATER AND SANITATION DISTRICT BY THE BOARD OF DIRECTORS SIGNING BELOW:



John Loh



Robert Salter



Gregg Conlee



William Peck



Mike Smith