



RECORD OF PROCEEDINGS

**MINUTES OF THE BOARD OF DIRECTORS OF
THE FOREST HILLS METROPOLITAN DISTRICT**

Wednesday, June 17, 2020, 5:30 p.m.
Held via conference/Zoom call.

- ATTENDEES** Directors present: Michael Oakley (Chairperson), Mike Swartzlander, Gary Carson, Craig Weinberg, and Yvett Green.
Others present: Cade Bertrand, Nickie Holder, Jordan Herzing, and Nick Marcotte.
Residents present: Charlene Polino, Danny Lavergne, Joe Maslowski, Cheryl Shaw, Jessica Black, Dave Clappisi, 2 unidentified callers.
Guests: Christine McLeod
- QUORUM** Chairperson Oakley called the meeting to order Chairperson at 5:30 p.m. and noted a quorum was present.

CONSENT AGENDA ITEMS

- A. ADMINISTRATIVE MATTERS
 - I. Agenda: The Board accepted the June 17, 2020 agenda, as presented, with the understanding that contractors charging hourly and customers would be given top priority during the meeting to prioritize customer service and limit billable hours.
 - II. Minutes: The Board accepted the May 20, 2020 minutes, as presented.
- B. REPORTS
 - I. Operator’s Report: The Board accepted the Water & Wastewater Facility Operator Report ,as presented.
 - II. Engineer’s Report: The Board accepted the District Engineer’s Report, as presented.
 - III. Manager’s Report: The Board accepted the District Manager’s report, as presented.
- C. FINANCIAL MATTERS
 - I. Claims: Through May 31, 2020. Submitted in the BOD packet for review.
 - II. Financial Statements: Through May 31, 2020. Submitted in the BOD packet for review.

Director Carson motioned to approve the consent agenda items. Director Weinberg seconded; and the Board unanimously authorized payment of claims and approved all items, as presented.

REGULAR AGENDA ITEMS

- D. PUBLIC HEARING (Booster Pump Station)
 - I. The Forest Hills Metropolitan District (FHMD Board) opened the floor for public comment related to the proposed the Booster Pump Station project, the RESPEC’s condition assessment report, the State Revolving Fund (SRF) financing opportunity, and the general feasibility of the project. Commentators were asked to limit floor time to no more than 3 minutes per person and 60 minutes collectively.
 - i. No meeting participants cared to share comment on the booster pump station project or any of the related topics.
 - ii. The Chairperson closed the Public Hearing.
- E. ACTION ITEMS
 - I. Vacated Board Position
 - i. Chairperson Oakley briefed the Board on the review of notes from the May meeting and the lack of consensus. surrounding Mr. Weinberg’s appointment. It appeared that is had not been conducted by official action. Chairperson Oakley asked that the Board consider appointing Mr. Weinberg by official action to ensure letter of the statute was observed and demonstrable proof of Mr. Weinberg’s appointment to office was entered into the minutes. Chairperson Oakley motioned that Mr. Weinberg be appointed to the vacated seat on the Board and

Director Swartzlander seconded. The Board unanimously approved Mr. Weinberg's appointment.

II. Booster Pump Station

- i. The District Manager briefed the Board on the status of the review of the Booster Pump Station and corresponding client comment provided to this point.
 1. Element Engineering had received feedback on the plans from the District Manager and the System Operator, but still wanted feedback from the Board before preparing the final contract documents. Specifically, Element Engineering requested feedback on the station's electrical system. The Board stated the equipment should be specified to: Meet needs of system; be near the booster pump station to limit operational complexities; prioritize safety; control thermal load, as effectively as possible. An outdoor electrical box adjacent to the station was identified as a viable option to satisfy these objectives. The Board authorized the Engineer to proceed with the Booster Pump Station plans and report back on the progress at the July meeting.
- ii. The Board and Engineer sought to address the prospective bid schedule and advertisement timeline for the new Booster Pump Station. Element Engineering believed the timeline would be driven largely by the equipment and procurement phases of the project and hoped to know more after the submittal to the Colorado Department of Public Health and Environment (CDPHE) later in June. Chairperson Oakley and Mr. Marcotte discussed their desire of needing legal review of the SRF loan documents and closing the loan before solidifying the bid schedule.
- iii. The District Manager requested permission to appoint Allison Ulmer, of Collins, Cockrel, & Cole, P.C as the finance team's general counsel and identify and appoint a Bond Counsel, based on Ms Ulmer's recommendations. The Board approved the District Manager enlisting these counselors' services and requested the District Manager advance the SRF loan.
- iv. The District Manager briefed the Board on his introductory call with Alan Leak of RESPEC.
 1. The District Manager communicated RESPEC's position that the useful life of the current Booster Pump Station was abridged due to deferred maintenance and limited preventative maintenance. The District Manager inquired if securing an operation and maintenance plan from the designing engineer was appropriate. It was determined that this was not a priority at this time and could be addressed in the future.

III. 2020 Roadwork

- i. The District Manager and Engineer briefed the Board on the public notice being posted and the bid solicitation hitting Rocky Mountain Bidnet, with a bid opening on July 9th
- ii. Element Engineering representatives were thanked for their participation in the meeting and excused from the remainder of the meeting.

IV. Accept formal audit

- i. Christine McLeod (Audit Manager with Haynie & Company) presented the audit to the Board. Her discussion addressed: Haynie's unmodified opinion of District's financials with no significant deficiencies or issues, no audit adjustments, or concerns about the District's internal controls; and the steady growth in the District's net position and consistent water revenues, in the context of a changing capital assets balance, largely attributable to depreciation of infrastructure (road, water, and sewer). The District Manager inquired about the omission of the MD&A and the lack of a request for his input and the noted detailing "this part of the audit is required to be presented as a supplement to the basic financial statements." The Auditor addressed the note calling attention to this omission as a deviation of accounting principles generally accepted in the United States of America. The Auditor shared that this missing information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, but is omitted by several other customers and didn't affect their opinion.

Director Carson motioned to accept the audit as presented. Director Weinberg seconded and the Board unanimously accepted the audit.

V. Water and Sewer Billing Issues

- i. The District Manager briefed the Board on complications related to securing the domestic water supply at 22102 Chippewa Lane. Briefing addressed:
 1. Not being able to access curb stop or curb stop not existing

2. The System Operator's concern that securing the water supply at the valves in the road might result in uncontrollable infiltration and back-siphonage, a prolonged service outage, costly customer & stakeholder notifications and process complexities related to restoring service to this area, such as hydrant flushing, shock chlorination, de-chlorination, needing to test oxidizer & coliform concentrations in the area.
 3. Due to the ongoing nature of the customer request, complexities related to locating the curb stop, and the District's amended position of the curb shutoff being owned by the District, the District Manager and Chairperson identified a plumber to address the service disconnect via alternative means (Cold-Shot - Pipe Freeze Kit) as a preferable solution. The District Manager and Chairperson requested retroactive authorization for this expenditure which was unanimously approved.
- ii. Cheryl Shaw of 22594 Treetop Lane petitioned the Board to consider crediting their bill for a prolonged billing issue that was addressed in early March. Ms. Shaw communicated that the issue had existed more than a year and included their incurring substantial contractor costs to try and correct until the District was able to address the issue related to the meter. The Board asked Ms. Shaw to provide a detailing of the time of concern and costs in question and return to the Board for further evaluation of the corrective measures to be taken. Ms. Shaw communicated that once her husband recovered sufficiently from his recent hospitalization, she would have him provide the requested items and follow up.
 - iii. The District Manager briefed the Board on the findings of the meter interrogation at 829 Eastwood. Upon investigation, the System Operator discovered a leaking toilet at the residence and stopped the leak by adjusting the toilet flapper valve. The District Manager recommended abatement not be granted, and the Board agreed. The Board asked the District Manager to follow up with the homeowner regarding their formal petition.
 - iv. The District Manager briefed the Board on the findings at 849 Eastwood Dr. Upon investigation on 5/12/20, ORC found the meter installation to be nonconforming. The District Manager asked the customer to identify a plumber who can correctly install the meter. The District Manager asked the Board's permission to reimburse customer or pay plumbing invoice for orienting District meter to a conforming installation. The Board unanimously approved correcting this installation, as requested.
 - v. The District Manager briefed the Board on the formal request for abatement from 832 Willobe Way whose meter registered ~42,000 gals of consumption in May. The District Manager informed the Board that the account had been flat-rate billed since early 2020, as the former leadership suspected an issue but could not identify and or resolve it. Discussions addressed the customer's monthly consumption not serving as mechanism by which surplus consumption could be identified or plumbing issues spotted via billables. After the pressure test was conducted by ORC, it was concluded the customer's water softener was leaking and flow could be controlled by isolating the softener from the system. The Board concluded that abatement could be considered on a case by case basis but would need to be addressed according to the District's account adjustment policy and that the information currently available was not sufficient to warrant an abatement.

- VI. THE PINES AT RIVA CHASE CONDOS HOA MATTERS
 - i. Noting to report
- VII. RIVA CHASE HOA MATTERS
 - i. Noting to report
- VIII. OLD BUSINESS
 - i. Master-planning Committee
 1. The Board reviewed the Collins Cockrel & Cole Law Firm November Tabor Election cost estimate:
 - a. Paralegal time and election supplies (i.e., postage, printing, ballot packet envelopes, etc.): Approximately \$10,000. The May election had cost the District approximately \$7,100. There will be attorney time for drafting the ballot question options for consideration by the Board. Assuming this will be a short process and have no issues, we believe attorney time will cost approximately \$1,000 to \$3,000.
 2. The District Manager notified the Board that NMHolder Financial, Inc's has not only served as the DEO for a Tabor Election but reported having the bandwidth to carry out the election this year.

3. Chairperson Oakley briefed the Board on time constraints related to the November election and led a discussion on an assessment of the District not having sufficient funds to carry out its operation and maintenance needs, not being able to advance needed capital projects, and the findings of the Master- planning Committee.

Discussion included:

- a. Available budget for projects leads to waiting four years to address a significant repair. This is not keeping pace with the rate of accumulated deterioration.
 - b. The Master-planning Committee's work to identify optimal funding mechanisms. The rationale behind each proffered option and the implications each option could have on the ballot in November not only in terms of number of questions, but also in terms of the impact on the District's financials. The Board deliberated on each option's prospect of success and what each could mean in terms of the infrastructure and service available to the community.
 - c. An overview of the road condition assessment and Committee's list of priorities.
 - d. The Board asked Chairperson Oakley and the rest of the Master-planning Committee to proceed with the preliminary approvals and preparatory work required to go to the voters in November.
- ii. GIS
 1. The Board and District Manager discussed the limited access to appropriable data for GIS mapping. The District Manager communicated his and the System Operator's belief that this would be a valuable tool for the system going forward. The Manager's recommendation was to identify strategic opportunities to secure data going forward and look to develop these maps when the opportunity presented itself.
 - iii. Snow Plowing/Easement
 1. Chairperson Oakley reported there was little yield from his initial search due-o to COVID-related restrictions on access to public records at this time. From his review of the Original Development Plan for "The Village" portion of Riva Chase, the District possesses a 30' easement on both Forest Hills Drive and a 26' easement on all other roads. As a result, bollards must kept within 1' of improved roadways.
 - iv. Playground Repairs
 1. The Board deliberated on the project specifications including:
 - a. Site location
 - b. Each contractor and their ability to do site prep work
 - c. ASTM standards related to site safety
 - d. Insurability of District assets
 - e. Improvements over current configuration and pea gravel fall protection
 - i. The relative benefits of grass mats vs interlocking rubber tiles and the relative safety factors each provided.
 - ii. The potential liability of the current configuration and if immediate action needed to control risk or if it would be sufficient to expeditiously complete the project.
 2. The Board concluded the best course of action was to complete the project quickly and not to enflame tension by prematurely prohibiting access to the District's playground.
 - f. The scope of work
 - g. If the project would include removing timbers
 2. The Board reviewed the quote comparison and Chairperson Oakley Petition the Board to award the contract to Rover Landscaping for up to \$37,000 and to start work 2 weeks after awarding the contract and getting the first half payment issued.

Director Weinberg motioned that the contract be awarded to Rover Landscaping for up to \$37,000 and proceed as discussed. Director Swartzlander seconded; and the Board unanimously authorized payment for the first half on the playground update.

- v. Damaged Bollards by Homeowner

1. The District Manager briefed the Board on the status of the bollards in the community (detailed in Manager's report) and the request for quotes submitted to Evergreen signs, Doyle construction, and American Timber. All contractors had either not responded to request for quote or notified the District Manager that the quote would be coming in a few weeks' time when their staff had returned to work or backlog had been cleared.
- vi. District Credit Card
 1. The District Manager notified the Board that he had not yet received the credit card.
- vii. Street Sweeping
 1. The District Manager notified the Board that the work had been completed, but did not initially include Summerwood Dr. The District's representative took action to follow up and secure completion of the street sweeping project.
 - a. The Board deemed there was insufficient time to discuss workflow and accountability.

IX. New BUSINESS

- i. Telecommunication Box Graffiti
 1. The Board deemed there was insufficient time to discuss this agenda item
- ii. Back gate repair
 1. The Board deemed there was insufficient time to discuss this agenda item
- iii. Doyle Construction PO #: 2020.01.01.G1
 1. The District Manager briefed the Board on his findings as they related to the Doyle Construction PO. It was determined that the site location did not correlate to where the work was performed, however the contractor performed the work at an additional site needing the same work. The PO did not clearly state the location and therefore resulted in the contractor's work being performed at a different site. Based on past communication with Doyle, they want \$4500 to clear debris from recirculating pond egress and expressed frustration about not getting clarification on CDOT egress. After the District Manager's last communication with Doyle, the debris pile had been cleared and the PO had not been approved by the District Manager or the Administrative assistant.
- iv. Graffiti fence paint estimate
 1. Chairperson Oakley updated the Board that the landscaping contractor had addressed this issue by turning the fence slats around and the issue was resolved.
- v. The Board discussed contractor's obligation to contractually observe OSHA safety requirements
 1. The District Manager identified a potential breach of contract as it relates to OSHA regulation 1910.146. The Board asked the District Manager to secure protocols for contractors entering confined spaces as an assurance of compliance.
 2. The District Manager notified the Board the Honeywell 4 gas monitor provided to ORC for site work was due for a calibration. The Board approved recalibrating of the gas monitor in 2020.
- vi. Outdated website data
 1. The District Manager notified the Board that he had tasked the Administrative Assistant with updating these records the previous month.
- vii. Review Colorado Revised Statutes CRS § 24-6-402
 1. The Board deemed there was insufficient time to deliberate on this agenda item
- viii. Discuss bylaws being out of date in light on changes to the Colorado Revised Statutes
 1. Chairperson Oakley commented that there was a need to update these records and asked that we address this item later.
- ix. Discuss internal and cost controls as they relate to legal communications
 1. The Board deemed to be insufficient time to deliberate on this agenda item
- x. Discuss Internal controls and practices as they relate to payment of claims
 1. The Board deemed to be insufficient time to deliberate on this agenda item. The District Manager was asked to identify a solution offline to correct this practice.
- xi. Discuss efforts to optimize agenda going forward
 1. The Board deemed to be insufficient time to deliberate on this agenda item
- xii. Discuss Consumer Confidence Report
 1. The Board deemed to be insufficient time to deliberate on this agenda item

- xiii. Discuss collection procedures
 - 1. The Board deemed to be insufficient time to deliberate on this agenda item
- xiv. Discuss Regulation 85 as it relates to Bear Creek Reservoir Association
 - 1. The Board deemed to be insufficient time to deliberate on this agenda item
- xv. Discuss amending 2020 Budget
 - 1. The Board deemed to be insufficient time to deliberate on this agenda item
- xvi. Discuss FirstBank & COLOTRUST account permissions, access, signatory responsibility & liability
 - 1. The Board deemed to be insufficient time to deliberate on this agenda item
- xvii. Discuss government immunity, insurance, and the effects of independent action on these protections
 - 1. The Board deemed to be insufficient time to deliberate on this agenda item
- xviii. Discuss current installations bid to correct issues at the gatehouse
 - 1. The Board deemed to be insufficient time to deliberate on this agenda item
- xix. Discuss District Water Rights and the work done on Water Division 1 Case No. 19CW3101 and the implication to the District
 - 1. The Board deemed to be insufficient time to deliberate on this agenda item
- xx. Discuss District conditional water rights and work being done to perfect them
 - 1. The Board deemed to be insufficient time to deliberate on this agenda item
- xxi. Water Attorney and Engineers request to meet in the fall
 - 1. The Board deemed to be insufficient time to deliberate on this agenda item
- xxii. Open Invite to walk the District, test keys, gates codes provided in hand off and see infrastructure. (proposed date June 19th at 8 a.m.)
 - 1. The Board deemed to be insufficient time to deliberate on this agenda item
- xxiii. Discuss WaterSCOPE record fidelity issues
 - 1. The Board deemed to be insufficient time to deliberate on this agenda item
- xxiv. MAPS June 8th Notice to Terminate Agreement
 - 1. The District Manager noted and thanked MAPS for 5.5 years of service provided to the District.

F. PUBLIC COMMENT

- 1. None

G. EXECUTIVE SESSION

- 1. None

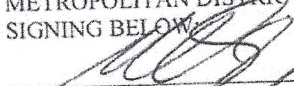
H. ADJOURNMENT

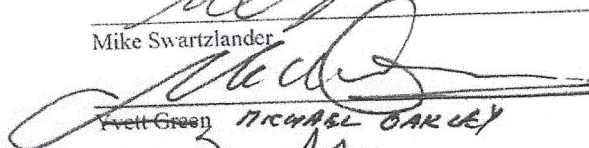
Upon motion by Director Swartzlander, duly seconded by Chairperson Oakley, and upon vote, unanimously carried, the Board approved adjournment of the meeting. There being no further business to come before the Board at this time the meeting was adjourned at 8:12 p.m. The next regular meeting is scheduled for June 17, 2020 via conference call at 5:30 p.m.

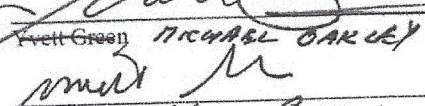
Respectfully submitted,

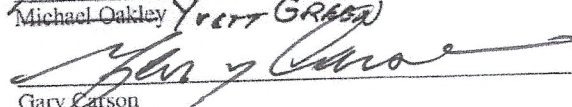
By: Cade Bertrand

THESE MINUTES APPROVED AS THE OFFICIAL June 17, 2020 MINUTES OF THE FOREST HILLS METROPOLITAN DISTRICT AND ITS WATER ACTIVITY ENTERPRISE BY THE BOARD OF DIRECTORS SIGNING BELOW:


Mike Swartzlander


Everett Green


Michael Oakley


Gary Carson