

**MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING
ARABIAN ACRES METROPOLITAN DISTRICT**

February 19, 2020 at 5:30 P.M.

Divide Fire District Station, 103 Cedar Mountain Road, Divide, Colorado 80814

In attendance were Directors:

Edith Coffman, President
Lanny Hoel, Treasurer
Lucas Ortivez, Secretary
Allan Brown, Assistant Secretary
Stan Claassen, Assistant Secretary

Also in attendance were:

Lynn Willow, ORC
Kevin Walker, WSDM
Kristina Kulick, WSDM
Members of the public (see sign-in sheet)

1. ADMINISTRATIVE MATTERS

- a. Call to Order & Declaration of Quorum: President Coffman called the meeting to order at 5:34 p.m. and confirmed all Board members were present.
- b. Confirm any Potential Conflicts of Interest: The Board confirmed there were no conflicts of interest.
- c. Discussion and Approval of the Agenda: Director Brown asked about 8 or 10 residences that did not have a meter pit and had the meters in the house and said he would like to hear a discussion because he thought they were all going in a meter pit. Mr. Willow said he will discuss that in his report. Director Brown moved to approve the Agenda; seconded by Director Claassen. Motion passed unanimously.
- d. Review and Approval of the January Board of Directors Meeting Minutes: Director Brown asked if Mr. Walker can confirm that there is a nominal rate increase of 2% to 3% in the Minutes and the loan is dependent on an increase. Mr. Walker explained he ran his calculations with a 1% increase to reflect inflationary costs and the financial plans prepare for 1% increase. Director Ortivez moved to approve the January Board Meeting Minutes; seconded by Director Hoel. Motion passed unanimously.

2. FINANCIAL MATTERS

- a. Review of billing and collection status: Mr. Walker apologized the billing and collection status was not attached in the Board Meeting Packet. He noted there are no major changes from last month. They are still working on negotiations with bills with high reads. There was only 1 shut off, as well as the 1 outstanding that has been shut off since October. Director Brown confirmed the customers are still obligated for the base fee, but they have not made any payments on their bill. Mr. Walker said they will be starting the collection process on them soon.
 - Update meter read status: Mr. Walker reported they are down to 2 meters with issues. Mr. Willow confirmed one of them was just completed. They haven't been read since January, but they are not expecting any major problems with the

March reading. Mr. Walker confirmed that billing is still every 2 months unless the Board decides to go to a monthly billing cycle which would require an advertised Rate Change Hearing.

- b. Review and approve the Payment of Claims: Mr. Walker presented the payment of claims and noted the two big charges were for insurance and management. He noted there was nothing out of the ordinary. Director Brown pointed out there are no charges from Mr. Fiedler, and he has not started out well with the process of regular invoicing. Mr. Walker noted they have not signed the contract yet with Mr. Fiedler. Director Brown asked about future charges for AquaWorks. After review and discussion, Director Brown moved to accept the Payment of Claims; seconded by Director Ortivez. Motion passed unanimously.
- c. Review and accept the January 2020 Financial Status: Mr. Walker reported the cash position continues to improve and there are no other major changes to the District's financial situation. President Coffman noted the liability line item is still on the Financials. Director Ortivez moved to accept the January 2020 financial status, seconded by Director Hoel. Motion passed unanimously.

3. OLD BUSINESS

- a. Outline of upcoming steps and meetings for the Proposed Water System Upgrade Project
 - i. Loan Application: The application was submitted last week. It was accepted and in the review process.
 - ii. Final Design and Review: The final design was submitted to the State and there were no substantial changes.
 - iii. March 4 meeting: Mr. Walker explained the District is required to have an advertised public meeting on the PNA, the design of the preliminary needs and assessment and environmental impact. Mr. Sommers will go over the project design in detail at the meeting and answer any questions. Mr. Walker will also present a review of the District's financial situation. The project plan and financial analysis is currently on the website for review, as well as FAQ on the project. Mr. Walker noted the financial plan has been reviewed by the District's Auditors and Accountant, so he is relatively certain the numbers add up correctly. Mr. Walker explained they will discuss the EPA Notice at the Board Meeting on March 18th, 2020. They will also find out about the terms and rates of the loan they are offering through the State. Mr. Walker explained Colorado Water and Power Authority is the issuing agent and it is like a revolving fund. They will make an offer on rates and terms and then we can negotiate. Mr. Walker said he applied for 1% and 40 years. Director Claassen asked about the scope of the project. Mr. Walker explained the Board will have to decide after the March 4th meeting what the scope of the project will be.
- b. Update on well research progress for Arabian Acres – Director Brown: Director Brown said he spoke to Linda Morgan and Dan Williams who are members of the Planning Commission today. He said they offered good advice, but they do not take an active part in the decision to go one way or the other just noted there are procedures to follow. They advised Director Brown to address the legal considerations and to do a survey of the residents and see what their opinions are and if they would be willing to take on the District's new loan

or go the cistern and well route. They recommended he get the residents on board with whatever the decision is. Director Brown said that he has an email from Colorado Resources Division, who act as the State Engineer. They provided examples of water districts that were dissolved in the past and acquired water through other means. Director Brown said he could provide that email to whomever may want to see it. Director Brown discussed the requirement of 50 feet between well and septic and 100 feet between well and leech field. Director Brown discussed the costs of having the cisterns filled versus the current water rates. Director Brown said that as a Board, they approved the charter to put the District in place, so if all appropriate legal steps are taken, they could dissolve it as well. It is really up to the residents of the District and what they want to do. He said this is an option for those who want a more long-term solution instead of pumping money into the existing water system.

Director Hoel asked how many renters are in the District. Director Brown discussed pushing everyone towards the wells and cisterns as a second option, and it would be a more long-term certainty. Director Brown said his opinion is the decision comes down to the residents and what they want to do. President Coffman asked the Board if they want to send information out to residents and see what they want. Mr. Walker said he could put information in the bills, but asked if they would send it to just to customers or renters and owners of property. Mr. Walker said they could put together a description of what it would be like for a well and or cistern versus the current water system. He suggested putting it on the website for people to vote. The Board discussed sending information to just those who are on the water service. Director Brown noted there would be dual costs for a certain amount of time if they went the well route and it would be a trade-off for a longer-term solution. The Board discussed the fees that would still be charged if someone got off the system after installing a well or cistern. Mr. Walker explained there is still debt they would be responsible for in order to retire debt. Mr. Walker said he is not sure what the answer is legally on what they would be responsible for if they got off the system and noted there are still a lot of questions. Director Brown said his ultimate goal would be to retire the system.

The Board discussed the \$135 monthly fee that would still have to be paid by those that are no longer on the system for the next 20 years. Mr. Baker discussed other water districts in the area and the millions of debt that property owners are obligated to from their water system. He asked how those residents feel, and if we should ask those who have been through upgrading an existing system and who have dealt with the State and AquaWorks. Director Brown said he is not against putting money into the system, he just wants to make sure everyone is on Board and understands the risks associated with it. He asked if we should consider putting most of the money into the piping, and do we really need a new tank and buildings. Mr. Baker said he originally put in a cistern and would make 3 trips twice a month to fill the cistern costing him only \$37 per month. Mr. Baker discussed an article in the Denver Post about developers who borrow money, spend it on infrastructure and the property owners are responsible for the debt. Mr. Winterer pointed out that a good portion of Arabian Acres had to go to Cascade to get water when they were bringing in water due to leaks and Kuyper's well system was shut down. He said so if a bunch of people are pulling out of that system, there is only so much water before the State shuts it down. Mr. Willow explained that Kuyper used up his augmentation credits and could not sell any more water. Mr. Winterer noted that could happen again if everyone is on cisterns. Mr. Willow noted there are only 2

water haulers in the area. He added that if they are considering cisterns, planning is very important because there are times when they cannot access homes to deliver. Mr. Walker noted this discussion would be best had at the March 4th meeting and this issue will be a focus of discussion.

c. Election update: Mr. Walker updated the Board on the election and reported there were 3 self-nomination forms turned in for the three open spots on the Board. If there are more received by February 28, there will be an election. Mrs. Sally Krebs requested that her nomination be removed. Mr. Walker informed the Board that he will be withdrawing himself as the DEO due to issues related to the past things that have come up in the last week. He will be resigning effective as soon as a replacement is found. He reached out to several legal firms, but they are swamped with no capacity to take the task on. Jason Downie or Wayne Williams would be able to do it if needed but he does not have a proposal from them. Mr. Walker said he is working on finding the replacement and will continue to do the election tasks as needed until the replacement is found. Mr. Walker confirmed the DEO makes the decision on the self-nomination forms and whether they meet the requirements to serve on the Board. The Board confirmed the deadline for self-nomination forms is February 28th, 2020.

4. OPERATOR'S REPORT

- a. ORC Report: Mr. Willow reported that the Bac-T samples were taken and came back negative. Mr. Willow discussed the 4 meters not in meter pits, and the reason was the main line and curb stops were either not accessible, or it was in the driveway with asphalt over it, so those meters were put inside the home. He noted there is one property where they cannot locate the service line. Director Brown asked if we got a credit for those meter pits. Mr. Willow confirmed they returned the meter pits and the contractor did not charge to put them in. Director Ortivez asked if a home has a well, do you have to maintain your own water quality. Mr. Willow explained that you do and that private wells are not required to have monthly Bac-T samples or chlorination. Mr. Willow reported a chlorine pump went down in Control Building B that was repaired. He reported that a police report was filed for the tampering of the lock. Mr. Willow is working with the electrical engineer on the CIP for proposed wells and treatment bldgs. There are no frozen lines or leaks at the moment, but March and April can be a hard time for breaks. Mr. Winterer asked about the lock cutter where they pulled the meter. Mr. Willow said they have been checking the meter 3 or 4 times a week. Director Brown noted they would like to keep track of corrective maintenance. Mr. Willow said he will send the maintenance sheets to Mr. Walker.

5. NEW BUSINESS

- a. Campaign Finance Violation Update: President Coffman discussed that several people have accused the Board of campaign finance violations. She presented a letter from the Secretary of State showing they found the recall committee in violation of campaign finance laws. She explained they have been fined and the

members of the recall committee have signed it in an admission of guilt. She read the names of the people who signed on the admission of guilt. President Coffman asked how they were involved in committing campaign violation laws? President Coffman told Director Brown that he was found guilty and asked for him and Mr. Baker to explain themselves since they signed the plea. President Coffman said she personally wanted Director Brown off the Board and she does not think they are fulfilling their fiduciary duty. She thinks the whole purpose he is on the Board is to dismantle the district and she wanted him off, but this was not a criminal case. Mr. Baker said he has copies of that paper, so he does not need to see it. Mr. Baker said he spoke with attorneys who stated their recommendation to the Secretary of State was to throw it out. President Coffman said the conviction was signed. Mr. Baker said Ivy League lawyers said to throw it out. Mr. Baker said he has a copy of an invoice where they paid an attorney. President Coffman said they had an attorney to protect the Board during the recall process and it has nothing to do with the Secretary of State. Director Brown said the issue was the committee was not formally established and not declared on the Colorado state website. President Coffman said they are going to move on.

- b. Update on Review of Trout Haven Exclusion petition process – Mr. Walker: Mr. Walker reported that he did not have an update on this item. Director Brown confirmed he does not have an update either. A member of the public asked about the petition to exclude Trout Haven residents. President Coffman explained the Trout Haven Exclusion petition process.
- c. Approve contract for ADS, LLC (Adam Feidler) for water operation services: Mr. Walker reported that they sent out the standard independent contract and the rate negotiated was \$20/hour based on a survey done by Pikes Peak Regional Water Authority with the average being \$17.50/hour as an employee, so \$20/hour is a fair rate. Mr. Walker noted that Mr. Feidler has agreed to the contract. Director Claassen requested to review the contract.

6. OTHER BUSINESS

- 7. **PUBLIC COMMENT:** President Coffman opened the meeting for public comments.

Mr. Baker commented that in 2009, the Board submitted a material modification to the service plan to Teller County. They raised the mill levy from 12 to 24. The BOCC approved it and said they have to have a TABOR election. Mr. Baker said he would like the Board to accept responsibility since they said they could raise mill levy without a vote. Mr. Baker brought up the transparency notice on the website saying the taxes could be raised. Mr. Walker explained it is standard language and that the notice was so that the Board could discuss modifying the fees to reflect billing monthly; this was not a current proposal. Mr. Baker said President Coffman said at the last meeting they could raise the mill levy. President Coffman replied that she did not say that or mean that.

Mr. Winterer noted that at the time of the mill levy increase request with Teller County, they

were given the 24 mills with the ability to go to 30 mills later on if needed which they never did. President Coffman said she remembers that. Mr. Baker said it must be with a TABOR election.

8. **EXECUTIVE SESSION:** Pursuant to §24-6-402 (4)(g) to discuss potential litigation: Director Hoel moved to enter Executive Session; seconded by Director Ortivez. Motion passed unanimously at 6:56 p.m. President Coffman moved to come out of Executive Session; seconded by Director Hoel. Motion passed unanimously at 7:38 p.m.

9. **ADJOURNMENT:** Director Ortivez moved to adjourn; seconded by Director Hoel. Motion passed unanimously at 7:39 p.m.

Respectfully Submitted,
Walker Schooler District Managers

By: Recording Secretary

THESE MINUTES ARE APPROVED AS THE OFFICIAL FEBRUARY 19, 2020 MINUTES OF THE ARABIAN ACRES METROPOLITAN DISTRICT BY THE BOARD OF DIRECTORS SIGNING BELOW:

Edith Coffman, President

Lucas Ortivez, Secretary

Lanny Hoel, Treasurer

Allan Brown, Assistant Secretary

Stan Claassen, Assistant Secretary