

RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD
December 20, 2023

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a regular meeting, open to the public, via videoconference at 1:00 p.m. on December 20, 2023. Notice of the Meeting was duly posted.

ATTENDANCE:

Directors in Attendance:

Richard Seaworth, President
Tim Singewald, Secretary
Eric Tracy, Treasurer

Directors Absent and Excused:

Jen Dial, Director
Jeni Arndt, Director

Also in Attendance:

Matthew Poznanovic; Hayes Poznanovic Korver LLC
Gary Witt and Marshall Haworth; Wright Water Engineers
Ken Sampley; City of Fort Collins
Eric Fuhrman; Town of Timnath
Calvin Miller; Miller Ground Water
James Newberry; Benesch Construction Management Services
Kevin Mitts, Doug Campbell, and Brendan Campbell; Pinnacle Consulting Group, Inc.

ADMINISTRATIVE
MATTERS

Call to Order: The Meeting was called to order at 1:00 p.m. by Director Seaworth, noting that a quorum was present.

Agenda: The Board considered the agenda. Upon motion duly made by Director Seaworth, seconded by Director Singewald, and upon vote, it was

RESOLVED to approve the agenda, as presented.

Approval of Minutes: The August 23, 2023 Regular Meeting Minutes and the November 2, 2023 Special Meeting Minutes were presented for the Board's consideration and approval. Upon motion duly made by Director Singewald, seconded by Director Seaworth, and upon vote, it was unanimously

RESOLVED to approve the Minutes of the August 23, 2023, Regular Meeting Minutes and the November 2, 2023 Special Meeting

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Minutes, as amended to edit the spelling of Director Singewald's name on page 2.

Public Comments: The Board opened the meeting to public comment. There were no comments made by members of the public and this portion of the meeting was closed.

Director Comments: Director Seaworth commented that he would like for District Management to continue looking into insurance coverage for the preventive dredging of Clark Reservoir.

AUTHORITY
MANAGER
MATTERS

Authority Managers Report: Mr. Mitts presented the Authority Manager's Report to the Board and answered questions.

EXECUTIVE
SESSION

Executive session, pursuant to Colorado Open Meeting Law §24-6-402(4)(b) and §24-6-402(4)(e), C.R.S., to consult with and receive legal advice from legal counsel regarding the Agreement Extension entered into between the Authority and 2522 NEFR, LLC regarding the Reimbursement, Groundwater Monitoring, Right of Entry and Access Agreement, which was originally executed on June 25, 2021 and the filing for the well permit application for phase 2 of the dewatering system, and to determine positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators concerning proposed agreement to obtain a 600 foot spacing waiver for the well from the owner of wells located on the property known as the authority property and day property.

Mr. Poznanovic advised the Board that it was permitted, upon compliance with requisite statutory procedures under the Colorado Open Meetings Law, for the Board to convene an executive session, pursuant to § 24-6-402(4)(b) and §24-6-402(4)(e), C.R.S., to conference with an attorney for the purpose of receiving legal advice from general counsel related to the Agreement Extension entered into between the Authority and 2522 NEFR, LLC regarding the Reimbursement, Groundwater Monitoring, Right of Entry and Access Agreement, which was originally executed on June 25, 2021 and the filing for the well permit application for phase 2 of the dewatering system, and to determine positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators concerning proposed agreement to obtain a 600 foot spacing waiver for the well from the owner of wells located on the property known as the authority property and day property. Upon a motion duly made by Director Singewald, seconded by Director Tracy, and upon vote, unanimously carried, it was

RESOLVED to convene an Executive Session, pursuant to § 24-6-402(4)(b) and §24-6-402(4)(e), C.R.S., to conference with an attorney for

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the purpose of receiving legal advice from general counsel related to the Agreement Extension entered into between the Authority and 2522 NEFR, LLC regarding the Reimbursement, Groundwater Monitoring, Right of Entry and Access Agreement, which was originally executed on June 25, 2021 and the filing for the well permit application for phase 2 of the dewatering system, and to determine positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators concerning proposed agreement to obtain a 600 foot spacing waiver for the well from the owner of wells located on the property known as the authority property and day property.

It is the 20th day of December 2023, and the time is 1:13 p.m. For the record, I, Richard Seaworth, am the presiding officer. This session is subject to the attorney-client privilege and therefore, pursuant to the Open Meetings Law, is not being recorded. Also present at this Executive Session are: Directors Tim Singewald and Eric Tracy. District Legal Counsel, Matthew Poznanovic. District Manager; Kevin Mitts, and District Accounting Manager; Brendan Campbell; Pinnacle Consulting Group, Inc. Ken Sampley and Eric Fuhrman.

This is an Executive Session for the following purpose: Receiving legal advice from general counsel related to specific legal questions.

The Executive Session was adjourned at 2:46 p.m. All participants were in the Executive Session at adjournment.

No decisions or actions were taken in the Executive Session.

For the record, if any person participating in the Executive Session believes any substantial discussion of any matters not included in the motion to go into Executive Session occurred during the Executive Session, or any improper action occurred during the Executive Session in violation of the Colorado Open Meetings Law, I ask you state your concerns for the record.

No objections were stated.

FINANCIAL ITEMS

Discussion Regarding Amending the 2024 Approved Budget: This item was tabled until the next Regularly Scheduled Board Meeting.

Payment of Claims: This item was tabled until the next Regularly Scheduled Board Meeting.

Finance Manager's Report: This item was tabled until the next Regularly Scheduled Board Meeting.

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OPERATIONAL MATTERS

Contract with Connell Resources, Inc. to Extend Pipeline in the ESDF: Mr. Mitts presented the Contract with Connell Resources, Inc. to Extend Pipeline in the ESDF to the Board and answered questions. Upon motion duly made by Director Seaworth, seconded by Director Tracy, and upon vote, it was unanimously

RESOLVED to approve the Contract with Connell Resources, Inc. to Extend Pipeline in the ESDF to 1000 foot of the East-West Pipeline, pending a new contract stating the new 1000 feet agreed upon in the Contract with Connell Resources, Inc.

Contract with Benesch for Construction Management Services related to the ESDF Project: Mr. Mitts presented the Contract with Benesch for Construction Management Services related to the ESDF Project to the Board and answered questions. Upon motion duly made by Director Seaworth, seconded by Director Tracy, and upon vote, it was unanimously

RESOLVED to approve the Contract with Benesch for Construction Management Services related to the ESDF Project.

Reimbursement for legal fees incurred by attorneys for 2522 NEFR, LLC related to work on the Agreement Extension entered into between the Authority and 2522 NEFR, LLC regarding the Reimbursement, Groundwater Monitoring, Right of Entry and Access Agreement, which was originally executed on June 25, 2021: Mr. Mitts presented the Reimbursement for legal fees incurred by attorneys for 2522 NEFR, LLC related to work on the Agreement Extension entered into between the Authority and 2522 NEFR, LLC regarding the Reimbursement, Groundwater Monitoring, Right of Entry and Access Agreement, which was originally executed on June 25, 2021 to the Board and answered questions. Upon motion duly made by Director Seaworth, seconded by Director Singewald, and upon vote, it was unanimously

RESOLVED to approve the Reimbursement for legal fees incurred by attorneys for 2522 NEFR, LLC related to work on the Agreement Extension entered into between the Authority and 2522 NEFR, LLC regarding the Reimbursement, Groundwater Monitoring, Right of Entry and Access Agreement, which was originally executed on June 25, 2021 in the amount of \$1,000.00.

Boxelder Basin Regional Stormwater Authority 2024 – Proposed Meeting Schedule: Mr. Mitts presented the Boxelder Basin Regional Stormwater Authority 2024 – Proposed Meeting Schedule to the Board and answered questions. Upon motion duly made by Director Seaworth, seconded by Director Singewald, and upon vote, it was unanimously

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RESOLVED to approve Boxelder Basin Regional Stormwater Authority 2024 – Proposed Meeting Schedule, moving the July 26, 2024 Meeting date to July 24, 2024.

LEGAL ITEMS

Mr. Poznanovic requested the Board provide direction to Legal Counsel and to Wright Water on a response to the Days. Upon motion duly made by Director Seaworth, seconded by Director Singewald, and upon vote, it was unanimously

RESOLVED to authorize the expense associated with Wright Water to prepare response to October 2023 Calvin Miller’s Letter.

OTHER ITEMS

There were no Other Items brought in front of the Board.

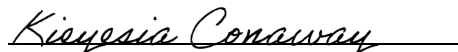
ADJOURNMENT

There being no further business to come before the Board and upon motion duly made by Director Singewald seconded by Director Tracy, it was unanimously

RESOLVED that the meeting adjourned at 2:57 p.m.

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

Respectfully submitted,


Kiesesia Conaway, District Administrator