

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

March 17, 2021 at 5:30 P.M.

Via Telephone and Video Conference Call

In attendance were Directors:

Allan Brown
Stan Claassen
Edith Coffman
Elizabeth Douglass
Lanny Hoel

Also in attendance were:

Kevin Walker, WSDM
Rebecca Hardekopf, WSDM
Jason Downie, District Legal Counsel
Michael Groselle, AquaWorks
Lynn Willow, ORC
Members of the Public

1. ADMINISTRATIVE MATTERS

- a. Call to Order & Declaration of Quorum: President Coffman called the meeting to order at 5:34 p.m. and confirmed a quorum was present.
- b. Confirm any Potential Conflicts of Interest: Directors Douglass, Coffman, and Hoel each confirmed there were no potential conflicts of interest. Mr. Walker disclosed that both Director Claassen and Director Brown are property owners in Trout Haven and have petitioned to be excluded.
- c. Discussion and Approval of the Agenda: Mr. Walker noted that the Agenda is lengthy, and the Board can decide to postpone Agenda item 4 if necessary. Director Claassen requested discussion on advertising the Board vacancies that will be created when he and Director Brown are off the Board. President Coffman said she spoke with Mr. Walker and they cannot advertise until the Directors are officially off the Board which happens when the Judge rules on the petitions. Director Claassen said he feels it would be wise to advertise on the bills or website to get a list of potential candidates.
- d. Review and approve minutes from February 24, 2021 Regular Board meeting: Director Claassen commented that there were a number of issues discussed but not resolved at the last meeting that are not included on the Agenda, but the Minutes are acceptable. Director Claassen moved to approve the February 24, 2021 Minutes. President Coffman requested to postpone the approval of the Minutes until Mr. Walker can review the unresolved items.

2. TROUT HAVEN EXCLUSION PROCESS

- a. Review of Petitions submitted: Mr. Walker presented the submitted petitions to be excluded. Mr. Walker discussed the property owners who have multiple lots that have been combined through a legal process at the Teller County Assessor and Clerk & Recorder. Those combined lots have been reviewed by legal and include the proper legal description. He confirmed the property owners who have the combined lots are only able to get a building permit for one lot after going through the legal process. Mr. Walker noted there were a few petitions that had very minor errors such as missing address that were sent back for corrections. Mr. Walker reported 68 out of 133 lots are petitioning to be excluded.

- i) Petitions submitted late: Mr. Walker explained that one petition was submitted after the February 28, 2021 deadline. Mr. Walker said that Mrs. Zimmerli, the property owner who submitted the petition explained she was told by a Board member that they would accept the petition after the deadline. Mr. Downie, District legal counsel, confirmed the District is obligated to act on any petition for exclusion that is submitted. Mr. Walker recommended accepting the petition and processing it in the same manner as the others.
- ii) Petitions for land adjacent to pipe on Kutus Ridge: Mr. Walker explained the two petitions submitted for combined lots that have houses and wells on them that are adjacent to the pipe on Kutus Ridge.
- b. Process going forward: Mr. Downie advised the Board to keep comments to the procedural matters. He explained the Board can assist in the procedure put in place for the property owners in the District with regards to the exclusion. The Board can address any questions on the process moving forward and what has been submitted. President Coffman asked about comments on the properties within 100' of the water line, and the requirements in the District's Rules and Regs. Mr. Downie said the Board does not need to make those determinations at this time and those issues can be addressed during the hearing on the petition.
 - i) Advertisement: Mr. Walker explained the process and that an advertisement will be published in the local newspaper for all of the lots that will have a hearing.
 - ii) Hearing: Mr. Downie explained the statute requires publication, but there is no further direction for these types of exclusion petitions. In comparison, to be excluded from a fire protection district there is a very thorough and detailed process and the recommendation for that process is to hold a hearing no more than 45 days after the publication, and no sooner than 30 days. Mr. Walker recommended scheduling a special meeting for the first week of May. Mr. Downie noted the bond holders were notified of the exclusions out of an abundance of caution. As he understands it, the bond holders have no problem with the exclusions because the excluded lots are still required to pay the debt even if it is refinanced. Mr. Walker confirmed he also spoke with the Trustee and will be providing written notice that includes the list of lots. Mr. Downie advised that formal written conflicts of interest be filed with the Secretary of State for the Board members that have submitted petitions.
- c. Cost to date review: Mr. Walker reported on the cost to date for the exclusion process. The District has collected \$200 per petition and is holding \$7,800 in funds as seen on the financial statement. \$1,200 has been spent for the water attorney, \$350 on direct mail and printing expenses, and an estimated \$1,000 for district legal counsel fees and management costs. Approximately \$5,500 will be left to spend which should cover the remaining anticipated expenses. Director Claassen asked about the \$500 in Director's fees for the special meeting in May being added to these costs. Mr. Downie confirmed the Director's fees would be included in the costs. President Coffman asked if the Board denies a petition at the hearing, would the property owners get their \$200 refunded. Mr. Downie said no and explained there is no provision in the statute that requires a refund if their petition is denied. The District had to spend the money for the petitioners because they asked to go through the process. Director Brown commented that he would hate to see the animosity between Trout Haven and Arabian Acres if that

happens. After further discussion, Mr. Downie advised the Board to not prejudge, and noted the fact that the District is assisting with the process but that should not be taken as any indication that the petitions will be granted or not granted. He explained that a Hearing must be held on all these matters to consider what is in the statute and make a ruling. The statute sets forth the procedure and requirements and the Board needs to consider those things at a published public hearing. Mr. Downie left the meeting.

3. CONSTRUCTION CLOSEOUT

- a. Consider approval of Glacier Construction Pay Application: Mr. Walker presented the Glacier Construction Pay Application to finish the project and release the retainage for \$34,395.75. Director Claassen recommended approving the Change Order and consider the substantial completion before approving the pay application. After approval of the Change Order and Substantial Completion, the Board discussed the Pay Application for Glacier Construction. Director Claassen recommended not paying the entire amount until the work is completed. Mr. Groselle explained there is roughly \$4,000 worth of road work left to be completed. Director Claassen noted the insulation work left to be inspected as well. Director Claassen moved to approve the Glacier Construction Pay Application minus \$10,000 to be withheld until the work is completed; seconded by Director Brown. Motion passed 3 to 1 with President Coffman voting against and Director Douglass excused.
- b. Consider approval of Glacier Construction Change Order Application: Director Claassen moved to approve Glacier Construction Change Order Application No. 3 as presented; seconded by Director Brown. Motion passed unanimously with Director Douglass excused.
- c. Consider Substantial Completion for Treatment Project – Glacier Construction and Resolution accepting work: Mr. Groselle confirmed the outstanding items were completed except for the site grading which will be done when the snow melts and the ground thaws. Mr. Willow confirmed they did a good job installing the insulation and they removed equipment to install behind. Director Claassen said he would like Mr. Groselle to inspect the finished surface that was installed to make sure it will provide long term protection of the insulation. Mr. Groselle said he confirmed with Mr. Sommers that the insulation inside of the building has metal sheeting covering it which is adequate. Mr. Groselle recommended adding this to the list of to be completed items on substantial completion. Director Claassen moved to accept the Substantial Completion for treatment project with Glacier Construction as amended; seconded by Director Brown. Motion passed unanimously.
- d. Consider approval of Native Sun Pay Application: After approval of the Native Sun Change Order and Substantial completion, the Board discussed the Native Sun Pay Application. Mr. Walker presented the Native Sun Pay Application No. 4 in the amount of \$150,845.52. After discussion, Director Claassen moved to approve the Native Sun Pay Application No. 4 for \$150,845.52 minus \$9,000 for retainage on the warranty claim; seconded by Director Brown. Motion passed unanimously.
- e. Consider approval of Native Sun Change Order Application: Mr. Walker presented the Native Sun Change Order that was negotiated at \$76,778.32. Mr. Walker confirmed it includes the payments for the additional tie-ins and the \$17,000 for time to complete the project by October 1st. Director Claassen commented the description of services is not

detailed. Mr. Groselle confirmed the change order is for the tie-ins where the old line meets the new in the 9-10 locations. Mr. Walker modified the attachment to the change order to include the detail of the work from Native Sun. Director Claassen moved to approve Native Sun Change Order Application No. 4 as amended; seconded by Director Brown. Motion passed unanimously.

- f. Consider Substantial Completion for Distribution Project – Native Sun and Resolution accepting work: Mr. Groselle confirmed that all of Native Sun’s work has been completed. The Board discussed the leak that was found and repaired in the last couple weeks at Deer Ridge and Twin Rocks which was the connection between the old system and the new system and the 2” line. The cost was \$4,500 to repair. Mr. Walker advised the Board could include that as an outstanding item to be reviewed as a potential item that needs to be repaired by Native Sun and withhold that portion of funds. The Board discussed the Native Sun Pay Application No. 4.
- g. Construction Project budget update: Mr. Walker reported on the construction project budget update. He noted that \$53,888 remains in the budget. Mr. Walker discussed two items for Board consideration including additional funds for work done by AquaWorks and purchasing 4 pumps. If both items were approved by the Board, there would be \$35,487 remaining for other improvements such as tank modifications, a leak detection system, and valve protection.
- h. Consider approval of payment for additional chemical pumps: Mr. Walker explained the pump was specified in the engineer’s documents because it was understood by the engineer to be scalable for adding chlorine to the system at various pumping volumes. When the pumps were installed it was discovered that they are not scalable. The correct scalable pump was ordered, and the District has an opportunity to purchase the 4 extra pumps for backup for \$4,400. The other option is to contact the vendor and request a refund. Mr. Groselle confirmed the vendor provided a misleading spec sheet and said the pumps were scalable when they were not. After discussion, the Board agreed the extra pumps are not useful since they are not the correct pumps and directed Mr. Walker to work on a refund.
- i. Consider approval of additional funds for AquaWorks: Mr. Walker explained that AquaWorks is requesting \$14,000 for additional time that has been spent working on the project. Mr. Walker noted they have been very responsive and invaluable in terms of helping during this transition period. Director Claassen moved to increase the budget for AquaWorks in the amount of \$14,000; seconded by President Coffman. Motion passed unanimously.

4. REPORT ON WATER SYSTEM FREEZE AND LEAK

- a. Memorandum review: The Board discussed the recent water system freezes and leaks that have been repaired in detail. Director Claassen requested detailed documentation on the repairs to be archived. Mr. Willow confirmed he will provide the repair information to Mr. Walker. Mr. Willow is evaluating areas that need additional insulation to prevent water system freezes in the future and will provide his recommendations to the Board.
- b. Preliminary cost estimate: The Board discussed the preliminary cost estimate while reviewing the Payment of Claims. Mr. Walker confirmed he will adjust Native Sun’s payment and withhold the \$9,000 as discussed and Glacier’s payment will be adjusted to \$24,000.

5. FINANACIAL MATTERS

- a. Review of billing and collection status: Mr. Walker presented the billing and collection status.
- b. Review and accept the February 28, 2021 Unaudited Financial Status: Mr. Walker presented the February 28, 2021 Unaudited Financial Status. Director Brown moved to accept the February 28, 2021 Unaudited Financial Status as presented; seconded by Director Claassen. Motion passed unanimously.
- c. Review and approve the Payment of Claims: Director Claassen moved to approve the Payment of Claims as amended; seconded by President Coffman. Motion passed unanimously. Mr. Walker discussed a plumber bill received from a customer to replace a pressure reducing valve in their house. The issue was gravel and other debris that came in through the service line on Gerka. Mr. Walker recommends the District pay the bill in the amount of \$287.55. President Coffman moved to approve the payment for the plumber bill; seconded by Director Douglass. Motion passed unanimously.

6. OTHER BUSINESS

- a. Turnover of system status – Mr. Willow: Mr. Willow commented that he believes Glacier has gone a good job. He explained there was an issue last month at Control Building B on the connection to the booster pump so they modified that and repaired the issue, but yesterday the same issue occurred at Control Building A. Glacier will be out tomorrow to make the repairs. Mr. Willow noted he is still waiting on High Tide for the tank leveler.

7. OPERATOR’S REPORT: Mr. Willow presented the Operator’s Report. He noted that Well No. 6 had to be replaced and lowered. He explained the motor came apart during the process and may have contributed to the issue. Mr. Willow discussed the two frozen service lines on the homeowner’s side of the house and two service lines that were frozen on the District’s side on 50 Gerka. They have all now been replaced with the proper line at 9’. The leak was located on Deer Ridge and during excavation it was discovered that when it settled the connection cracked where PVC met the brass fitting. The connections have now been replaced and repaired with stronger materials.

8. PUBLIC COMMENT: Mr. Winterer commented that he would be willing to serve on the Board if needed. Mr. Winterer also complimented the Board on a wonderful job.

9. ADJOURNMENT: Director Claassen moved to adjourn the meeting; seconded by Director Douglass. Motion passed unanimously at 8:17 p.m.

Respectfully Submitted,
Walker Schooler District Managers

By: Recording Secretary

THESE MINUTES ARE APPROVED AS THE OFFICIAL MARCH 17, 2021 MINUTES OF THE ARABIAN ACRES METROPOLITAN DISTRICT BY THE BOARD OF DIRECTORS SIGNING BELOW:

Allan Brown

Stan Claassen

Edith Coffman

Elizabeth Douglass

Lanny Hoel