

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

July 17, 2019 at 5:30 P.M.

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

In attendance were Directors:

Jennifer Waller, President
Craig Waller, Treasurer
Edith Coffman, Assistant Secretary
Lucas Ortivez, Secretary
Lanny Hoel, Assistant Secretary

Also in attendance were:

Lynn Willow, ORC
Adam Sommers, AquaWorks
Braden Hammond, BiggsKofford
Dallas Schroeder, Elbert County & Arabian
Acres Designated Election Official (DEO)
Kevin Walker, WSDM
Lori VonFeldt, WSDM
Kristina Kulick, WSDM
Members of the public (see sign-in sheet)

1. Administrative Matters

- a. Call to Order & Declaration of Quorum: President Waller called the meeting to order at 5:31 p.m. President Waller confirmed a quorum was present and noted Directors Hoel and Coffman were running late.
- b. Confirm any Potential Conflicts of Interest: The Board confirmed there were no potential conflicts of interest.
- c. Discussion and Approval of the Agenda: Mr. Walker requested to move the presentation of the 2018 Audit to the beginning of the Agenda. Director Ortivez moved to approve the Agenda as amended; seconded by Treasurer Waller. Motion passed unanimously. Directors Hoel and Coffman arrived at 5:35 p.m.
- d. Review and Approval of the June Board of Directors Meeting Minutes: Mr. Walker noted a correction to the June minutes; the court order should be dated June 5th not June 25th. Director Ortivez moved to approve the June Board of Directors Meeting Minutes with the correction; seconded by Director Coffman. Motion passed unanimously.
- e. Presentation of 2018 Audit Findings – BiggsKofford: Mr. Hammond presented the 2018 Audit to the Board. He said it went very well and everything is essentially done at this point. He said that his firm expects to issue an unqualified, clean opinion. He noted the change in net income, the decrease related to property taxes going down after the judgement was paid off. Mr. Hammond discussed the post audit communications and pointed out the adjusting journal entries which are not unusual. He noted there were no uncorrected adjustments. Mr. Hammond discussed internal control weaknesses, and that the District had considerations that were the least serious. He said it is important that Board members are the only authorized check signers and a Board member is monitoring the bank activity on a weekly basis. Once the additional documents are received, it will be submitted to the State Auditor by the deadline at the end of July. Director Coffman

asked about the budget comment. Mr. Hammond explained they will need to amend the budget and that would allow us to remove the statement in future years. Mr. Walker noted it is a regular occurrence when trying to budget on the dime without a contingency fund, and most often you overspend, so then you have a public budget hearing and do a budget amendment for that. Mr. Winterer said the drop in revenue should not have been because of the mill levy. Mr. Hammond explained the amount available for operations did not change. Director Coffman asked why there was such a deviation in the amount for management in 2017 to 2018. Mr. Walker explained they were not the management at the time, but it appears the previous District Manager charged additionally for out of scope items. Mrs. Callan spoke up and said that there were many additional charges for out of scope items that should have been included in the District's contract with the previous Manager. Mr. Hammond explained they look for proper Board approval for the expenditures, but do not identify if items were out of scope. Director Coffman moved to approve the 2018 Audit with consideration for the remaining items left to be done; seconded by Treasurer Waller. Motion passed unanimously.

- f. Review of current project status – Adam Sommers: Mr. Sommers gave a status report on the meter project. He said the constructors are doing a great job and are communicating very well. So far, there have been no exceptions to the work, and they have been coordinating with the residents on when their water will be shut off. Mr. Sommers said he was pleased to report the project is on budget, which is great considering the environment for bidders and projects. Mr. Sommers noted the District has a total budget of available funds up to \$600,000 and they are looking to come in at \$420,000. To date, there have been a couple of change orders received. The few received are just addressing problems with existing utilities and differing pipe size. He noted the pipes have been accounted for, but the discovery of improper clamps and leaks within the system were a surprise. The good news is that these issues are getting repaired. Mr. Sommers noted they are a third of the way done with the meter pit installations and they are getting the water turn-off time down to 20 minutes and are trying to reduce the inconvenience as much as possible. Mr. Sommers discussed the capital improvement project and future plans. He said the engineers are designing new water treatment buildings and wells at no cost to the District with all expenses being paid with the grant funds. He noted they should have the designs wrapped up by the end of the year. Mr. Baker asked about the water meter project in Arabian Acres POA, and if it will also be done in Trout Haven, and if the current project will be completed by October 5th. Mr. Sommers said that any house connected to the system will get a new meter. He explained that in the beginning there was a learning curve, but they are currently getting 3 meters done per day. Overall, they are on schedule but not sure on the exact date of completion yet. A gentleman asked if they will be able to read their own meters with the new system. Mr. Sommers explained the new meters are now read digitally which removes the possibility of human error. Mr. Willow said they will have the usage available on the online portal so residents will be able to read their own meters, but not sure on the timing yet. Mr. Sommers cautioned residents on pulling out the physical meter since it invites issues and could damage them.
- g. Presentation of the Recall Election Schedule and questions/answers – Dallas Schroeder: Mr. Schroeder introduced himself as the Elbert County Clerk and Recorder and said he

was looking forward to assisting the District. He updated the Board on the status with the recall election so far. He said they posted the key dates and made adjustments, so if anyone still wants to self-nominate for successor candidates there is time until July 31st. August 3rd will be the date they mail the early ballots for those in the military out of country. There will also be a sample ballot on the website soon. Mr. Schroeder said residents should receive their ballots the week of August 26th in the mail and the Election date is set for September 17th. He explained residents can mail back their ballot and they are also working with Teller County to use the drop-box in Woodland Park. On Election Day, September 17th they will provide replacement ballots if needed. The polls will close at 7:00 p.m. and they will begin counting the ballots. He noted they will work with the Secretary of State's office to do the signature verification ahead of time and they should have a presence from the Secretary of State's office on election night as well. Mr. Schroeder said they will do a hand tally since it is a small election and would save the District money, but his staff is very familiar with this method. He explained the recall petition language will be on the ballot as well as the recalled individual's rebuttal by the incumbent. They will verify the Directors that were recalled before hand-counting the successor candidates. He noted they already have 4 people who have turned in successor nomination forms. Mr. Schroeder said that he is just here to make sure everything is counted correctly and is unaware about the reasons behind the recall election. He did mention they may not have the results of the election that same night due to the UOCAVA ballots not being received yet. Also, if there is a mismatch on signature verifications, will send a signature discrepancy letter to those, and they will have 8 days after the election to return those ballots. May not know the end results due to the statutes that are written such as the UOCAVA ballots and signature discrepancies that give 8 days after the election. He said in Elbert County they have balanced 100% of the ballots and are very rigid on that. He said he is very protective of his employees, and so he insists that anyone who has an issue on election night will need to come to him directly and not his employees who are working hard to get things right. A woman suggested that unless the State has changed the election envelope and since mail is sorted by a machine in Denver, she had her ballot returned to her. She always takes hers to the drop-box and will not mail it. Mr. Schroeder said the drop-box is fine and they will include a date to not mail your ballot past. Mr. Brown asked if the recall is voted on, what about the successor votes that may not be the same as the vote for the recall. Mr. Schroeder explained the top 2 successor votes will be chosen by the amount of the votes regardless if they are less than the votes. Mr. Baker asked about the Teller County voter list and the confusion on that and how do we know that the Secretary of State has the most accurate list. Mr. Schroeder explained the previous DEO should have been using the list from the Secretary of State and that would be the most accurate. Mr. Schroeder said they are referring to Title 1 and that is the way this election will be run. Mr. Walker noted if there is a better building to have the election at other than the Fire Station, please let him know. Mr. Walker asked Mr. Schroeder to go over the poll watchers. Mr. Schroeder explained poll watchers can be appointed and there are specific documents for appointment. There is also a mandatory watchers class you must take to be certified. You must also present the certificate to Mr. Schroeder on the day of the election. He explained watchers will be allowed to watch and observe the counting of the ballots without inserting themselves into the process or disturbing the ballot counters. He said it can be a tedious process, but

he welcomed anyone to participate if they wanted. Mr. Schroeder explained that successor candidates, incumbent candidates, or the Board can all appoint watchers. He went on to say that in June 2018, Elbert County ended up with a commissioner race that came down to 1 vote. He said they were able to recreate the whole election with the recount process and came up with the exact same result, so he is very proud of the process and the abilities of his staff.

- h. **President's Report:** President Waller noted the meter project is going well and she has been out in the field learning a lot. She is very pleased with the crew and the progress they are making. She will be hanging door tags to notify residents of their service interruption and will work to accommodate schedules as best they can. President Waller will be attending the Water Fluency course this upcoming Monday in Thornton and she will be touring the water treatment plant as well. President Waller mentioned to the Board about the September meeting which may need to be rescheduled due to the SDA conference. President Waller presented an engineering proposal totaling \$5,000 for the new pump house that will be getting a new concrete floor and fiber glass building that will also stop the prairie dog problem. Director Coffman moved to accept the engineering proposal. Director Ortivez asked about the proposal and if there will be additional charges. Mr. Sommers said it will not exceed \$5,000 unless the District requests additional work. Seconded by Director Ortivez. Motion passed unanimously.

2. Operator's Report

- a. **ORC Report:** Mr. Willow reported there was no purchased water this month. All testing was completed and came out negative. He noted the meter project is moving along with minimal problems. President Waller confirmed they will be putting seed down in areas where the grass was disturbed during the meter pit installation. Mrs. Callan asked about discrepancies between the old and new meter readings. Mr. Willow said it is too early to tell but they should be able to know more in September. Mrs. Williams asked about the timing of the new meters being connected. She said she was told it would not be connected until they are all done. Mr. Willow said that is incorrect, and they will be connected as they are installed. They are working on programming the installed meters now into the route for the program starting tomorrow morning. The radio and the meter are already connected but not connected with the computer yet. Mrs. Williams said she has not received a bill yet for this month. Mr. Willow said the bill may be delayed due to the 4th of July. Mr. Walker said if she doesn't receive it, she could call the office or sign up for email billing. Once the portal is ready, customers will be able to view their bill and keep track of total water usage. Mr. Winterer asked when they will start monthly billing. Mr. Walker said they want to make sure everything works first and then go from there. Mrs. Callan asked about incorporating a graph showing changes in monthly usage. Mr. Walker said that will be available on the portal and they can also add the graph to the bill once we get more usage to compare.

3. Financial Matters

- a. **Review of billing and collection status:** Ms. VonFeldt noted the memorandum from Ms. Hardekopf and updated the Board on billing and collections.

- b. Review and Approve the Payment of Claims: Ms. VonFeldt updated the Board on the grant status. She said they submitted the invoice for the design grant and received the \$10,000. She also discussed the payment request towards the \$400,000 meter loan which will be received in 3 business days. She noted they will not send the Dana Kepner check until they get the funds but wanted to include it so they can be paid as soon as they are received. She noted an additional grant for \$82,000 that may take 10 business days and will get the payment request out for the DOLA grant tomorrow. Ms. VonFeldt discussed the payables and said there was nothing out of the ordinary.

Ms. VonFeldt told the Board they will need to amend the budget due to the recall expenses. Mrs. Callan asked if the only loan the District has applied for is the \$400,000 loan. Ms. VonFeldt confirmed that is the only one. President Waller explained we have the \$400,000 loan but will only draw on half of it. A gentleman asked about how the recall expenses affected the budget. Ms. VonFeldt explained the election expenses and District costs totaling \$54,000. Mrs. Williams said she asked why there was legal counsel for the previous DEO, and they said it was because of the protest that was filed at the hearing and she had to have legal counsel since the other side had legal counsel. Mr. Walker clarified that the previous DEO's legal counsel was hired before the District hired legal counsel. Director Coffman moved to approve the payment of claims; seconded by Director Ortivez. Motion passed unanimously.

- c. Review and accept the June 2019 Financial Statement: Director Ortivez moved to accept the June 2019 Financial Statement; seconded by Director Coffman. Motion passed unanimously.

4. New Business:

- a. Discussion of District Counsel – Possible Executive Session: President Waller opened discussion on the current legal counsel for the District, Mr. Jason Downie. Director Coffman said she does not think he represents our District and he certainly doesn't mind charging a lot. President Waller said she agrees. Director Coffman said she thinks they need to move on from the current legal counsel. Director Ortivez asked about the risks to the District without having legal counsel. Mr. Walker said we would need to hire new legal counsel. There are a few firms in Denver that would be available, but they would be more expensive. Treasurer Waller asked if we should have new legal counsel lined up before we make a decision. Mr. Walker said it would be fair to send out RFPs and give the existing counsel a chance to respond or bid and noted this would be in the regular scope of work as District Manager. Mr. Walker noted that Mr. Downie has assisted the District with Bond Counsel opinions which has been helpful because it is expensive, but it is ultimately up to the Board on what they want to do. Mr. Walker explained that Mr. Williams was hired to help only with the recall election but would not represent the District as general legal counsel. President Waller said she doesn't feel comfortable leaving the District without legal counsel although she doesn't agree with things he has done in the past. She noted she is still waiting on drafts from Mr. Downie from months ago and she has requested that he bills the District monthly instead of yearly, and he still has not been billing the District monthly. Mr. Walker noted that other legal firms he deals with all send monthly bills no matter the costs. Director Coffman asked if Mr.

Walker would be able to have Mr. Downie bill monthly or we must move on. The Board directed Mr. Walker to have the District's current legal counsel to follow through on tasks and bill monthly. Mr. Walker said he will do that and report back next month.

5. Other Business: There was no discussion.

6. Public Comment: President Waller opened the meeting up to public comment.

Mr. Baker said he heard a lot about the recall costs for the District, but the people that participated in the recall themselves spent over \$32,000 of their own money on the recall. He said he will not give details on the money, but they spent that of their own money for matters before Teller County, so the recall costs a lot more than what he hears. He said it seems like we are paying twice, obligated for the District's debts and attorneys.

Mrs. Amber Ray said she has been in the District 3 years and has continued to have problems with orange and red water staining clothes and it smells of iron. She said she is looking for a reduction in fees and needing a resolution. Mr. Willow explained we are just now getting water into the system from the melt and there are a lot of factors with the water right now. He confirmed her house has been problematic for awhile. He said he flushed the hydrant and changed the filter today, so hoping to see improvement from that. He said he is also sending a sample in tomorrow to see if he could add Sodash to help make adjustments once the results come back from the lab. Sodash neutralizes the phin the water that reduces the corrosive side of lines with lead and copper. He explained that any changes to the distribution system must go through the State for approval. She said they are changing their inhouse filter every month instead of 3 months. Mr. Willow noted we have high manganese in the water. He said he will continue to work on a solution for this and turning the water off and on for the meter installs, could be a factor. Wells are still pumping hard due to the drought in the past and said the new building will add 3 new filters to the system. He has experienced this out East as well with the high manganese and high iron.

Mr. Winterer said he was involved with hiring Mr. Downie, and they chose him because there were no other good options. He said he is sorry if he is not responding like he should because they hoped he could be a good attorney for the District. Mr. Winterer asked about the homeowner's liability to water loss if the jumper line fails. Mr. Willow said for the next year the meters are guaranteed and any of the work the contractor does is warranted for one year after the installation. Mr. Willow said he doesn't think the jumper lines will fail though.

Mr. Justin asked about a detailed expense report, possibly quarterly. President Waller explained the financials are put on the District website monthly. He also asked about a \$4 Million loan he has heard about. President Waller explained the series of projects that have been discussed for the District. She went over the improvements to the Distribution system that have been discussed and that she has asked WSDM to go over the funds and see the real numbers for the plausibility of the projects and funds. She added that at this moment, she would not sign on a \$4 million loan and they have decided to slow things down. She said the Board will be discussing if the current project wishlist could be broken down into sections and different possibilities before moving forward. President Waller said they will continue to design because of the engineering grants and

in order to make any changes to the distribution system it must be designed by an engineer. The designs will be available for anytime in the future and is being covered by grants, so the District is not having to pay. President Waller explained the Trout Haven project that was tabled indefinitely due to lack of support and is no longer being considered. She said she wants to look deep into the District's finances before making decisions on the \$3 or \$4 million loan.

Mr. Baker stated the manganese and iron levels are tested and at safe levels.

Mr. Brown said President Waller's comments are revolutionary but disagrees that they are unable to calculate the costs to see the plausibility. He said he put together comments from the residents that they asked him to discuss. He said it does not reflect President Waller's current position on the future projects. He expressed concerns about replacing the entire system, and that he has been unable to find maintenance records and the piping system should have these maintenance records. He said it could be helpful to identify those areas that need to be replaced instead of the entire system. He said he did calculations on a \$3 million loan, and it would be over \$200 per month flat fee plus water that the customers would be paying. Mr. Baker commented that spending \$400,000 does not help distribute water to customers. Mr. Willow said it will increase revenue after replacing the old meters and pay for itself in the future. Mr. Baker asked how he would calculate that. Mr. Willow said he thinks they will increase production and sales with the new meters. President Waller clarified they are only drawing \$200,000 of the \$400,000. Mr. Baker expressed his concerns on the costs of the project.

Mr. Winterer asked Mr. Walker about a new assessment on their property values that means property taxes are probably going to go up considerably next year. Mr. Walker explained that the residential assessed value has gone down. Mr. Walker said they usually do the assessment in September and that will assist them in determining the mill levy adjustments. He said he will then present a budget to the Board in October and hold a hearing in November and the mill levy must be established by December 15th. He said they will know more in September.

A woman asked what the requirements are to be on the Board. President Waller explained you must be an eligible voter in the District and an owner of property or a resident of the District. The woman asked why someone would want someone to be on the Board who is not a customer of the water. Mr. Brown said he is part of the District and pays taxes to the District. There was discussion about the interests of a non-system user to be on the Board.

There was discussion about what the mill levy funds were used for. Director Coffman explained what the increase in the mill levy was for and how the judgement added 10 mills to the mill levy. She said the only other viable plan was to add \$1,000 to everybody's water bill. A woman said she feels horribly what happened to those people in the past with Terry Malcom, but she wants to be sure that her payments do not increase.

Mr. Justin asked about the supplemental fee. President Waller explained the supplemental fee was changed to the capital improvement fee after the debt was paid off from the embezzlement. President Waller said with the previous management, the fee was included in the income that was used to obtain the loans and grants. President Waller said she cannot make any promises, but

the Board wants to look into removing the fee in the future. They want to make sure they can pay the bills as well.

Mr. Baker commented that a document he has seen states the improvements for Arabian Acres POA that would be paid for by the whole district, but Trout Haven would have to finance their own improvements.

Mrs. Callan commented on the embezzlement and the supplemental fee was to help pay our outstanding debts, and then it was to go away. Mrs. Callan said she spoke personally to Clay Brown with DOLA and said they cannot keep collecting money for a purpose that has already been met. Next thing she heard the fee was for a capital improvement fee with no end date, and she expressed concerns that the money was used for regular revenue to qualify for loans which is not accurate. Mrs. Callan said the Board needs to study what the legal ramifications are on calling the supplemental fee as regular revenue. Mr. Walker said the taxes are based on property value. The mill levy is dedicated to debt service. Rules for establishing fees are that you cannot charge more than the services you give. Not supposed to make a profit or build up reserves, but the question is if you don't have the supplemental fees you will have to cut back the services because you would not have enough money. The \$60 is not enough to pay to operate the system as it is operating today. Mr. Walker explained that future Boards can name the fee whatever they want, and if the budget supports it, they can charge that fee. The fee is established every year based on the services provided and the budget. Mr. Walker explained they establish fees of service based on costs of the District. He said they are not obligated legally to cancel a fee. He agreed that this is a question the Board will need to answer in the next budget cycle.

Mr. Brown commented that the Board was able to raise the mill rate for whatever reason and based on President Wallers comments they are questioning the \$3 million loan. He said he is relieved that the Board is rethinking the future \$3 million project.

Mrs. Williams said when President Waller was on the Board, they decided it was supposed to go away and Mr. Clay Brown looked in the statutes and said the District needs extra money and they renamed the supplemental fee for capital improvements.

7. Adjournment: Treasurer Waller moved to adjourn the meeting at 8:16 p.m.; seconded by Director Coffman. Motion passed unanimously.

THE NEXT REGULARLY SCHEDULED MEETING WILL BE HELD ON WEDNESDAY, AUGUST 21, 2019 at 5:30 p.m. at the DIVIDE FIRE STATION, 103 CEDAR MOUNTAIN ROAD, DIVIDE, COLORADO 80814

Respectfully Submitted,
Walker Schooler District Managers

By: Kristina Kulick for the Recording Secretary

THESE MINUTES ARE APPROVED AS THE OFFICIAL JULY 17, 2019 MINUTES OF THE
ARABIAN ACRES METROPOLITAN DISTRICT BY THE BOARD OF DIRECTORS
SIGNING BELOW:

Jennifer Waller, President

Lucas Ortivez, Secretary

Craig Waller, Treasurer

Edith Coffman, Assistant Secretary

Lanny Hoel, Assistant Secretary