

MINUTES OF A REGULAR MEETING  
OF THE BOARD OF DIRECTORS  
GENESEE WATER & SANITATION DISTRICT

**HELD**

Tuesday, November 16th, 2021

At 4:30p.m. at the Genesee Water & Sanitation District Administrative Bldg.  
2310 Bitterroot Lane  
Golden, CO 80401

**ATTENDANCE**

A Regular Meeting of the Board of Directors of the Genesee Water & Sanitation District of Jefferson County, Colorado was changed to a Special Meeting due to the fact that it started 30 minutes early. The Special meeting was held as shown above, and in accordance with the applicable statutes of the State of Colorado with the following Directors present and acting:

David Pezzutti – In Person  
Branch Russell – In Person  
Frank DeFilippo – In Person  
Jim Hurd – In Person  
Cynthia Corbett – In Person

Also present in person were:

Gary Anderson –Liaison (to the Water Board)  
Scott Jones, District Manager  
Chris Brownell, Superintendent  
Erin Carriere, Director of Administration  
Katie Ostrander, Administrative Assistant  
Matt Micklich, Operator  
Carolyn Steffl, Legal Counsel  
Joe Silhacek, Auditor with WIPFLI, LLP

By Zoom video teleconference:

Barbara Stanton, Resident

**CALL TO ORDER**

Chairman Pezzutti called the meeting to order and took roll call.

**DISTRICT BUSINESS:**

**LEGAL**

Ms. Steffl addressed a list of questions that have been brought to her over the last few months:

## RECORD OF PROCEEDING

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Easements as it pertains to the Egress Road - Mr. Anderson said there are no details from the Foundation on that subject so it does not need to be discussed at this time.

Audit discussion – All parties are aware of the audit delay. The District alerted all of the lenders who hold our loans about the delay, and all lenders responded with appreciation and simply requested us to send the final once it was complete. There was no concern from the banks over the issue, and Ms. Steffl mentioned there is no need to panic. Ms. Carriere has emailed Wells Fargo requesting the waiver letter. President Pezzutti mentioned the fact that the auditor has reached out to Wells Fargo numerous times and there was no response which has in part added to the delay. Director DeFilippo registered a complaint with the Board that he has asked for copies of correspondences between staff and auditors, and his requests have been ignored. President Pezzutti mentioned that the staff has been overwhelmed with Board requests for copies of something that has staff confirmed has been done. President Pezzutti noted the complaint.

General communication with the District Board and staff – Protocol is that requests go through Scott and CC the Board President. The Board consensus was that they like to be CC'd, however Ms. Steffl advised that conversations on those emails cannot happen otherwise it can legally be called a Board Meeting. When requesting information, there should be a timeline noted so that Staff can prioritize. Director DeFilippo requested to see the letter from the state regarding the fact that the audit is late. Manager Jones said he would get that to Director DeFilippo. President Pezzutti asked Director DeFilippo why he feels the need to follow up with the manager of the business when he has confirmed an action has been completed. Director DeFilippo stated that he has a responsibility to the people who elected him to be a watch dog. President Pezzutti responded back asking Director DeFilippo why he feels he needs to be a watch dog for certain employees. Director DeFilippo said he does not think that, but he wants to see the letter from the state. Director Hurd read the request from Director DeFilippo asking for a different copy of the letter because the version sent to him was very fuzzy and also requested all of the correspondence following the letter. President Pezzutti reiterated his point that asking for all of the correspondence between a party and a staff member when it has been confirmed that an issue is taken care of is over management of an employee. Director Hurd and Director DeFilippo were very concerned with getting a clearer copy of the letter from the state. Manager Jones clarified that the letter was received and date stamped on October 15th. The following week Manager Jones was on vacation and when he returned, he was overloaded getting ready for the first board meeting in October. He was then overloaded preparing for the second board meeting. Director Hurd asked when Manager Jones read the letter, which he guessed was the Wednesday before the board meeting. Director Hurd asked when the Board was told about it, and Manager Jones said he mentioned it at the Executive Session. Manager Jones and President Pezzutti confirmed there was no other correspondence on the issue.

Ms. Steffl said going forward, the staff will have someone going through Manager Jones's mail when he is away to ensure no important letters are missed. Ms. Steffl said she was not worried that the letter did not come up in discussion in the Executive Session because the fact that the audit is late has been discussed with the Board and all parties have been aware. Ms. Steffl said she hears all parties concerns and any personnel matters can be discussed in an executive session. Director DeFilippo voiced his concern about his personal liability and Ms. Steffl confirmed that he is not personally liable and has personal protections. Ms. Steffl explained that the role of a Board Member is high level – setting the policy and directing staff to enforce that policy. Therefore, if there is an error made by a staff member, it is not likely to make a Board Member personally liable. Manager Jones stated that the last 2 years of audit delays have been unprecedented and due strictly to staff turnover on the administrative side. Ms. Carriere and Ms. Steffl both assured the Board that this issue with the letter was an error and not intentional and no staff member is acting in bad faith.

## RECORD OF PROCEEDING

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Director Hurd asked Ms. Steffl about that fact that there is no rough draft of the audit and that we are not on track to get an audit. Manager Jones, Ms. Carriere and Ms. Steffl assured Director Hurd that is not true and that he has been sent all of the information, and furthermore the opinion letter would be presented to them by the auditor in the meeting.

### AUDIT REPORT

The Auditor reviewed the audit. He mentioned the bank waiver is needed, which has been requested from Wells Fargo. The opinion letter has been requested by the Board, and the auditor said it will be included once they issue their report. Director Hurd asked if the unrestricted debt position deficit (page 30) is of concern. The auditor explained the different areas where we have reserves and said the delta goes into unrestricted which is what Director Hurd was asking about. The auditor confirmed that is not of any concern. What is more concerning he stated is our cash at year end. It was confirmed that the District has met all of the requirements of our loan documents. Ms. Steffl asked how we get to a negative number. The Auditor said Assets minus Liabilities. Therefore, the negative numbers are due to outstanding debt and purchasing capital assets. All of that on top of operating expenses is what causes the end of year deficit.

President Pezzutti asked the question of if we are depreciating our assets, and we are showing a loss that we cannot have a tax advantage to, what is the meaning of accounting, in that sense. The question here is do we have a true negative balance and will we be able to pay our debts. Director Hurd said he will be making a motion later tonight but while everyone is in the room, asked if it might be possible to have our legal counsel and auditor help us devise a budget for 2022 that would put us in full compliance with all of our issues. Director Hurd explained his understanding of why we have deficits but mentioned it would be good to have professionals advising us. Ms. Steffl said that there are companies that advise on budgets, but the problem is water revenues are tied to weather so the future is unknown. Thus, you have to do your best projection for the budget. Ms. Steffl suggested a rate study could be helpful to ensure we have the funds necessary for all expenses. Director DeFilippo mentioned compliance and Ms. Steffl said we are in compliance with the budget law; we just need to adopt the budget by December 7th and then certify the mill levy. The budget can be amended next year but the whole budget must be adopted by the December 7th Board Meeting.

Ms. Steffl explained the differences between assessed valuation and the mill levy. For the Mill Levy, it all goes to paid debt so that does not help in the operating/bottom line at all. We have the opportunity to put it out to voters to approve a new mill levy. We can raise the mill levy as high as we need to pay the GO bonds. Manager Jones recommended that we set it a bit higher than the minimum we need to start developing a debt service reserve for the GO bonds, which Ms. Steffl agreed is a wise idea. Manager Jones asked the question that if we start building a debt service reserve, will the carryover at the end of the year factor into basically cash in the bank that may aid in the 1:1 ratio that we need for Wells Fargo. Ms. Steffl confirmed that no it will not because it has to be used for the bond you assess it for.

Ms. Steffl said totally separate from all of that, we need to figure out what our total operating expenses are - multiply that times operating spend and debt service - multiply times 1.1 and that is the amount of money we need to bring in.

Director Hurd asked Ms. Steffl and the Auditor if it is ok to pay our second mortgage that we have on the water treatment plant that requires \$125.00 payment each year, out of our capital replacement account. Manager Jones said that is the way the whole thing is structured (with the capital replacement fee on each bill) so the answer is yes. Director Hurd was asking because he

## RECORD OF PROCEEDING

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saw that our previous auditor said that was not allowed, but our current auditor did not mention anything about that. Ms. Steffl said that the capital replacement fee is not voter approved, rather a fee that we set so it does not have to be reserved for a specific purpose unless we specify it is used for a specific purpose. As long as the fees are used for capital replacements, it is completely fine because the loan was specifically for capital replacements.

Director DeFilippo voiced a concern to the auditor over total cash and investment. He noted between Oct 2018-Oct 2021 our reserves were cut by half and wondered if that was a problem. President Pezzutti explained that there was a sanitization project that was never funded, and the decision of the Board at the time was to use capital reserves to accomplish that. That was all pre-planned by the previous Board. Ms. Steffl asked if the auditor had any recommendations for District reserves. The auditor said his recommendation is to raise the rates to cover the expenses and to build a good budget. Manager Jones stated this topic of how much the District should have in reserves has been a discussion point at every audit for the last 25 years. The reason for the 100% capital outlay, and said we are at the point where we need to rebuild the reserves. Manger Jones said the good news is that we have made extensive improvements to the District over the last 20 years.

Ms. Steffl mentioned that two of our loans require a 3-month operating reserve, and asked if that can be used for operating expenses if we need to. Manger Jones said yes, we can and we have 2 years to pay it back if we tap into it. That is true with all water and power authority loans. Ms. Steffl said that even though we have restricted loans we are not really at zero because we have that built in.

Manager Jones spoke about his recommendation for rate increase amount. He said a \$20.00 bi monthly increase will break even. Director DeFilippo mentioned the balloon payment due in 2027, which is \$65,000 per year and is not reflected in the budget. Director DeFilippo said he feels that money needs to be dedicated and cannot be touched. Ms. Steffl said that even though the \$65,000 is kept separate, it still counts towards total reserves because there is no expense related to that. Director Hurd asked if it makes more sense to collect money and make an additional payment on the loan rather than wait for the balloon payment. There is no prepayment penalty on the loan any longer. Manager Jones advised that we wouldn't have that amount in the calculation for the debt service if we did make the additional payment, but it would make it cheaper. The discussion about how much we need to raise rates continued. Director DeFilippo insisted we pay the extra \$65,000 each year.

It was asked if there were any other questions for the auditor. Director Hurd asked what would happen if we don't get a final waiver from Wells Fargo, what happens to our December 7th approval. Ms. Steffl clarified that the audit does not need to be approved before the budget is approved, and that the Board will still approve the budget on December 7th. Director Hurd mentioned that he thought the law stated we have to have an approved audit before we can adjust the Mill, and Ms. Steffl confirmed that is not true, and clarified that rather you have to have a budget approved, so we are on track. The auditor said the audit needs to be submitted by July 31, 2022 in order to still receive taxes.

Director DeFilippo asked a procedural question regarding the audit, asking if they will receive all of the paperwork that goes along with the audit, which Manager Jones confirmed yes.

The auditor reviewed the audit with the Board. He confirmed the numbers are the final numbers, and no further adjustments will need to be made. The only thing left is the previously mentioned waiver from Wells Fargo that has been requested. Internal control report was reviewed (and will be included in the final audit report that will be shared with the Board). It was noted that the internal controls are not an opinion, but a way to help the audit procedures, and a way to help

improve the District's checks and balances. The 2 material weaknesses that were identified in internal control were as follows: First is the overall lack of segregation of accounting duties which is due to having only one person wearing multiple hats and handling a multitude of functions. Wipfli sees this a lot in smaller companies/Districts that do not have the funding to hire additional resources to help. Second is reconciling balances on a timely basis, where the auditors stepped outside of their scope to help reconcile from year end. They would like to see year end reconciling to be done on a regular basis month to month, and the auditor noted this was caused by the administrative staff turnover. The auditors had a good working relationship with Ms. Carriere, and the auditor suggested to the Board that they possibly look at the process in place of having only one person handling all of the accounting responsibilities. Operating revenue increased based on demand and rates. Overall, G&A expenses increased \$115,000 and that has to do with legal expense increases, repair and maintenance increases, and utility expense increases. Director Hurd asked the auditor how leveraged does he think this district is compared to an average district. The auditor said it is pretty average how we have it leveraged, and to focus on how to generate additional revenue to cover operational expenses.

Motion to approve audit draft: Vice President Russell

Second: President Pezzutti

Votes: All

Results: Motion passed unanimously

Director Hurd asked how we can analyze our current financial status to see if we will be in default on the loan next year. The auditor said they can run the debt coverage ratio based on the 2021 numbers. It was agreed that would be helpful. Director Hurd asked if we can run that on our new loan, and Ms. Steffl and the auditor said it would be based on payments and would go into our 2022 calculation. Director Hurd said he read in our loan documents that each year we have to report our debt coverage ratio and for 2021, and if we have to report that we are not in compliance, the question is can we still draw on the loan. Ms. Steffl said the rate covenant for the new loan is less strict, and is only 100% rate coverage. Director Hurd disagreed and said they calculated our estimated 2020 in the loan document and attached it in exhibit A and said "we are good". Ms. Steffl explained that that is different because when you first issue a loan, you have to prove that you've met the rate coverage ratios in order to get the consent of the existing lenders to issue a new debt. So that is a separate calculation and Ms. Steffl explained further, reading verbatim the new loan documents to the Board, and clarified that the extra 10% is 10% of our payments on this loan, not 10% of all expenses, that have to go into a debt reserve account for the first 10 years starting in 2023 or when the loan starts. Director Hurd disagreed and stated he would send what he has to Ms. Steffl and they will check that.

Director Hurd asked about the terms of the grant because it has been approved by the state to draw on the grant, but Director Hurd was concerned that the terms of the grant did not allow for that. He asked Ms. Steffl about the grant terms and was concerned that we are in violation of the terms as well as in violation of the requirement for ratios of the grant and loan draws. Manager Jones said that the state has approved us to pull 100% out of the grant through June 30th, 2022, and the ratios that are written in the terms will apply after that date. Ms. Steffl suggested to ensure we have that in writing, which the District does have on file.

Director DeFilippo mentioned to Ms. Steffl that he would like the District to have in writing something with the trail that crosses the district property in agreement with the foundation. He would like recognition that the foundation assumes responsibility. Mr. Anderson asked if we have a legal document or survey that shows the property, and Manager Jones said he can show Mr. Anderson the property lines where the trail crosses. Director DeFilippo said his main concern is people's safety during construction. Mr. Anderson mentioned that the Foundation understands that and would never put anyone in danger, and said that he believes it will not be an issue.

## RECORD OF PROCEEDING

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President Pezzutti asked Ms. Steffl to speak about term limits of the current Board members. Ms. Steffl said there will be a 2022 and a 2023 election and Ms. Steffl explained the process briefly.

In terms of the succession plan for District Manager, Ms. Steffl explained the required process that has to be followed per government rules, including a search committee, job posting, and advertised salary.

### BUDGET

Motion to open the public hearing: Director DeFilippo

Second: Director Hurd

Votes: All

Result: Motion passed unanimously

Manager Jones presented the second draft of the budget. The next draft will need to be the final draft that is approved at the next Board meeting in December. Manager Jones recommended the Board form a subcommittee and once the rate increase is decided upon, he can work with the subcommittee to decide where those fees will be applied. Regardless of what the total fee increase will be, Manager Jones said the capital replacement fee needs to increase \$2.00 to ensure we are funded for the reservoir project. Manager Jones stated the Board needs to come up with their overall number, meaning how much money they want to have in reserves in the bank at year end and also to take care of the inflation that will happen in 2022 and he can figure out the rate increase from there. The base fee is where the increases should apply as they are more stable than usage fees, which is what Manager Jones did in his draft. Director DeFilippo said what he would like to see is a balanced budget and not going into reserves. Lastly, he would like to see that year over year we are paying additional money on the balloon payment (about \$65,000). Director DeFilippo motioned to drop out of the Bear Creek Water Association and was seconded by Director Hurd.

Manager Jones asked everyone to take a look at Page 16. The 2020 numbers are extremely close to balancing with the 2020 audit. A few questions from Manager Jones on the audit included using SO taxes under Government to pay administrative (offset salaries), and if the Board wants to continue that in 2022. Manager Jones proposed the District does to this again in 2022.

Based on the current information we have received from the auditor, and most current info through October, we are moving into 2022 with a \$-2197.00 on the government side and we want to be at zero. Director DeFilippo mentioned over the past 5 years, we have averaged about \$5,000 under what we projected, so he suggested we add 0.06 hundredths to the mill. He mentioned that he has a chart and will share that with Manager Jones. Manager Jones said if the Board wants to do that and start creating a debt service reserve, then his recommendation is to leave it at the 9.393 and that is close to the 6/100ths of a Mill.

Director DeFilippo handed out a document with his recommendations to the Board. Director DeFilippo mentioned, regarding number one on the document, to Manager Jones about getting a verbal from the bank or the lender to see if we can shift the pay date from the 1<sup>st</sup> to the 15<sup>th</sup>. Manager Jones confirmed that we cannot. The second item Director DeFilippo spoke about is that we add the 0.06 mills. Third is getting money into reserves and he presented his ideas about that. There was also much discussion about property taxes as well. Director Hurd proposed we deal with the \$5,000, and Manger Jones explained that if in 6 years we have an overage, we would have to refund the tax payers or use the last reserve for the GO payments at that time. Director DeFilippo suggested we take Manager Jones's recommendation. It was agreed upon by the Board to follow

## RECORD OF PROCEEDING

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Scott's recommendation, and no motion was required. Manager Jones said he will update accordingly.

Manager Jones spoke about Capital. The reservoir was factored into the budget. Speaking of the 2020 audit, any time staff spent on capital projects was applied to capital in 2020. That has not been done in 2021, so we need to get back to doing that. Manager Jones plugged in \$40,000 for a new truck as one of our trucks has been needing replacement for about 3 years now. Vice President Russell brought up the reservoir #1 project and cost, and Manger Jones explained that we will not know anything until bid day. His prediction is that the bids will come in high, we will do as much "value engineering" as we can at the time. Director Hurd asked for clarification, stating it is his understanding of the financing. Manager Jones clarified the loan is minus the grant. He also stated that if bids come in high, we have options such as going back to the water conservation board to borrow more money. If we did that, we would need to go back to Bond Counsel. Manager Jones reviewed more items in the Capital budget. Some of the line items budgeted for certain projects are projects that have been delayed already so it needs to get done. Director Hurd asked if it is still true that we have proposed to collect \$447,000 in capital replacement fees and our expenses will be \$72,000 higher than that. Manager Jones affirmed that is true, if we move forward with all of the proposed projects.

Director Hurd asked about the funds allotted to the Waste Water Treatment Plant. Manager Jones explained there is a large item on the budget for a new controller for the centrifuge which is \$85,000.00. In addition to that, there are a few other pieces of equipment that need replacement at the WWTP that are in the budget. These are critical to being able to use treated effluent water to fill the reservoir.

Vice President Russell asked about future pump failures and Manager Jones mentioned that comes out of beginning funds, just as Larkspur did. Director Hurd asked Manager Jones to explain the Capitalized Labeled Projects labeled 2022. Manager Jones explained that he lists what he thinks it will cost for each project, keeping in mind that the operators do a lot of the work themselves, saving us from having to contract out. Manager Jones explained a few other projects in the budget that need attention. Manger Jones continued review of the Capital budget.

On the Operations side, Manager Jones mentioned that with his best guess and all the numbers he has currently, year end would be about -\$53,000. There is a \$50,000 contingency built into the budget each year, so in the end we are pretty close to being balanced on the Operations side. Director Hurd said he disagrees on that mentioning that we are using \$266,000 in reserves and that cannot happen any longer. Therefore, we need to generate more revenue. Manager Jones fully agreed. Manager Hurd said we need to deal with the \$266,000 deficit in operations, get the \$65,000 raised to deal with the balloon and then decide if we want to put any more money into our capital replacement to build a reserve. Director Russel said we will need \$42.00/2 months per home just to cover the \$266,000.

The Board discussed the fee increases, and it was mentioned by Director Hurd that we have been undercharging and living off of reserves and that cannot continue. Director Hurd and Vice President Russell mentioned the phosphorus issue that will be coming and that it should be worked into the budget. At the current time, it is unknown how much that will cost the District. There was then some discussion of different opportunities for future revenue opportunities with new development.

Director DeFilippo spoke again about the Bear Creek Water Association fee, and wanted it to ensure it is taken out of the budget. Manager Jones and Mr. Brownell had suggested to leave it in the budget and not pay when the renewal comes up in March. Director DeFilippo said no, he wants it out of the budget completely. He also confirmed that he will "take the heat" if that ever happens.

## RECORD OF PROCEEDING

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Rate increase was discussed amongst the Board and Manager Jones. Manager Jones suggested smaller increases over a few years, and Director DeFilippo said that is harder on people and he would rather do what we have to do, and do it one time. The Board agreed with Director DeFilippo on doing the rate increase all at once. Manager Jones brought up the legal fee increases that have happened over the last few years over water rights. Director Hurd said he wants to make sure the Board understands the cost of the reservoir expansion is not in this budget. Therefore, we will need to do another increase next year once we start making the loan payments on the project.

Manager Jones mentioned again the sub committee that should be formed to review the final budget with him. Vice President Russell nominated Director Hurd for the subcommittee, and Director DeFilippo seconded. Director Hurd refused, and said he refuses to be on any subcommittee. He officially refuses his nomination.

Manager Jones stated that staff can most likely handle the task, and also reminded everyone that rates can be raised anytime, and they do not need to be confirmed by the December Board Meeting. Ms. Carriere asked if a resident can be part of the sub-committee since the Board member refused, and the Board agreed not to have any residents involved. Director DeFilippo and Director Corbett agreed to work on a letter for residents to explain the fee increases. Mr. Anderson also mentioned he is willing to assist with the letter if needed.

Director Hurd said that if we start to address some of the cash flow issues, we might be able to refinance some of our loans. The District tried to refinance a while back, and the banks did not work with us. Vice President Russell said he is happy to sit in on any meeting/committee if needed.

Motion to close the public hearing: Director DeFilippo

Second: Vice President Russell

Votes: all

Motion passed, and public hearing closed.

### MINUTES

October 26th, 2021 Minutes – No changes noted

Motion to approve as is: Director DeFilippo

Second: Director Hurd

Votes: All

Result: Motion passed unanimously

October 28th, 2021 Executive Session Minutes – delete the last page.

Motion to approve with change: Director DeFilippo

Second: Vice President Russell

Votes: All

Result: Motion passed unanimously

Manager Jones mentioned that the auditors are asking for additional funds due to the additional work that has been done. Manager Jones believes he can talk them down a few thousand dollars but wanted Board approval to move forward with that.

Motion to allow Manager Jones to negotiate the cost of the audit down: Vice President Russell

Second: Director DeFilippo

Votes: All



## RECORD OF PROCEEDING

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Result: Motion passed unanimously

Manager Jones explained the salary treatment process and how it is organized through the company. The Board needs to have a discussion about Manager Jones's salary treatment as it was supposed to be done in January 2021. He also explained the performance bonuses, that he and Mr. Brownell handle the staff and the Board handle him and Mr. Brownell. These performance bonuses are a line item in the budget. There will be a spreadsheet distributed to the Board prior to the December Board meeting, and he will send the first draft to the Board President for review first and then it will be sent to the entire Board. Director DeFilippo told Manager Jones he would like him to sit in on the discussion about himself.

Director DeFilippo said before going into executive session, he would still like to see the letter from the State with the date stamp. Ms. Carriere gave Director DeFilippo the documents requested.

Motion to end the general session: President Pezzutti

Second: Director Corbett

Votes: All

Result: Motion passed unanimously

### ADJOURN

Motion: Thereupon, motion made by Vice President Russell and seconded by President Pezzutti to adjourn the meeting. The motion passed unanimously.