

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

**HELD**

Tuesday, June 23, 2020

At 5:00 p.m. at the Genesee Water & Sanitation District Administrative Bldg.

2310 Bitterroot Lane

Golden, CO 80401

And;

Of Special Note: Due to the ongoing COVID-19 issue, and to protect the health, safety and welfare of all meeting participants, it was determined to support the scheduled Board of Directors meeting via a Video Teleconferencing platform known as ZOOM, with said notice and information duly posted at all of the District's listed posting locations.

**ATTENDANCE**

A Regular Meeting of the Board of Directors of the Genesee Water & Sanitation District of Jefferson County, Colorado 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

Cynthia Corbett – In Person

Roger Howell - In Person

Also present in person were; Scott Jones, District Manager; Chris Brownell, Superintendent, Bee Cessar, Director of Administration, Erin Carriere, Administrative Assistant and Resident, Gary Anderson, Former Board Chairman & Resident, Bob Calley, District Operator, Marty Carriere, Resident, Brad Knickel, Resident and by video teleconference; Greg Bruskivage, Genesee Foundation Board, Mary Monet, Resident, Carolyn Steffl, District's Attorney and Deb Carney, Lookout Mountain Resident & C.A.R.E. President.

**CALL TO ORDER**

Chairman Pezzutti called the meeting to order. Next, he stated he would like to rearrange the agenda for time efficiencies, since several guests are present. He would like to begin with a portion of the legal report from Ms. Steffl and then proceed to a discussion of a response to Stratera Partners regarding the proposed 17-acre development. The Board concurred with the change to the agenda, and Chairman Pezzutti then proceeded to the first agenda item.

## RECORD OF PROCEEDING

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Carolyn Steffl, Genesee Water and Sanitation District's Attorney with Moses, Wittemyer, Harrison and Woodruff, P.C., provided a brief overview of Genesee beginnings and roles & responsibilities of the board members on a water and sanitation district.

Mrs. Steffl explained that Genesee was organized in 1973. It is a political subdivision / quasi-municipality in the state of Colorado subject to laws governing local governments generally and requirements set forth in the Special District Act. Genesee has the powers of a water and sanitation district, subject to the service plan from 1973.

Next, Mrs. Steffl discussed that the role of board members includes:

- to set policy and provide direction to the District Manager, who carries out the policies
- to approve contracts
- to approve annual budgets and appropriation of funds
- to approve variances to the District's rules and regulations
- to approve the District selling property or granting an easement
- to approve capital expenditures and projects
- to approve monthly expenditures
- to accept annual audits
- to set rates and fees
- to adopt and amend the District's rules and regulations or employee manual
- to supervise the Manager (supervision of all other employees has been delegated to the District Manager).

Next, Mrs. Steffl discussed some of the responsibilities of Directors, including attending Board meetings, fiduciary duties, disclosure of conflicts of interest when required, and maintaining confidentiality. Mrs. Steffl then addressed specific questions about preparation of minutes of Board meetings, requirements for Board actions and requirements under the Open Meetings Law.

Then, Mrs. Steffl addressed specific questions about the timeline, process and role of the District in approving new water and sewer connections. She explained that the purpose of the District is to provide water and sanitation services to the community and application for a new water and sewer service will be reviewed for compliance with District Rules and based on capacity for service. In contrast, land use approval, including zoning and subdivision, is vested with the County, not the District. However, at some point in the land use approval process, the applicant is required to provide proof that there are sufficient water resources available to serve the development under a state statute passed in 2008.

Next, the District proceeded to Old Business: Discussion of a response to Stratera Partners regarding the proposed 17-acre development. Individual Board members asked questions of Mrs. Steffl regarding the proposed development.

Director DeFilippo noted that the developer requested a will serve letter and asked if property must be included first, since the property is outside of the District boundaries. He noted that he is personally opposed to serving the property and asked how to respond.

Mrs. Steffl recommended that the District include the property into the boundaries of the District before providing water and sewer service to the property or, alternatively, enter into an extraterritorial service agreement with the property owner. She briefly explained each alternative. If the Board wants to provide a "Will Serve" letter right now, Mrs. Steffl recommended that service be contingent on inclusion or an extraterritorial service agreement. Alternatively, the District could require inclusion or an extraterritorial service agreement before providing a "Will Serve" letter.

Next, Director DeFilippo asked several follow-up questions. Mrs. Steffl responded that there was little risk to the District declining the request of a Will Serve letter because the property is not within the boundaries of the District and the District has no legal obligation to serve this property. She explained that a public hearing was required for inclusion and optional for an extraterritorial service agreement.

Chairman Pezzutti asked whether an extraterritorial service agreement would pose a risk to the land owner, in that water would be cut off in a drought situation.

Mrs. Steffl explained it depends on the agreement, but most extraterritorial services agreements state that the district will provide service on the same level as to its own residents. Under that type of arrangement, if the District imposed watering restrictions, the extraterritorial water customers would also be subject to the same level of water restrictions.

Director Howell asked whether the District is legally obligated to provide service to someone within the District who wants new taps.

Mrs. Steffl responded that the District would likely have an obligation to serve property within its District if the property owner provided water resources and paid taps fees, the District had capacity available and the application for service complied with all District rules. But, it would depend on the facts of the situation and whether there was a valid reason to deny service.

Scott Jones, District Manager, asked whether the District should respond that it cannot provide a "Will Serve" letter until we have either a petition for inclusion in front of us or some agreement to provide service.

Mrs. Steffl stated that such a response would be very appropriate because until the District has a petition for inclusion and has followed the inclusion process, the District does not know how the Board would rule on that petition, and under an extraterritorial service approach, there would be many terms and conditions to negotiated with the landowner before the District knows whether it would provide service.

Next, Director Corbet asked for clarification about land use versus water service issues, and Mrs. Steffl elaborated on the inclusion process.

Manager Jones and Mrs. Steffl discussed that the District could send a letter saying the District does not have enough information to analyze this request, since the property is not within our boundaries and stating that inclusion (or another agreement for service) is required before a will serve letter.

Chairman Pezzutti introduced Deb Carney, who is on the Zoom connection and represents C.A.R.E. (Canyon Area Residents for the Environment). He noted that Deb only had a little time to review the request for the will serve letter, but invited Ms. Carney to ask any questions.

Deb Carney, Lookout Mountain resident, explained that she is the Chairman of C.A.R.E – Canyon Area Residents for the Environment, an umbrella of about 30 HOA's in the area, including Genesee. She asked Mrs. Steffl which community is served by the District, noting that the District was organized in 1973 to serve the Genesee development.

Mrs. Steffl clarified that the District's current responsibility to provide water and sanitation to the properties within its boundaries or, if applicable to a Service Area, but that could be changed by inclusion or agreement. She noted that new properties have been included into the District since approval of the service plan in 1973.

Mrs. Carney asked, hypothetically, is there anything that would protect Lookout Mountain from having Genesee Water supply enough water to build a city over on Lookout Mountain?

Mrs. Steffl explained the inclusion process and that there would be a public hearing and the Board would have to decide on the inclusion, noting that there may be specific facts at play, such as whether the property was in another water district. Chairman Pezzutti noted that there may be several different properties and property owners involved before the District could provide such service.

Director Corbett asked who can attend and speak at a public hearing on inclusion. Mrs. Steffl explained that the meeting will be open to any member of public and the floor will be open to speakers at the public meeting.

Chairman Pezzutti noted that we have many different perspectives here. Every member of the Board and our customers will have different perspectives on what they would like to see Genesee Water and Sanitation achieve, with different goals such as: reduction of water costs, improving water quality, managing the District's portfolio of water rights or increasing drought resistance. So, there are many trade-offs to balance. Chairman Pezzutti states if we were to sell taps to this particular developer, that could conceivably pay for the entire reservoir construction.

Director DeFilippo asked Mrs. Steffl whether a revenue bond could be referred to a vote of the property. Mrs. Steffl said that is possible, but no such vote is required under TABOR if the bond is issued in the District's enterprise capacity. Mrs. Steffl does not recommend a referred bond to the residents if not legally required.

Next, Mrs. Steffl explained that the District may require a deposit with a petition for inclusion to cover the District's costs of processing the petition and reviewing mainline extension plans, including legal fees, court fees, engineering costs, and recording fees. Even if a deposit is paid to cover costs, the District is not required to approve the inclusion petition.

Director DeFilippo said that he recalled that the Board voted, at the last meeting, five to nothing, to send a letter stating that the District would not provide service. Director Corbett and Director Howell noted that they also remembered a vote. Director Russell recalled that the Board voted to not make any kind of commitment. Chairman Pezzutti explained that he listened to the tape of the meeting and there was no formal motion or vote.

Motion:

Next, Director DeFilippo moved to send a letter of denial to the developer. No second was made. There being no second, the motion died.

The Board proceeded to discuss District's objectives. Director Corbett discussed her findings after reviewing water supply paper and questioned why there is a need to increase the size of the reservoir. Chairman Pezzutti explained that the reservoir project is designed to increase the survivability in a drought, and that the tap fees from serving the Stratera Partners property would offset the costs to other customers.

Manager Jones added that originally, Genesee started significantly smaller and evolved into the size of the District it is today through this very process and using this exact same scenario with developers/property owners asking for service. The only way they can get approvals to build what they want to build is to have both water and sewer, with sewer often the limiting factor, due to limitations on development density which translates into development economics.

Mr. Howell asked whether there are any water rights restrictions requiring return flows back into Bear Creek. Manager Jones said yes, and noted that he is planning to have a board workshop and invite the District's water rights legal counsel and water rights engineer to discuss the District's full water rights portfolio.

Director DeFilippo explained his motion to deny the request on the basis that the property is not in the District and would use 88% of the available taps, also noting that the District has not done any economic or alternative analysis and that the property owners have not petitioned for inclusion.

Director Russell noted that Director DeFilippo has spent the last year going through different options within the District. He requests that Director DeFilippo bring the two new board members up to speed on the specific options that we have in front of us for potential tap fees within our District.

Mrs. Steffl notes that there was no second on Director DeFilippo's motion, and it will fail for lack of a second.

Gary Anderson, resident and former Board Chairman stated that he is neither for nor against this at the moment because there is not enough information on the table to make a good decision. He supported Scott's proposal to say, 'we will not commit to supplying you'. Mr. Anderson noted that the District has almost twice the sewage processing capacity needed to satisfy our sewage demands. So, this would be a way to offset some of the cost of our sewage processing – which is not incidental. In addition, we would be able to sell taps that substantially exceeded the cost of the additional storage, and to protect District

water rights. We would have capital, to put into the capital reserve fund, over and above the cost of constructing the storage facility. After receiving more information, the Board can decide whether the request is good for the District. As long as the applicant is paying all the costs along the way, then the customers have little risk and may have substantial benefit.

Director Russell notes that the proposed letter to the developer puts the onus on them to be committed. They will have to come back to Scott with a concrete agenda.

Greg Bruskvage, Genesee Foundation Board Member stated right now with the information the Board has, the Foundation Board does not support this. So, we would need to have a lot more information. We would support right now the comment that we neither support nor decline to provide water and sewer. At this point we would not support it. We would need a lot more information to be convinced. Based on a question from Director Russell, Mr. Bruskvage clarified that the Foundation's objection is based on the land use proposed.

Manager Jones indicated that the developers have been given all the information that they need, including a copy of the rules and regulations of the District. Those specifically state that developers of property have to go through the inclusion process. He then suggests that the response letter state that those are the procedures that we would have to follow.

Director Corbett asked whether inclusion would allow the owners to use of Genesee clubs and properties. The Board responded, no, the District and the Foundation are completely separate entities.

Chairman Pezzutti asked whether the inclusion would exhaust the District's supply of taps. The Board discussed that it has sufficient capacity to serve additional taps beyond the original projections in the service plan. Mrs. Steffl explained that generally serving additional taps would not require an amendment to the Service Plan. Some additional discussion continued regarding whether to expand the Reservoir No. 1.

The Board discussed the need for more data on costs savings to existing residents from serving the new property. Chairman Pezzutti explained that that the engineers will develop the information around August / September, and said that he would like to re-visit the motion at that time. But he expressed that the District's decision should not be based on land-use factors. Directors Howell and DeFilippo concurred that they need more information.

Chairman Pezzutti recognizes that Director DeFilippo withdrew his motion.

Manager Jones summarized that he will arrange for the District's water attorney and engineer to attend a future meeting to address questions raised – however, both are currently extremely busy. In the meantime, he will prepare a response letter to remind them that they've been given the rules and regs and they need to follow that process at this time.

The Board proceeded to discuss water demands during normal and drought years and whether the reservoir expansion is needed. Chairman Pezzutti noted that average water flows are decreasing, so more stored water is needed to increase our survivability during the next drought.

The Board concurred with the proposal for Scott to revise the letter, get feedback from individual directors, and send out the response letter.

Chairman Pezzutti thanked Mrs. Steffl, Mrs. Carney and Mr. Bruskevage for participating today. They leave the meeting.

## **OLD BUSINESS**

### MANAGER'S REPORT

The Water Withdrawn and Returned Report(s) for the month of May will be incorporated within and made part of these minutes by attachment. During the month of May we took out 11,350,000 gallons from the stream and returned 8,907,000. The irrigation, to some degree, has begun, with return flows, about 78%. The streamflow, before we got rain, had dropped down to about 11-12 cfs. Our #4 water right was actually being called out at that time. So, we were down to a pro-rated share of about 85% of that water right, Genesee could be affected at about 39%. We've got other facilities in place, meaning if the water right drops, we can still divert whatever our demands are if we augment our depletions via our non-tributary – Dakota wells, the current reservoir No.1 or we start withdrawing out of reservoir No. 2 storage.

Bear Creek Watershed is relatively small with Mt. Evans being the headwaters. Bear Creek is somewhat unique as it is administered individually, on its own. It is a limited supply with summertime flows being dependent on either rainfall or any snow that is left on the hill. Right now, the snowpack is gone. This is something that we've always kept a close eye on, regardless of additional growth, with the conclusion; you can't have enough storage.

We did get a little bit of rain and the streamflow bumped up to around 25cfs but flows are coming back down. We are actually back down to the number 5 right now. Historically what I've seen is if we don't get any rain, by the end of August, we will be down to our senior Warrior #4 rights. The water modelling that was done was based on the full build out of Genesee, meaning that it included those additional 138 taps. So right now, with restrictions, if Bear Creek totally dried up – which has never happened – we could go 2 months with restrictions. 2002 was a wake-up call, it took almost going dry for the voters to approve the reservoir that we did build. We went to the voters in the '80's to get raw water storage, because we knew it was going to be an issue as Genesee grew, and at the time, it was voted down. Then in '02 it was voted in at almost 70% in favor of building storage.

### ADMINISTRATION REPORT

Elizabeth (Bee) Cessar, Director of Administration gives an update –

#### Cash Disbursements

No objections to the May 2020 cash disbursements.

Cash & Investments

No exceptions noted.

Financial Statements

No report available at this time – report continues to be work in progress

Aging Report/Financial Statements

No exceptions noted.

Any financial reports available for the month of May will be incorporated within and made part of these minutes by attachment.

Director DeFilippo update on finances – As of May, we are ahead on property taxes but we are behind on our specific ownership collections, so there's a net plus of about \$7,700. One thing that we need to be aware of is June 15<sup>th</sup> is the day of the second property tax payment and that will be reported in early July. That will give us an indication of people paying their property taxes. If that goes well then it should be clear sailing because the rest of the money that's due in is, percentage-wise, is not that much.

Chairman Pezzutti - So there's no alarm at this point?

Director DeFilippo – No

Mrs. Cessar continues –

Audit – Lisa will be in the office on Monday to begin the audit.

Billing – Thursday we will be reading meters and billing out on Tuesday

SUPERINTENDENTS REPORT

The Turbidity and Disinfection Report for the month of May will be incorporated within and made part of these minutes by attachment. Bob Calley speaks on behalf of Chris Brownell – No changes to report. Operating within the specified limits.

MINUTES

The Board reviewed the draft minutes from the Regular Board Meeting held on May 26, 2020. No additional changes or comments were suggested by members of the Board.

Motion: Thereupon, motion made by Director DeFilippo and seconded by Director Russell to approve the May minutes as presented. The motion passed unanimously.

Noted: Transfer of the future taking of meeting minutes to Erin Carriere, Administrative Assistant.



### RAW WATER STORAGE REVIEW

Manager Jones updates – Additional raw water feasibility study is now in the hands of the State. We will probably know within 30 days whether it is completed to the State's satisfaction or not. If they go ahead and approve it then we can go ahead and request payment for the grant money, a refund of \$37,000. At the same time, Steve Jamieson, GSWD's engineer, is working on the next phase of engineering as well as the loan application. Basically, that is to find out if we would get approved for a loan and that doesn't obligate the District in any way. At the same time, we are trying to get more information on potential grant funds and with many unknowns, that's up in the air.

Chairman Pezzutti – The target for that and understanding the availability?

Manager Jones responds – August/September for that part.

Chairman Pezzutti asks – What was the last estimate on the most likely median development cost on the upgrade on this pond?

Manager Jones responds – \$4.1-4.2 million and his understanding is that is conservative - meaning on the high end. This estimate included a pump station and a dual line up to our Bitterroot pump station so that all will be interconnected providing maximum operational and usage benefit to the district.

### WASTEWATER TREATMENT PLANT

UV Disinfection Project -

Manager Jones provided the Board with an update of the project - The project went out to bid on June 3, 2020 with bid receipt/opening on June 30, 2020. All three previously pre-qualified and interested contractors had a pre-bid meeting on June 10, 2020. We should get bids back by the due date of June 30<sup>th</sup>. Following the bid opening, and as soon as practical and after all the information has been reviewed, the plan is to give the Board a recommendation via email and then ratify that at the July meeting.

Manager Jones will get legal opinion on whether or not an email vote is allowed.

Manager Jones continues – Also on that note, we did receive the UV disinfection equipment last week and all is stored inside, onsite. So, we are ready to go.

### LEGAL REPORT

Manager Jones updated the Board on the water rights questions that were posed – Richard Mehren, Attorney with Moses, Wittemyer, Harrison and Woodruff, P.C., answered the questions as given and it was Manager Jones' opinion, he did a good job. Again, at some point in the future Manager Jones will try to get Richard and Greg Sullivan in here at one of our very near meetings.

Chairman Pezzutti clarifies – The one change had to do with the question 4 – the increase is 46 acre ft of water, not 30, because of how the existing pond is going to be repurposed.

Conversation continues around the fact that there is currently 16-acre feet and we would be adding 30-acre feet – bringing the total to 46-acre feet. The 16 that exists today is 'deadpool' – it is not in the system. When the expansion is complete, we will have the 30 plus the 16, all in the system. It will be plumbed into the system. It is noted that we could use the 16, without raising the dam, just by choosing the plumbing.

Manager Jones continues – Another question that was raised at our last meeting was regarding the cost/acre foot of our 101-acre foot reservoir. That was right at \$91,000/acre foot and that was in 2006-2007. So, I'm sure that cost would be well over \$100,000/acre foot now.

Manager Jones briefly discusses water rights and water restrictions

### Solar Feasibility Investigations

Director Russell provided a brief summary of the latest project information -

Director Russell – Last week there was a review with the engineering group. In discussions with a group called Solar Institute Technologies (SEI). They are a non-profit and they're set up to help entities just such as us. The last email memo came in today. We went through this last month, about what the potential may or may not offer but what's developed since then is that SEI has indicated to us that we should really look at batteries as we are going into a multi-rate structure with Xcel. It turns out that Tesla has become very aggressive recently, with batteries. Branch will provide the rest of the Board with this email. The email provides an estimate of somewhere between \$5-\$10,000 to do a feasibility study. Everything will hinge on that feasibility study. Tesla is willing to do the finance modelling. The beauty of that, if this all plays out like the engineering suggest that it might, that they, Tesla, will give a warrant – something of a guarantee – and they will also pay for a large portion of the feasibility study. So what I have been appraised of is that it will cost us to institute all of this work - somewhere between \$5-\$10k and it's critical to us to get this started so that we don't lose 6-8% of the federal credit that is available and that will go away on December 31, 2020.

Director Russell makes a motion that we provide up to \$10K to support this feasibility study. Director Howell seconds the motion.

Director DeFilippo asks for a discussion – what are we going to get for this?

Director Russell responds – We are going to get an engineering analysis of how we would manage our power with the upcoming Xcel rate structure to make an economic project of a combination of solar and battery. It will also provide engineering costs. I made it very clear that it has to make economic sense.

Motion passed unanimously

**NEW BUSINESS**

Manager Jones reviewed a proposed letter to go out to customers with their June billing. This was a multi-party effort developed to tell our customers what the current activities are that the District is looking at and what we are trying to accomplish, really more of a status update. No objections were raised and the decision was made to include the letter in the upcoming billing.

Mr DeFilippo inquired about a plan for allocating water resources. Asks for the Board's permission to come up with a plan to allocate our resources and also get some revenue in the meantime. An example – the Williams Property. Permission given.

**ADJOURN**

Motion: Thereupon, motion made by Director Russell and seconded by Director Corbett to adjourn the meeting. The motion passed unanimously.