



## BOARD OF DIRECTORS REGULAR MEETING MINUTES

Monday, July 18, 2022, at 3:00 PM

Via Teleconference – No Live Attendance

### CALL TO ORDER

President Martin called the meeting to order at 3:00 PM

President Martin announced item 17 (RESOLUTION NO. 2022-21 - RESOLUTION OF THE BOARD OF DIRECTORS OF MISSION SPRINGS WATER DISTRICT, DIRECTING THE DISTRICT'S GENERAL COUNSEL TO PREPARE, SERVE AND FILE APPLICATION FOR LEAVE TO SUE AND COMPLAINT IN QUO WARRANTO ON BEHALF OF THE DISTRICT, BASED ON THE VERIFIED STATEMENT OF FACTS OF THE DISTRICT'S GENERAL MANAGER [STEVEN ALAN GRASHA] will be conducted in open session at the conclusion of closed session.

### PLEDGE OF ALLEGIANCE

Led by President Martin, moment of silence for Jerry Gladbach, Past President of ACWA.

### ROLL CALL

**BOARD MEMBERS PRESENT:** President Russ Martin, Vice President Nancy Wright, Director Randy Duncan, Director Ivan Sewell, Director Steve Grasha

**STAFF MEMBERS PRESENT:** April Scott, Amanda Lucas, Arturo Ceja, Danny Friend, Eric Weck, Jeannie Bayer, Jeff Nutter, Michael Platt, Oriana Hoffert, Therese Murphy, Brian Macy, Arden Wallum, Kurt Kettenacker, Dori Petee

### RULES OF PROCEDURE

**Rules of Procedure were ready by General Counsel, John Pinkney.**

*First all noticed meetings are conducted using Rosenberg's Rules of Order as procedural guidance. Directors should refrain from responding directly to public comment at meetings of the Board. The President of the Board presides at all meetings and decides all points of order and procedure during meetings. The President is responsible for maintenance and decorum at all Board meetings. No persons shall be allowed to speak who is not first been recognized by the President. All questions and remarks should be addressed to the President as the presiding officer. No member of the Board should speak more than once upon any one subject until every other member on the Board, wishing to speak on the subject shall have been given the opportunity to speak. No Board member shall interfere with the orderly progress of a Board meeting. In order to ensure the orderly progress of Board meetings the Board President regulates the amount of time to be dedicated to a particular agenda item."*

### PUBLIC INPUT

No public input

## EMPLOYEE RECOGNITION

### HUMAN RESOURCES REPORT

The Board acknowledged the following employees:

#### NEW HIRES

Elias Dias	Field Operations Technician I
Adrian Gaona	Field Service Representative I
James Steiner	Field Operations Technician I
Raul Zazueta	Field Operations Technician I

#### ANNIVERSARIES

Michael Moore    Field Operations Technician II

#### CERTIFICATIONS/EDUCATIONAL ACCOMPLISHMENTS

Tim Owens    Water Treatment Operator Grade 2  
Theresa Murphy    Water Treatment Operator Grade 2

*Director Grasha asked to make a statement, he requested to read aloud a letter from the Riverside County District Attorney. President Martin asserted this is not the appropriate time and told Director Grasha he would have to wait for Director comments. Director Grasha announced the audience was only here to hear his statement. There was a back and forth between President Martin and Director Grasha at which point President Martin instructed the District Secretary to mute Director Grasha's mic. General Counsel reminded the Board of the Rules of Procedure, the President of the Board presides at all meetings and decides all points of order and procedure during meetings.*

## ACTION ITEMS

### RESOLUTION 2022-17 - AMENDING RESOLUTION NO. 2021-18; REVISIONS TO MISSION SPRINGS WATER DISTRICT PERSONNEL RULES AND REGULATIONS

The Board adopted Resolution No. 2022-17 providing for the revisions to Mission Springs Water District Personnel Rules and Regulations.

**Motion made by President Martin, Seconded by Vice President Wright.**

**Voting Yea:** President Martin, Vice President Wright, Director Duncan, Director Sewell, Director Grasha

### RESOLUTION 2022-18 - A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MISSION SPRINGS WATER DISTRICT PROCLAIMING A LOCAL EMERGENCY PERSISTS, RE-RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY EXECUTIVE ORDER N-09-21, AND RE-AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF THE MISSION SPRINGS WATER DISTRICT FOR THE PERIOD JULY 23, 2022 – AUGUST 22, 2022, PURSUANT TO PROVISIONS OF THE RALPH M. BROWN ACT

The Board approved Resolution 2022-18, continuing teleconferencing meetings for the period of July 23, 2022 - August 22, 2022.

**Motion made by Director Sewell, Seconded by President Martin.**

**Voting Yea:** President Martin, Vice President Wright, Director Duncan, Director Sewell, Director Grasha

### RESOLUTION 2022-19 - CONFLICT OF INTEREST CODE UPDATE

The Board adopted Resolution No. 2022-19 amending the Mission Springs Water District Conflict of Interest Code.

**Motion made by Vice President Wright, Seconded by Director Sewell.**

**Voting Yea:** President Martin, Vice President Wright, Director Duncan, Director Sewell, Director Grasha

#### **NORTH BUILDING IMPROVEMENT PROJECT AT THE HORTON WASTEWATER TREATMENT PLANT**

The Board authorized the General Manager to enter into the appropriate agreements for construction of the North Building Improvement Project at the Horton Wastewater Treatment Plant. This rehabilitation includes the construction and upgrades for two (2) bathrooms, kitchen, and office space for the Wastewater and Collections Departments. The agreements necessary to complete the rehabilitation are with Puro Clean for \$26,582.36 (roofing), Hi Desert Air for \$18,250.00 (air conditioning), Cove Electric for \$35,945.62 (electrical upgrades), and SW Plumbing for \$18,745.00 (plumbing).

General Manager Wallum reiterated that this project did go to bid (in a competitive process) and got no interest, therefore the project was split up.

**Motion made by Director Duncan, Seconded by Vice President Wright.**

**Voting Yea:** President Martin, Vice President Wright, Director Duncan, Director Sewell

**Voting Nay:** Director Grasha

#### **FIRST AMENDMENT TO CONTRACT WITH RUHNAU CLARKE ARCHITECTS FOR THE DESIGN OF THE CRITICAL SERVICES CENTER/ADMINISTRATION BUILDING**

The Board authorized the General Manager to amend the professional services contract with Ruhnau Clarke Architects for the design of the Critical Services Center/Administration Building. The amendment would increase the contract amount \$788,764 from \$1,072,200 to a not to exceed amount of \$1,860,964 and authorize the General Manager to do all things necessary to complete the project.

**Motion made by Director Sewell, Seconded by Director Duncan.**

**Voting Yea:** President Martin, Vice President Wright, Director Duncan, Director Sewell

**Voting Nay:** Director Grasha

#### **RESOLUTION 2022-20 RECOMMENDING APPROVAL OF SKYBORNE DEVELOPMENT - ASSIGNMENT AND ASSUMPTION AGREEMENT**

The Board adopted Resolution No. 2022-20, recommending approval of an Assignment and Assumption of Public Water System Improvement and Water Service Connection Fee Credit/Reimbursement Agreement authorizing Skyborne Ventures, LLC to assign water connection fee credits to Lennar Homes of California as required by the Third Amendment to the Public Water System Improvement and Water Service Connection Fee Credit / Reimbursement Agreement for Tract No. 32030, and complete with all exhibits.

**Motion made by Director Duncan, Seconded by Vice President Wright.**

**Voting Yea:** President Martin, Vice President Wright, Director Duncan, Director Sewell, Director Grasha

**ACCEPTANCE OF GRANT OF EASEMENT DEED FOR PUBLIC WATER UTILITIES EASEMENT T.T. GROUP, INC., VINTAGE CAMPER RESORT**

The Board authorized the General Manager to sign the Certificate of Acceptance, approving and accepting the Grant of Easement Deed from T.T. Group Inc., dated June 18, 2022, for a public water utilities easement, located on APN: 656-050-011, City of Desert Hot Springs.

Eric Weck presented. He noted during plan check of water improvement plans for the Vintage Camper Resort project, staff discovered there were no formal utility easements recorded for the existing water lines. The water lines currently service two public fire hydrants on the property and have been in service and maintained by MSWD since the initial construction in 1993. The utility easement is required to allow for the construction and relocation of the proposed water line, and for the District to own, operate and maintain the water line and appurtenances in perpetuity. The Developer has requested approval of the attached easement document to allow commencement of construction.

**Motion made by Director Sewell, Seconded by Director Duncan.**

**Voting Yea:** President Martin, Vice President Wright, Director Duncan, Director Sewell, Director Grasha

**ACCEPTANCE OF THE HORTON WASTEWATER TREATMENT PLANT CHOPPER PUMP INSTALLATION BY VAUGHAN'S INDUSTRIAL REPAIR COMPANY, INC.**

The Board accepted the Horton Wastewater Treatment Plans Chopper Pump Installation as complete and authorized the release of retention money held for Vaughan's Industrial Repair Company, Inc., in the amount of \$1,979.41, thirty-five days after filing the Notice of Completion (NOC).

General Manager Wallum noted this item is procedural. Approving this item marks the project as complete.

**Motion made by Director Sewell, Seconded by Vice President Wright.**

**Voting Yea:** President Martin, Vice President Wright, Director Duncan, Director Sewell, Director Grasha

**APPROVE CHANGE ORDER NO. 1 WITH LEGEND PUMP AND WELL SERVICE, INC. FOR ON-CALL WELL AND BOOSTER MAINTENANCE AND REPAIR SERVICES**

The Board authorized the General Manager to approve Change Order No. 1 with Legend Pump and Well Service, Inc. for On-Call Well and Booster Maintenance and Repair Services. The change order increases the contract amount \$200,000 from \$150,000 to a not to exceed amount of \$350,000 and authorizes the General Manager to do all things necessary to complete the project.

Assistant General Manager presented this item. Legend Pump and Well Service, Inc. was awarded a contract for well and booster maintenance and repair services at the February 22, 2022, Board Meeting. Change Order No. 1 increases the agreement amount and allows staff to continue the repairs at Well 22 and begin to repair and rebuild the pumps at Terrace Booster Station. The scope of repair work for Well 22 includes the repair of necessary pumping equipment, disinfection of the well, test pumping, and placing the well back into service. The scope of repair work for Terrace Booster Station starts with the repairs to booster pump #3 which requires a repair seal, rebuilt motor, and reinstallation of the pump.

**Motion made by Director Duncan, Seconded by Vice President Wright.**

**Voting Yea:** President Martin, Vice President Wright, Director Duncan, Director Sewell, Director Grasha

**PREPARATION OF APPLICATION TO LAFCO FOR THE PROPOSED ANNEXATION OF ASSESSOR'S PARCEL NUMBER 666-330-093 AND ASSESSOR'S PARCEL NUMBER 669-060-024, LOCATED ON GARNET AVENUE, IN THE CITY OF PALM SPRINGS IN THE GARNET HILL SPHERE OF INFLUENCE**

The Board authorized staff to initiate the developer funded application to the Local Agency Formation Commission (LAFCO) for annexation of property described as Assessors Parcel Number 666-330-093 and Assessor's Parcel Number 669-060-024 in the City of Palm Springs within the Mission Springs Water District, Garnet Hill Sphere of Influence.

Eric Weck presented. Staff received a formal annexation request letter from the developer on June 6, 2022. The total acreage of the two parcels (APN 666-330-093 and APN 669-060-024) is 3.49 acres. Both parcels are unimproved and are in the Garnet Hill area (south of the interstate 10 freeway, north of the Southern Pacific RR line, and west of Indian Ave.), on Garnet Avenue. The first step for the District is to submit the required application to LAFCO for annexation of the property. Direction for staff to proceed will allow the deposit of funds from the developer to cover staff costs for preparing the application and resolutions required for formal annexation.

**Motion made by Director Sewell, Seconded by Director Duncan.**

**Voting Yea:** President Martin, Vice President Wright, Director Duncan, Director Sewell, Director Grasha

**ACCEPT RESIGNATION OF DIRECTOR DUNCAN AND DISCUSS APPOINTMENT PROCESS TO FILL VACANT SEAT**

President Martin read aloud the resignation letter from Director Duncan.

Director Grasha made a motion to accept the resignation of Director Duncan effective June 13, 2021, as outlined in the letter received by the District Attorney. This motion died for a lack of second.

Director Grasha amended his previous motion to accept the resignation of Director Duncan effective August 16, 2022, and direct the General Manager to determine how much money Director Duncan has been paid by MSWD to the date of the District Attorney's letter and direct the General Manager to take all actions necessary to recover those funds. This motion also died for a lack of second.

President Martin thanked Director Duncan for his years of service to MSWD and wished him luck moving forward. He then made a motion to accept Director Duncan's resignation effective August 16, 2022.

**Motion made by President Martin, Seconded by Director Duncan.**

**Voting Yea:** President Martin, Vice President Wright, Director Duncan, Director Sewell

**Voting Nay:** Director Grasha

General Counsel outlined the legal guidelines for filling the vacancy created by Director Duncan's resignation. After August 16, 2022, the District shall notify the Registrar of Voters office of the vacancy at least 15 days after the date the office was vacated (15 days from August 16, 2022). The remaining members of the District Board may fill the vacancy either by appointment, pursuant to subdivision (d), or by calling an election pursuant to subdivision (e). The remaining Board has sixty (60) days to make the appointment and notify the Registrars Office no later than fifteen (15) days from appointment.

Director Grasha announced he had a comment. He asserted this is all a charade so the Board can avoid calling for an election as filing for this seat would have opened this morning and we would have had time to get this on the ballot for a November election. General Counsel corrected Director Grasha by asserting that the Board doesn't have the power to remove a Director from office that is elected by the residents of this District. (Director Duncan only resigned on Thursday with an effective date of August 16, 2022). The only way to remove an elected official from office, outside of recall efforts from the public, is the Quo Warranto process by the Attorney General's Office.

Director Grasha then interrupted and made a motion to direct legal counsel to add this to the ballot for November and let the public decide on this very important position that we all agree should be held in high esteem among the people that we serve and our staff and tis community that is crying out for justice in these matters. There was a brief discussion about the confusion of holding two separate elections as this would be a special election. The motion died for a lack of second.

There was a statement from Director Duncan and motions kept being made, when General Counsel reminded the Board, this is not an agendized item and the seat has not yet been vacated. There was no further discussion.

## **DISCUSSION ITEMS**

### **MSWD REGIONAL WATER RECLAMATION FACILITY UPDATE**

Nothing new to report

## **CONSENT AGENDA**

**Motion made by Director Duncan, Seconded by Director Sewell.**

**Voting Yea:** President Martin, Vice President Wright, Director Duncan, Director Sewell, Director Grasha

## **APPROVAL OF MINUTES**

It is recommended to approve the minutes as follows:

June 1, 2022 - Special Meeting/Workshop

June 16, 2022 - Study Session

June 20, 2022- Board Meeting

## **REGISTER OF DEMANDS**

The register of demands totaling \$3,604,639.24

## **REPORTS**

### **DIRECTOR'S REPORTS**

Vice President Wright reported she attended the following event: 6/24 ACWA Region 9 Tour.

Director Duncan reported he attended the following events: 6/7 DWA Board Meeting, 6/10 Regional Plant Groundbreaking, 6/14 CVWD Board Meeting, 6/21 DWA Board Meeting, 6/28 CVWD Board Meeting.

Director Sewell reported he attended the following events: 6/1 GCVCC Morning Mixer, 6/3 GCVCC Legislative Morning Meeting, 6/10 Regional Plant Groundbreaking,

President Martin reported he attended the following events: 6/2 DVBA Legislative Meeting, 6/7 RivCo Board of Supervisors 6/7, DHS City Council Meeting, 6/9 CVAG~CVCC and E&E Meetings, 6/10 Regional Plant Groundbreaking, 6/14 RivCo Board of Supervisors, 6/21 GCVCC Networking Night, 6/22 Tribal Water Authority Board Meeting, 6/23 DVBA Member Appreciation Night, 6/24 ACWA Region 9 Program

## **GENERAL MANAGER'S REPORT**

### **A. Finance Report**

No finance report due to audit.

### **B. Public Affairs Report**

Marion Champion gave a public relations update.

## **CORRESPONDENCE**

### **AUDITORS LETTER TO THE BOARD OF DIRECTORS**

Arturo Ceja explained this is the letter sent every year to the Board regarding the audit. It explains the audit process. Mr. Ceja also noted there is a copy of this letter in every Board Members mailbox.

## **COMMENTS**

### **DISTRICT COUNSEL COMMENTS**

Mr. Pinkney announced closed session.

### **DIRECTOR COMMENTS**

Director Grasha read a letter only he received from the District Attorney's office regarding complaints against him.

President Martin clarified comments made by Director Grasha.

Director Duncan congratulated the new hires and those recognized during Employee Recognition.

## **CLOSED SESSION**

### **CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

potential initiation of litigation pursuant to Government Code 54956.9(d)(4) (two potential cases).

### **ANNUAL PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Pursuant to Government Code Section 54957

Title: General Manager

**REPORT ON ACTION TAKEN DURING CLOSED SESSION**

The Board met in closed session on two (2) items:

**CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION** potential initiation of litigation pursuant to Government Code 54956.9(d)(4) (two potential cases)

Mr. Pinkney noted that prior to the closed session, the Board accepted the resignation of Director Duncan. No reportable action taken at this time.

**ANNUAL PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Pursuant to Government Code Section 54957

Title: General Manager

No reportable action taken at this time

**RESOLUTION NO. 2022-21 - RESOLUTION OF THE BOARD OF DIRECTORS OF MISSION SPRINGS WATER DISTRICT, DIRECTING THE DISTRICT'S GENERAL COUNSEL TO PREPARE, SERVE AND FILE APPLICATION FOR LEAVE TO SUE AND COMPLAINT IN QUO WARRANTO ON BEHALF OF THE DISTRICT, BASED ON THE VERIFIED STATEMENT OF FACTS OF THE DISTRICT'S GENERAL MANAGER [STEVEN ALAN GRASHA]**

The Board approved Resolution No. 2022-21, a Resolution of the Board of Directors of Mission Springs Water District, Directing the District's General Counsel to Prepare, Serve and File Application for Leave to Sue and Complaint in Quo Warranto on Behalf of the District, Based on the Verified Statement of Facts of the District's General Manager [Steven Alan Grasha].

Let the record reflect that Director Grasha left the meeting at 5:15 PM, just after the Board went into Closed Session.

Mr. Pinkney noted Quo Warranto proceedings against Director Duncan is moot now that he has submitted his resignation. He continued, the Resolution before them today reflects the Board's direction that the application for leave to sue and complaint in Quo Warranto be prepared, served and filed with the California Attorney General (AG) to initiate the process for obtaining leave to sue in the name of the people of the State of California for a judicial determination whether Director Grasha was lawfully elected to office and whether the office presently held by Director Grasha has been vacated because he failed to maintain his residence within the District. The AG will make a determination of whether or not there is grounds from an evidentiary standpoint to proceed with the filing of a lawsuit in Quo Warranto and the AG will also consider whether it's in the public interest to allow such a lawsuit to go forward.

Mr. Pinkney read a few of the complaints included in the filings. Members of the Board also read some of the complaints included in the filings. At the conclusion of this reading multiple Board members encouraged Director Grasha to do the right thing and resign and save the District the money they will spend on this investigation.

Russell Betts made public comment. He noted he made a public records request for all Directors home addresses. The information that he received noted Director Duncan's address on Mission Lakes Blvd. He went on to explain the subsequent responses he received. Mr. Betts declared that Director Duncan

most certainly lives in Arizona because he has Arizona license plates on his vehicle. He challenged Director Duncan to state his address right now in this meeting.

Director Duncan addressed the false accusations made by Mr. Betts. There was much back and forth between Director Duncan and Mr. Betts. At this point General Counsel reminded the Board the Resolution in front of them is regarding Director Grasha and not Director Duncan.

**Motion made by Vice President Wright, Seconded by Director Sewell.**

**Voting Yea:** President Martin, Vice President Wright, Director Sewell

**Voting Abstaining:** Director Duncan

**Absent:** Director Grasha

**ADJOURN**

With no further business, President Martin adjourned the meeting at 5:43 PM

Respectfully,

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Arden Wallum  
Secretary of the Board of Directors