

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO
WATER ACTIVITY ENTERPRISE
MINUTES
July 20, 2023**

A meeting of the Board of Directors of the Southeastern Colorado Water Activity Enterprise (Enterprise) was held on Thursday, July 20, 2023, at the District office, 31717 United Avenue, Pueblo, Colorado. President Long called to order the Enterprise meeting at 9:44 a.m. The ZOOM platform was also made available for Board members and visitors.

DIRECTORS PRESENT:

Alan Hamel	Kevin Karney	Patrick Garcia
Andy Colosimo	Mark Pifher	Seth Clayton
Ann Nichols	Matt Heimerich	Tom Goodwin
Bill Long	Pat Edelmann	
Howard "Bub Miller (remote @ 9:33)		

DIRECTOR(S) ABSENT AND EXCUSED:

Curtis Mitchell, Dallas May, and Greg Felt

President Long established that a Quorum was present.

DISTRICT OFFICIALS:

Executive Director James Broderick; General Counsel Lee Miller; Staff Attorney Peter Levish; Senior Policy and Issues Manager Chris Woodka; Water Resources Principal Engineer Garrett Markus; Principal Engineer's, Kevin Meador and Mark Scott; Administrator of Administration and Finance Leann Noga; Administrative Support Specialist Patty Rivas; Finance Manager Stephanie Shipley; H2O Consultant Roy Vaughan; and Kleinfelder Gordon Dillon.

VISITORS PRESENT:

Abba Ahmed, and Rick Kienitz; Aurora Water; Bobby Bandham, Jim Blasing, and Nick Madero, Pueblo West Metro District; Scott Lorenz, Colorado Springs Utilities; and Mike Holmberg, USBR.

VISITORS CONNECTED VIA ZOOM:

Cathy Garcia, Congresswoman Boeberts Office (@ 9:42); Curtis Thompson, AECOM; Lucas Hale, Colorado Water Resources and Development; Luke Mecklenburg, Asst Attny general Water Unit (@ 9:33); Mitch Frischmeyer, Wilson Water Group; Travis White, JHL Construction; and Roy Heald, Security Water and Sanitation.

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APPROVAL OF MINUTES:

President Long said the minutes of the June 20, 2023, Enterprise Board meetings were posted to OnBoard and the website for review and asked if there were any corrections or additions. Hearing none, Mr. Garcia, seconded by Mr. Karney to approve the minutes. Motion unanimously carried.

TREASURER REPORT:

Mrs. Nichols reported the financial statements for June 2023, were posted to OnBoard and the Board website for review. Mrs. Nichols moved, seconded by Mr. Clayton, for acceptance of the June 2023 financial statements and payment of the July 2023 bills. Motion unanimously carried.

PRESENTATION ITEM:

ALLOCATION PRINCIPLES AND POLICIES: A PRIMER

Mr. Lee Miller presented a PowerPoint entitled, *Allocation Principles and Policies: A Primer*. The purpose is to discuss the Allocation Principals and Policies as these are the documents by which we do Allocations of everything except for Return Flows.

Future discussions will be had reviewing this subject, currently rate setting is what is being addressed. It is important to review the key documents regarding Allocation, as this is the foundation for everything. A copy of the PowerPoint is available upon request.

An extensive question and answer session was had with Mr. Miller as well as the Board.

ACTION ITEMS:

AVONDALE AND BOONE AVC DELIVERY LINES CONSTRUCTION CONTRACT AWARD

Mr. Mark Scott presented an action item to the Board recommending that the Enterprise Board approve the construction contract for the Avondale and Boone construction contract to K.R. Swerdfeger Construction, LLC. This includes the construction of the Arkansas Valley Conduit (AVC) delivery lines from the tie in to the AVC Trunk Line being designed and constructed by the Bureau of Reclamation (Reclamation) to the pre-established connection points to both the Avondale Water and Sanitation District and the Town of Boone.

In 2022, a contract was approved to perform the design of the Avondale and Boone AVC Delivery lines by GMS Inc. In May 2023 this design was completed, and a Request for Proposals (RFP) was issued for construction on May 31, 2023, with a bid opening on June 22, 2023. The RFP requested costs for constructing the two delivery lines with both PVC and HDPE pipeline materials.

The four (4) qualified bidders that responded to the RFP were:

- a. K.R. Swerdfeger, LLC
- b. JHL Constructors, Inc.
- c. Avalanche Excavating, Inc.
- d. Pate Construction Co., Inc.

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The low bidder on the project was K.R. Swerdfeger Construction, LLC. at \$876,706.40 before Change Order #1 and \$862,547.60 after Change Order #1 using HDPE pipe and the company had no comments or changes to the contract terms and conditions. The remainder of the bids using HDPE pipe were JHL Constructors, Inc. (\$1,047,666.95), then Pate Construction Co., Inc. (\$1,295,148.80), and then Avalanche Excavating, Inc. (\$1,711,954.13). All the PVC bids were similar to the HDPE bids and higher than the low bid.

It was positive that the low bid was for use of HDPE pipe material as the Trunk Line is being constructed with HDPE and having one material type for our O&M activities and overall operations of the AVC is desired.

In addition to the low bid of \$862,547.60 (after Change Order #1) a contingency amount of \$46,452.40 is recommended. This contingency is in the desired range for this size of contract and brings the total to \$909,000 matching the available ARPA funds.

A copy of the contract as well as the amendment was provided to the Board.

Questions were taken from the Board.

Mr. Karney moved, seconded by Mr. Hamel that the Enterprise Board to approve the Executive Directors signature on a Construction Contract and Change Order #1 to K.R. Swerdfeger Construction, LLC. for the Arkansas Valley Conduit Avondale and Boone Delivery Lines in the amount of \$862,547.60 and an Enterprise administered contingency of \$46,452.40 for a total of \$909,000. Motion unanimously carried.

INFORMATION ITEMS:

The Board was provided written material on the following topics, which was posted to the Board website:

- AVC Update
- JWBHP Update
- Excess Capacity Master Contract Update
- Federal Legislation Update

EXECUTIVE SESSION:

ENTERPRISE SURCHARGES AND RELATED AGREEMENTS

Mr. Lee Miller opened A request has been made for the Southeastern Colorado Water Activity Enterprise to enter Executive Session for the purpose of discussion with legal counsel on the following matter:

Enterprise Surcharges and Related Agreements

This request is made pursuant to C.R.S. §24-6-402(4)(b): (Conferences with an attorney for the local public body for the purposes of receiving legal advice on specific legal questions.)

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A surcharge is an extra payment of money in addition to the usual payment for something. During the Executive Session, legal counsel will provide legal advice on the use of surcharges in the Allocation Principles and Policies and the evolving rate structure of the Enterprise.

In addition, legal counsel will advise on how decisions regarding the future utilization of surcharges may impact existing agreements. Also, legal counsel will briefly address the prospect of future agreements potentially impacted by surcharge decisions.

A two-thirds vote of Board Members in attendance is required to enter the executive session. Minutes will be electronically recorded as required by the Colorado Open Meetings Act.

At 11:13 a.m., Mr. Clayton moved, seconded by Mr. Edlmann that the Southeastern Colorado Water Activity Enterprise enter Executive Session for the purpose of discussion with legal counsel on the on Enterprise Surcharges and Related Agreements, pursuant to C.R.S. §24-6-402(4)(b), conferences with an attorney for the local public body for the purposes of receiving legal advice on specific legal questions.

The presence of the following persons is requested at this Executive Session:

1. Non-Excused Board Members (state for the record any who are excused)
2. Executive Director
3. General Counsel
4. Staff Attorney
5. Administrator of Finance and Administration
6. Senior Policy and Issues Manager
7. Water Resources Engineer
8. Administrative Support Specialist

Executive Session was called to order @ 11:20 a.m.

Executive Session adjourned at 11:50 a.m.

Mr. Lee Miller provided a report on the Executive Session:

During Executive Session the Enterprise Board received Legal advice on Enterprise Surcharges and Related Agreements. There was no action that came out of the Executive Session. Further discussions will be had.

The Enterprise Board Meeting reconvened at 11:52 a.m. President Long asked if there were any other matters to come before the Enterprise Board, hearing no other matters Mr. Long adjourned the meeting at 11:53 a.m.

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Respectfully submitted,

Patty Rivas
Administrative Support Specialist

Seth Clayton – Secretary

Bill Long – President

Howard “Bub” Miller

Curtis Mitchell – Vice President

Kevin Karney

Ann Nichols – Treasurer

Mark Pifher

Alan Hamel

Matt Heimerich

Andy Colosimo

Pat Edelmann

Dallas May

Patrick Garcia

Greg Felt

Tom Goodwin