

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE  
BACA GRANDE WATER AND SANITATION DISTRICT

June 08, 2023 - 2:00 PM

District Office – 57 Baca Grant Way South  
Crestone, Colorado 81131

Meeting held via Zoom & in Person

**ATTENDANCE**

Directors in Attendance:

Vivia Lawson  
John Loll  
Rick Hart  
Mike Smith  
David Karas

Also in Attendance:

Marcus Lock, District Legal Counsel  
JoAnn Slivka, District Manager  
Gary Potter, District Director of Utilities  
Natalie DeBon, District Administrative Services Manager  
Nick Marcotte, District Engineer

Town of Crestone

Seth Walker  
Adam Kinney  
Kizzen Laki  
Scott Ehresman  
Miquel Chavez  
Kim Martinez  
Steve Hume

Community Members and Guests:

Lisa Cyriacks  
Bill Peck  
Michael Scully  
Dan Gray  
Mary Montagano

**CALL TO ORDER**

President Lawson opened the meeting at 2:03PM.

Board Roll Call: Directors Lawson, Hart and Karas were present. Director Loll joined at 2:10PM.

**DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST**

*Attorney Lock has discussed with the Board the requirements pursuant to Colorado law to disclose any potential conflicts of interest to the Baca Grande Water and Sanitation District Board of Directors and to the Secretary of State. It was noted that a quorum was present and members of the Board were requested to disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting. No new disclosures were made.*

**AGENDA**

**DISCUSSION WITH TOWN OF CRESTONE TRUSTEES REGARDING POTENTIAL, NEW INTERGOVERNMENTAL AGREEMENT (IGA) FOR THE PROVISION OF WASTEWATER TREATMENT SERVICES BY THE DISTRICT**

M/S/P: FOLLOWING DISCUSSION, UPON MOTION DULY MADE BY DIRECTOR HART, SECONDED BY DIRECTOR KARAS AND UPON VOTE, UNANIMOUSLY CARRIED, THE BOARD APPROVED THE AGENDA.

President Lawson welcomed everyone present at the meeting. She appreciates all coming together and being cooperative.

Mr. Lock provided an introduction highlighting the existence of a previous 20-year IGA agreement that had expired between the Town of Crestone and the District. Both parties since then have been working towards a new IGA agreement that would serve as the basis for a relationship for both parties.

Additionally, Mr. Marcotte with Element Engineering joined the meeting via Zoom to provide updates on the current status and future of the BGWSD wastewater plan expansion.

Discussion took place between the District Board and the Town of Crestone Trustees, focusing on the contents of a letter dated April 19<sup>th</sup> that had been addressed to the Town of Crestone and their Town Attorney, Mr. Seth Walker. It was emphasized that reaching an agreement during today's meeting was not the goal, however, the gathering served as an excellent opportunity to make progress and continue moving forward in the negotiation process.

**April 19, 2023 Letter from BGWSD to the Town of Crestone:**

1. Term and Rates. If the parties can agree on the terms and conditions pursuant to which the District will provide sewer service to the Town, the District is willing to consider entering into a long term agreement. However, as is customary, any such agreement must include a provision allowing the cost of such service to adjust over time. The District only wants the Town to pay a fair rate that reflects the true cost of sewer service at any given time. Unfortunately, as we all know and like everything else, this cost is likely to increase over time.
2. New Wastewater Treatment Plant Costs. In 2022, the Town contributed on average 28% of the volume of wastewater being treated at the District's wastewater treatment plant and contributed approximately 37% of the biological loading at the plant. The District is required by law to begin planning the upgrade and capacity of its wastewater treatment plant, and it has already begun this process. In its preliminary engineering report, the District's engineers at Element Engineering, LLC considered several alternatives and ultimately recommended that a New Sequencing Batch Reactor wastewater treatment plant will best meet the District's needs with the lowest financial and environmental impacts. Unfortunately, the construction of this new plant will still require an investment of approximately \$12,878,777.00. The District believes that it is fair and equitable for the Town to contribute to the cost of the new plant on a pro rata basis.
3. Discharge Standards and Pretreatment. In the past six months, the District has received notices from the Colorado Department of Public Health and Environment ("CDPHE") stating that the District has violated the effluent limits in its Colorado Discharge Permit. The District believes these asserted violations to be a direct result of effluent coming from the Town of Crestone. On February 17, 2023, a copy of a report was provided from the District's Utility Superintendent summarizing District staff's discovery on multiple occasions of a milky white discharge from the Town's sewer system. Testing of this substance indicated that it was likely the cause of the effluent violations asserted by CDPHE and constituted a violation of Article 15 of the District's Rules and Regulations. If the District is to treat the Town's wastewater, the Town must comply with certain discharge standards at the point the Town's wastewater enters the District's system. This will likely require some degree of pretreatment before the Town's wastewater reaches this point.

4. Tap Fees. All sewer customers within the District must pay certain fees to the District, including but not limited to tap fees according to Exhibit A of the District's Rules and Regulations. Although the Town would be paying a single monthly rate for sewer service in any new intergovernmental agreement, and this rate would include all sewer customers within Town, it seems to the District that it is only fair that sewer customers within Town pay the same fees to the District as sewer customers within the District. The District is simply proposing that customers within Town and outside the District be treated the same as customers within the District.
5. Oversight and Enforcement. The District understands and respects that the Town is a separate and distinct municipality that wants to retain its autonomy. However, the District and the Town must agree on a mutually acceptable inspection protocol to ensure that Town residents using the sewer system are complying with the District's Rules and Regulations. Correspondingly, the District and the Town must agree on a mutually acceptable enforcement protocol that is intended to request and ultimately compel such compliance. Because those using the sewer system within Town are not within the District, the District does not presently have the same enforcement rights as it does with respect to District customers located within the District. However, the District believes it is fair to the District's other customers (and necessary to protect the integrity of the District's sewer system) to require users of the sewer system within Town to comply with the District's Rules and Regulations.

Mr. Lock noted that formally including the Town within the District's boundaries would solve many of the outstanding issues between the Parties and obviate the need for another IGA. But, the District acknowledged that inclusion of the Town within the District would require the support of the Town's Trustees.

The Town of Crestone Trustees raised concerns about the potential requirement for Town's customers to discontinue or abandon the use of their private wells if the Town of Crestone were to be included into the District. Mr. Lock responded that if the Town gets included, the use of water wells could be negotiated or a particular property could be excluded from the inclusion. It was noted that the inclusion would have to be approved and supported by the Town of Crestone Trustees and voted by the community.

President Lawson said the Inclusion would solve a lot of problems but it takes time. At this time we have to continue to work on the IGA agreement.


At the conclusion of the meeting, both parties acknowledged the significant progress that has been made. The next step is to draft an agreement with the District and Town attorneys taking charge of this task.

#### **ADJOURNMENT:**

THERE BEING NO FURTHER BUSINESS TO DISCUSS, UPON MOTION DULY MADE DIRECTOR HART, SECONDED BY DIRECTOR SMITH AND UPON VOTE, UNANIMOUSLY CARRIED, THE MEETING WAS ADJOURNED AT 04:05 PM.

THE NEXT REGULAR MEETING IS SCHEDULED FOR  
June 21, 2023

Respectfully submitted,

  
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Natalie DeBon

THESE MINUTES ARE APPROVED AS THE OFFICIAL June 8, 2023 MINUTES OF THE  
BACA GRANDE WATER AND SANITATION DISTRICT BY THE BOARD OF  
DIRECTORS SIGNING BELOW:

  
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Vivia Lawson

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John Loll

  
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Mike Smith

  
\_\_\_\_\_  
Rick Hart

  
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David Karas