

RECORD OF PROCEEDINGS

February 14, 2007

1 **Regular Board Meeting**

2 A Regular Meeting of the Board of Directors of the South Adams County Water and Sanitation
3 District (the District) was held on February 14, 2007 at 6595 East 70th Avenue, Commerce
4 City, Colorado. Board Members present: Mike Benallo, President; James Allen, Secretary;
5 Dick Smith, Treasurer; JoAnn M. Stevenson and Larry L. Ford, Directors. Also in attendance:
6 Greg Fabisiak, General Manager; Curtis Bauers, Water Systems Manager; Ron Lay, Finance
7 and Administration Manager; Russell Pennington, Distribution and Collection Systems
8 Manager; JM Grebenc, Wastewater Systems Manager; Legal Counsel, Timothy Beaton of
9 Moses, Wittemyer, Harrison & Woodruff PC; John Hamilton of Muller Engineering Co.; Paul
10 Fischer of Burns & McDonnell; David Vidikan of Black & Veatch Engineering; Tom Acre,
11 City of Commerce City. Others Present: (as names appear on Sign-in Sheet): Robert J. Aragon;
12 Gary Bassett; Dick Stevenson; Rocky Biggs; Lyle Murray; Debbie Mitchell of JF Companies/
13 Cowley Company; Bonnie Campbell; Susan Schneider of Foster Graham; Dan Roberts of
14 Mercury Car Wash; Blair Corning; John Yelenick; Andrew Hahn.

15

16 **Call to Order & Pledge of Allegiance**

17 President Benallo called the meeting to order at 7:00 PM and led attendees in the Pledge of
18 Allegiance.

19

20 **Ratification of Disclosures of Potential Conflicts of Interest**

21 President Benallo called for a motion to ratify the existing Potential Conflicts of Interest
22 Disclosures on file.

23

24 Board Members Ford and Stevenson moved and seconded to approve the existing Potential
25 Conflicts of Interest Disclosures on file. Motion passed unanimously.

26

27 **Approval of Minutes**

28 President Benallo called for a motion on the approval of the Minutes for the January 10, 2007
29 Regular Board Meeting.

30

31 Board Member Smith and Allen moved and seconded to approve the Minutes for the January
32 10, 2007 Regular Board Meeting. Motion passed unanimously.

33

1 President Benallo called for a motion on the approval of the Minutes for the January 12, 2007
2 Special Board Meeting.

3
4 Board Member Stevenson and Allen moved and seconded to approve the Minutes for the
5 January 12, 2007 Special Board Meeting. Motion passed unanimously.

6
7 **Public Comments**

8 Bonnie Campbell

9 Bonnie Campbell of 7525 E. 82nd Avenue addressed the Board stating that it is her
10 understanding the HR Study conducted by an outside agency has been completed and the
11 results have been turned in to the Board. Ms. Campbell has been trying to find out what the
12 findings are but has been told that the information is confidential because of personnel issues.
13 Ms. Campbell stated that it was her understanding that the purpose of this study was to have an
14 impartial party research the District's management to determine whether it was functioning
15 effectively, efficiently and honestly, and to see if management was the reason 25-30 employees
16 walked away from their jobs. Ms. Campbell stated that she was one of the people interviewed
17 during this process and the interviews were to be used as a tool to complete the management
18 study, and the only personnel identified were management. Ms. Campbell stated that if the
19 purpose of the research was to complete a study regarding management, and the Board
20 approved the expense of conducting this study, why that information is being kept confidential
21 with nothing further being done. Ms. Campbell noted that Mr. Allen has stated in the past that
22 everything should be conducted in public, and she is therefore asking that the Board make the
23 results of this study public.

24
25 Dan Roberts

26 Dan Roberts, owner of the recently opened Mercury Car Wash in Belle Creek, stated that he is
27 seeking some relief for the cost of taps for this facility. The Board acknowledged that they had
28 received information from both Mr. Roberts and staff regarding Mr. Roberts' position on the
29 District's water usage calculation and associated fees. A wash water recycling system was
30 installed at this facility and Mr. Roberts feels that he has the ability to consistently achieve an
31 80% recycle rate. The fees calculated for the water tap reflect a 50% reduction in fees based on
32 the use of a recycling system. Mr. Roberts stated that he feels the fees are still very high and
33 that when he first inquired about the fees they were quoted at a substantially lower rate.

1 Mr. Fabisiak acknowledged that Mr. Roberts was mistakenly quoted a fee of \$117, 649 back in
2 June 2006 which wasn't discovered until November. The correct fee is \$184,590.67. Mr.
3 Fabisiak recognized the financial hardship this could cause at this point in his project and
4 structured a Promissory Note allowing Mr. Roberts to pay \$65,000 up-front with the remaining
5 amount paid in three quarterly installments. Mr. Roberts agreed to the terms and signed the
6 note; however, he has not yet signed a Water and Wastewater Service Agreement with the
7 District that he agreed to enter into. This agreement states that if Mercury Car Wash exceeds
8 its available allotment of 21.69 ERUs it will obtain additional water resources from Commerce
9 City to address the deficit.

10
11 Mr. Roberts feels that the rate structure is higher than anywhere else in the metro area and he
12 also feels that although he submitted documentation of the effectiveness of the reclaim system
13 he installed, that the tap fees went up another \$60,000 from the first quote.

14
15 Mr. Pennington stated that there was an error in calculating the number of ERUs that resulted in
16 the \$60,000 increase. Mr. Roberts stated that regardless of that error, the calculations that the
17 District uses to determine the value of an ERU results in very high water fees, higher than
18 anywhere else he has established a car wash.

19
20 Mr. Beaton stated that he believes a solution might be that if Mr. Roberts can indeed provide
21 proof over a period of time that the usage is less than what was used to calculate the fees, and
22 that the recycle system can sustain the reduction rate during extended high usage, the District
23 would be willing to reduce the fees appropriately. This language could be incorporated in the
24 Service Agreement if the Board agreed.

25
26 Mr. Beaton also pointed out that this car wash is located in Belle Creek and the ERUs for this
27 project were grandfathered in under the General Services Agreement (GSA). The second
28 carwash that Mr. Roberts intends to build will require the purchase of PV ERUs from
29 Commerce City. The usage established from the Belle Creek operation will have a significant
30 impact on the calculation for the amount of water that the will need to purchased from
31 Commerce City.

32
33 After further discussions, President Benallo called for a motion on the matter.

1 Board Members Stevenson and Ford moved and seconded to have Mr. Beaton and staff work
2 with Mr. Roberts to establish appropriate language within the Service Agreement that would
3 provide for some relief in the tap fees that were imposed upon demonstrable evidence that the
4 water usage at the Belle Creek car wash facility achieved the 80% reduction. Motion passed
5 unanimously.

6

7 John Yelenick

8 Mr. Yelenick of 9982 E. 112th Avenue and representing the Reisbeck Subdivision stated that
9 this property was included in the District in the early 1980s and presented his request for a tap
10 to serve a farm office at this location. Mr. Beaton reminded the Board that Mr. Yelenick has
11 been in front of the Board on other occasions most recently when the Board approved a water
12 tap for the Hayes, Bell and Murray properties. Mr. Yelenick was advised at that time that there
13 would be a moratorium on any future requests for service wherein there were extenuating
14 circumstances until a joint committee was established between the District and Commerce City
15 to determine how to proceed with determining the criteria on which to proceed on these types
16 of service requests.

17

18 Mr. Beaton stated that the first Committee Meeting has been set for February 28th to take up
19 these types of matters and that Mr. Yelenick's request indicated that the original Army tap was
20 going to be used for commercial purposes as opposed to residential use for which the Army
21 taps were provided. Additional information has been submitted by Mr. Yelenick that indicates
22 a request for an additional tap. The Committee will review this information in consideration of
23 Mr. Yelenick's service request.

24

25 **Water System Manager's Status Report**

26 **Approval – Muller Engineering Contract Amendment – Irrigation Wells #85, #93, and #88**

27 Mr. Bauers provided an update for this project stating that the Board awarded the contract to
28 Clemons Construction last month and construction has begun. Mr. Bauers stated that Muller
29 Engineer has submitted an engineering services contract for the construction phase of this
30 project in an amount not to exceed \$75,000 for which Mr. Bauers recommends Board approval.

31

32 President Benallo called for a motion on the proposed contract.

33

1 Board Members Ford and Smith moved and seconded to approve the Amendment to the Muller
2 Engineering contract to cover the construction phase of the project in an amount not-to-exceed
3 \$75,000. Motion passed unanimously.
4

5 **Well #96 Site Improvements, Installation and System Connection Project**

6 Mr. Bauers explained that this well site, located on the west side of Highway 85 near the Dunes
7 Subdivision, was recently acquired by the District. However, the acquisition took longer than
8 anticipated and it is questionable as to whether it will be on line in time to provide much
9 assistance in the 2007 irrigation season and is critical to the irrigation demand in the River Run,
10 Dunes, Stillwater and Belle Creek subdivisions until a reservoir is available to provide storage.
11 Dreilling Drilling is performing irrigation well installations for the District and is currently
12 working on Well #93 just across the highway from his site. The District requested a bid from
13 Dreilling for Well #96, and they submitted a bid for \$42,505.50 which utilized the same unit
14 prices presented in their winning bid for the installation of Wells #85 and #93 approved late last
15 fall.
16

17 Mr. Bauers stated that because of the urgency to attempt to bring this well on line, he is
18 requesting the Board consider awarding this additional project as a Change Order to the current
19 Dreilling Drilling contract; and approve the Muller Engineering Design Contract for this project
20 in an amount not-to-exceed \$48,000.
21

22 President Benallo called for a motion on the proposals as presented.
23

24 Board Members Stevenson and Smith moved and seconded to approve the Change Order to the
25 existing Dreilling Drilling irrigation well installation contract for the installation of Well #96 in
26 an amount not-to-exceed \$42,505.50. Motion passed unanimously.
27

28 Board Members Stevenson and Smith moved and seconded to approve the Muller Engineering
29 Design contract to cover the design and bidding phase of the project to complete the well site in
30 an amount not-to-exceed \$48,000. Motion passed unanimously.
31

32 **Update - Andesite Rock Company Water Resources Agreement**

33 Mr. Bauers stated that the Andesite rock facility, located next to the Flea Market at 88th and
34 Rosemary has asked for a renewal of a long-term lease for the use of the well on their property.

1 Their current long-term lease expires in September 2007 and they are requesting a 25-year
2 extension.

3

4 Mr. Bauers explained that their usage is not minor, 27AF per year, and precedent does not
5 allow the District to renew this lease nor allow for that much water to be withdrawn from the
6 water budget. Their usage is purely industrial, and a single existing well currently supplies
7 their needs. Connection to the District's system under the terms of the Rules and Regulations
8 as they stand now is cost prohibitive to Andesite, and staff recognizes the unique situation.

9

10 Mr. Bauers explained that L.G. Everist and District staffs are working on a resolution that
11 would essentially establish a special rate and tap fee for this site. Mr. Bauers reviewed the
12 current draft of the Water Resources Agreement that essentially establishes a Raw Water Rate,
13 as the Andesite usage is neither Potable nor Irrigation, and would not require conveyance or
14 treatment within our system at all. The Tap Fee will be to cover the costs of adjudication of an
15 additional well into our augmentation plan. The Water Resources Agreement with L.G. Everist
16 requires that they dedicate to the District 27AF of augmentation water, and in exchange we
17 would account for the well usage in our system and handle the legal and reporting efforts of
18 properly augmenting their usage, and they would remain responsible for all delivery,
19 maintenance and well operation issues internally.

20

21 Mr. Bauers stated that the anticipate Tap Fee to be in the neighborhood of \$30,000 and the Raw
22 Water Rate to be about 50% of the Potable rate. These exceptions are only being considered
23 because of the location of the well, the prior existence of the infrastructure, the raw industrial
24 usage demand type. Staff will attempt to finalize the details and enter into the Water Resources
25 Agreement before the end of the year.

26

27 Mr. Beaton stated that generally, run-of-the-mill Water Resource Agreements are dealt with at
28 a staff level, but when there are deviations from the norm staff will bring them to the Board as
29 an information item for review and Board action if required.

30

31 **Update – Phase IV Water Supply**

32 Mr. Bauers explained that this topic would be taken up in an Executive Session to provide
33 Legal Advice.

1 **Finance/Administration Manager's Status Report**

2 **Financial Statement – December 2006**

3 Mr. Lay provided a summary of the unaudited December 2006 Financial Statement:

- 4
- 5 • The working capital ratio (current assets divided by current liabilities) is 2.08. The
- 6 working capital ratio at this time last year was 3.65. It is important to note that the 4th
- 7 quarter 2006 restricted reimbursement transfer has not been reflected on the current
- 8 statements.
- 9
- 10 • 98.27% of the anticipated 2006 operating revenues had been received as of December
- 11 31, 2006. This time last year we had received 99.85% of anticipated revenues.
- 12
- 13 • 89.77% of budgeted operating expenditures had been expended as of December 31,
- 14 2006. This time last year we had expended 96.39% of budgeted operating expenditures.
- 15
- 16 • Cumulative net income (loss) to date is as follows:

17

18	Eleven months ending Nov. 30, 2006	\$22,800,473
19	Month of December	<u>30,797,314</u>
20	TOTAL NET INCOME (LOSS)	<u>\$ 7,996,841</u>

21

22 At December 31, 2006, the water segment showed net operating income of \$283,440

23 and the sanitation segment a showed net operating income of \$786,154.

24

- 25 • For the twelve months ending December 31, 2005 consumption totaled 2,892,770,000
- 26 gallons, an increase from fiscal year 2005 of 486,754,000 gallons.
- 27

28 **Approval – Audit Engagement Letter**

29 Mr. Lay stated that Clifton Gunderson began interim field work for the 2006 audit on

30 January 9, 2007. Audit field work will begin the first week of March and will continue for

31 about three weeks.

32

33 Mr. Lay is requesting Board approval of the Engagement Letter with Clifton Gunderson, LLC

34 to contractually approve 2006 audit services in a contract not-to-exceed amount of \$36,400.

35

36 President Benallo called for a motion on the proposed contract.

37

38 Board Members Stevenson and Smith moved and seconded to approve the Engagement Letter

39 with Clifton Gunderson, LLC for 2006 audit services in an contract not-to-exceed amount of

40 \$36,400. Motion passed unanimously.

41

1 **Update - Commerce City Use Tax/Water Taps Final Accounting**

2 Mr. Lay stated that District and Commerce City staff met in January to discuss alternatives for
3 repayment of funds due the District per the May 11, 2005 Intergovernmental Agreement (IGA)
4 between the two entities. The May 11, 2005 IGA essentially terminated the 1998 IGA
5 regarding Sales and Use Taxes and Fees, and directed the financial officers for the parties to
6 balance and resolve credits and fees.

7
8 Mr. Lay stated that the District and the City have not yet come to a conclusion due to
9 differences in the final accounting approaches of both entities specifically the issue of the
10 Conter Estate tap fees for Pioneer Park that District Staff believes should be included in the
11 final accounting.

12
13 Mr. Fabisiak stated that Staff is putting together a cash flow model that will include capital
14 projects and looking at the potential of earmarking certain projects for which Commerce City
15 would exempt future use taxes in order to reach the settlement on this Agreement. This is one
16 more step that staff needs to go through. Mr. Fabisiak wasn't sure if at this point the Board
17 needs to take any action or give further direction. But at some point, the Board will need to
18 make a decision as to whether the full amount should be collected that was identified by
19 District Staff and disputed by Commerce City. Mr. Fabisiak stated that neither the City nor the
20 District staffs are entrenched in their respective positions at this point.

21
22 Board Member Stevenson suggested that if the City and the District are in disagreement
23 regarding their respective positions, maybe the Boards should engage in a study session to
24 discuss the issues.

25
26 Mr. Acre stated that he feels that this issue is still being discussed at a staff level as each entity
27 is collecting additional information and developing ideas for finding common ground. Mr.
28 Acre hopes that they can find a viable solution to bring to their respective agencies shortly.

29
30 The Board directed staff to continue to work with the City in an attempt to come to a mutually
31 acceptable agreement to resolve the credits and fees.

1 **Credit Card Limits**

2 Mr. Lay presented information regarding the District's credit card limits for each individual that
3 was issued a card and explained the controls that are in place regarding use.

4
5 Board Member Stevenson stated that she was happy to see the limits that are on the District's
6 credit cards and felt they were appropriate, and that policies and controls for use are in place.

7
8 **Update – Collection Policy Notice**

9 Mr. Lay informed the Board that the District's collection policies will now be printed on the
10 back of all bills sent to customers every month.

11
12 In response to Board Members' questions regarding recent the billing errors due to an error in
13 an estimating calculation, Mr. Lay stated that the inadvertent mistake was unfortunate and that
14 he and Staff are working with the customers who were affected to make the necessary billing
15 adjustments to correct the errors. Board Member Ford stated that he was concerned that
16 Channel 4 News was made aware of the billing problems and came to the District, and that the
17 Board Members weren't informed. Mr. Fabisiak assured the Board that staff worked diligently
18 to assure customers that their bills would be adjusted appropriately and that information was
19 conveyed to the news media.

20
21 **Recess**

22 At 8:18 PM, President Benallo called for a short Recess.

23
24 **Reconvene**

25 At 8:30 PM, President Benallo called the Meeting back to order.

26
27 **Wastewater Systems Manager's Monthly Status Report**

28 **56th & Holly Lift Station Expansion Agreement for Engineering Services**

29 Mr. Grebenc stated that this project was included in the 2007 Budget to address the wastewater
30 flows that are increasing as more businesses are moving into this area. Black and Veatch
31 submitted a not-to-exceed \$107,778.00 Engineering Contract for permitting, design and
32 construction for this project.

33

1 President Benallo called for a motion on the engineering contract.

2
3 Board Members Ford and Stevenson moved and seconded to approve the Black and Veatch
4 Engineering Services contract for the 56th & Holly Lift Station Expansion project in an amount
5 not-to-exceed \$107,778.00. Motion passed unanimously.
6

7 **MBBR nitrification Testing and Analysis Project**

8 Mr. Grebenc stated that the MBBR basin was constructed during the 2003 Wastewater
9 Treatment Plant expansion project, and since that time the District has found these units to be
10 very efficient at treating wastewater. New discharge limits are on the horizon and the District
11 needs to find out if there is a possibility of enhancing the performance of the MBBR to meet
12 these upcoming needs. Black and Veatch submitted a contract in a not-to-exceed amount of
13 \$49,971 to perform the analysis.
14

15 President Benallo called for a motion on the contract.
16

17 Board Members Smith and Allen moved and seconded to approve the Black and Veatch
18 contract for the MBBR Nitrification Test and Analysis Project in a not-to-exceed amount of
19 \$49,971. Motion passed unanimously.
20

21 **Distribution/Collection Manager's Monthly Report**

22 **12-Inch Water Line Looping South of Sand Creek – Phase 2 Project**

23 Mr. Pennington stated that \$600,000 was included in the 2007 Budget for this project. Phase 2
24 design work is complete, approved by Denver Water, and advertised for bid. Eleven bids were
25 received and the low bidder was T. Lowell in the amount of \$298,000 which is well below the
26 engineer's estimate. Mr. Pennington stated that Phase 1 of this project began last year, and due
27 to unforeseen circumstances in December, this phase of the project did not get completed with
28 approximately \$200,000 of work remaining. The \$600,000 amount that was budgeted in the
29 2007 Budget for Phase 2 is more than adequate to complete Phase 1 and Phase 2. Staff is
30 therefore recommending that the Board award the contract to T. Lowell.
31

32 Additionally, Muller Engineering has submitted an engineering contract for this project in an
33 amount not-to-exceed \$45,000 for Board approval.

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President Benallo called for a motion on both recommendations.

Board Members Stevenson and Ford moved and seconded to award the contract for the 12-Inch Water Line Looping south of Sand Creek – Phase 2 Project to T. Lowell in the amount of \$298,000. Motion passed unanimously.

Board Members Stevenson and Smith moved and seconded to approve the Muller Engineering contract for the 12-Inch Water Line Looping south of Sand Creek – Phase 2 Project in the not-to-exceed amount of \$45,200. Motion passed unanimously.

Legal Counsel General Matters/Legal Status Report

Mr. Beaton reported that there is an issue regarding the HR Report that he will advise the Board on during a short briefing in Executive Session. Mr. Beaton will also advise the Board regarding a proposed water project at the same time.

Public Hearing – Griff Bell Inclusion Petition

Mr. Beaton stated that notice of public hearing was advertised for the Griff Bell Inclusion Petition for property located at 9985 E. 104th Ave. and asked the Board to convene the public hearing to consider the matter. Mr. Beaton reminded the Board that Mr. Bell’s service request was approved last month, but in order to implement the request, Mr. Bell’s property would need to be included into the District.

Board Members Stevenson and Ford moved and seconded to open a public hearing to consider this inclusion petition. Motion passed unanimously.

President Benallo opened the public hearing and called for public comments.

Mr. Beaton stated that the City of Commerce City has submitted a letter to the Board objecting to this inclusion petition on the basis that it violates the 2004 IGA Agreement between the District and the City of Commerce City. Mr. Acre stated that he had no further comment and that the letter speaks for itself.

1 With not further comments, President Benallo closed the public hearing and called for a
2 motion.

3
4 Board Members Ford and Stevenson moved and seconded to approve the Inclusion Petition for
5 the property located at 9985 E. 104th Ave. and owned by Griff Bell. Motion passed 4-1 with
6 Board Member Allen voting nay.

7
8 **Set Date for Study Session – District’s By-Laws**

9 Mr. Beaton stated that there is new language that he will incorporate into the Draft By-Laws
10 and have them ready for Board Discussion at a Study Session proposed for early March. The
11 Board set a Study Session for Tuesday, March 6, 2007 at 4PM to discuss the Draft By-Laws.

12
13 **Proposed Purchase of Land - Rocky Mountain Speedway (ISC) and The Spanos Corporation/
14 Craig Ranch Golf Course LLC**

15 Mr. Beaton explained that Craig Ranch is the owner of land located in the District which is
16 under contract to RMSC and the Spanos and is asking the Board to approve an amendment to
17 their current obligation under the Original Agreement and the Revised Agreement (FRICO Plan
18 B) which permits the purchasers (ISC and Spanos) to receive notice of the deadlines for FRICO
19 payment this fall, and that they also be considered qualified FRICO participants upon closing.
20 The proposed amended states:

- 21 1. The District approves in advance transfers of Seller’s entire contractual interest under
22 the Revised Agreement to the contract Purchasers.
- 23 2. The District finds each of contract purchasers to be financially solvent transferees as
24 required in subparagraph (b), above.
- 25 3. The District shall provide notice to and accept payments made for the annual
26 Installment and option Payments as required in paragraph 2.6(c) from the seller and/or
27 Contract Purchasers, as determined by the parties.
- 28 4. If either of the contract Purchasers does not close on its purchase of Seller’s land and
29 contractual interest in this Revised Agreement, that contract Purchaser interests under
30 this Revised Agreement shall terminate and that Contract Purchaser shall not have any
31 rights or obligations hereunder.

32
33 Mr. Beaton recommends approve of the terms of this proposed amendment and stated that Ms.
34 Snyder, the attorney representing Spanos, was present if the Board had any questions.

1 President Benallo called for a motion on the proposed amendment.

2
3 Board Members Stevenson and Ford moved and seconded to approve the terms of the
4 amendment as presented which permits the purchasers (ISC and Spanos) to receive notice of
5 the deadlines for FRICO payment this fall, and that they also be considered qualified FRICO
6 participants upon closing. Motion passed unanimously.

7
8 **Approval – Contract for Purchase of Fulton Irrigation Ditch Company Stock**

9 Mr. Beaton stated that additional shares in the Fulton Ditch have been identified as a source of
10 additional water for the Prairie Gateway project, and he has prepared a proposed contract to
11 purchase these shares, contingent upon Commerce City providing the funds to buy them. Mr.
12 Beaton stated that the Sellers are agreeable subject to their attorney's review and asked the
13 Board to consider approval of the Contract contingent upon confirmation that the Sellers have
14 consented to the Agreement.

15
16 President Benallo called for a motion on the proposed contract.

17
18 Board Members Smith and Allen moved and seconded to approve the Contract for Purchase of
19 Fulton Irrigation Ditch Company Stock contingent upon receiving the exact credit to be
20 provided by Commerce City. Motion passed unanimously.

21
22 **Approval – Filing Statements of Opposition**

23 Mr. Beaton explained that there are seven new water court applications or which he
24 recommends that the District file Statements of Opposition.

25
26 President Benallo called for a motion on the proposed statements of Opposition.

27
28 Board Members Stevenson and Ford moved and seconded to have Legal Counsel file
29 Statements of Opposition for

- 30 ➤ The Lost Creek Designated ground water case formerly known as 2006CW256;
31 ➤ Case No. 2006CW274;
32 ➤ Case No. 2006CW288;
33 ➤ Case No. 2006CW291;
34 ➤ Case No. 2006CW292;

1 ➤ Case No. 2006CW297; and

2 ➤ Case No. 2006CW298.

3 Motion passed unanimously.

4

5 **General Manager's Report**

6 **Proposed Interim Service to Adams Crossing/Adams County Government Center**

7 Mr. Fabisiak stated that he met with Jim Robinson, Adams County Administrator; John
8 Bramble, Brighton City Manager; Greg Clements, Commerce City Acting Manager; and Craig
9 Carlson of Carlson Parkhill, LLC. Carlson Parkhill is the developer of the planned Adams
10 Crossing/Adams County Government Center to be located at E 124th Avenue and Sable
11 Boulevard. The purpose of this meeting was to discuss the prospect for provision of interim
12 water and sewer services by the District to the first phase of this development located in the
13 Brighton service area. Construction is tentatively slated to begin in 2009. This schedule will
14 outpace the ability of the General Improvement District (GID) to find the ultimate
15 infrastructure needed for provision of water and sewer services by Brighton. A proposal was
16 suggested whereby certain properties within the development would fund the interim
17 infrastructure.

18

19 Mr. Fabisiak stated that there are many issues that would need to be considered including
20 agreements that are already in place with Commerce City, Adams County and Brighton, as well
21 as the impact to the District's customers. Mr. Fabisiak stated that this is in the very preliminary
22 phases of discussions, and asked if the Board is willing to provide staff with direction to
23 proceed with more in-depth discussion of the interim service proposal.

24

25 After discussion, the Board directed Mr. Fabisiak to continue with discussions.

26

27 **Other Business**

28 **Supplemental Appropriation**

29 Mr. Lay stated that a supplemental appropriation will be required to account for the June 2006
30 dedication of the Prospect Valley water rights to the District valued at approximately \$20M,
31 and informed the Board that Public Notice is required for this action. The appropriation is
32 considered a contribution by a developer to the project and the auditors recommend this type of

1 technical amendment to the Budget by Resolution which will be present to the Board at the
2 March meeting.

3
4 President Benallo called for a motion on the request.

5
6 Board Members Smith and Allen moved and seconded to approve staff publishing notice for
7 the supplemental appropriation. Motion passed unanimously.

8 9 **Approval of Bills**

10 President Benallo called for a motion to approve the List of Bills as presented.

11
12 Board Members Stevenson and Ford moved and seconded to approve the Bills as presented.
13 Motion passed unanimously.

14 15 **Consent Agenda**

16 Acting Chairman Allen called for a motion to approve the Consent Agenda as follows:

- 17 ➤ Pay Application No. 11 to Jennison Construction in the amount of \$131,849.60;
- 18 ➤ Final Pay Application to AUI for Phase II in the amount of 14,898.00;
- 19 ➤ Pay Application No. 1 to AUI for Phase III in the amount of \$66,955.00;
- 20 ➤ Approve Black & Veatch Assessment Phase contract for 2007 Wastewater Collection
- 21 System Rehab Project in an amount not-to-exceed \$48,654;
- 22 ➤ Approve Black & Veatch contract for 2007 Wastewater Facilities Design &
- 23 Construction Standards Update Project in an amount not-to-exceed \$9,900;
- 24 ➤ Approve Black & Veatch Contract for 2007 Wastewater Collection System Flow
- 25 Monitoring Project in an amount not-to-exceed \$8,007.

26
27 Board Members Smith and Allen moved and seconded to approve the Consent Agenda as
28 presented. Motion passed unanimously.

29 30 **Board Comments**

31 In response to Board Member Stevenson's inquiry regarding the status of employee raises, Mr.
32 Fabisiak stated that Ms. Lona is about half way through the HR reviews.

33

1 **Executive Session**

2 Mr. Beaton advised the Board that it would be appropriate at this time to have the Board move
3 into Executive Session for the purpose of receiving legal advise on two issues, the HR Report
4 and a new water supply project, as provided for under CRS 24-6-402(4)(b).

5
6 President Benallo called for a motion.

7
8 At 9:12 PM, Board Members Smith and Stevenson moved and seconded to move into an
9 Executive Session as proposed by legal counsel. Motion passed unanimously.

10

11 **Reconvene**

12 At 9:47 PM, President Benallo called the Regular Board Meeting to order.

13

14 Mr. Beaton stated that there have been two open records requests for the HR Report. Mr.
15 Beaton stated that it is the belief of the District's Legal Counsel that this report is confidential
16 as part of the deliberative process, and also involves personnel matters and attorney client work
17 product. Therefore, it is Counsel's recommendation that the District take this position with
18 respect to the Public Records Requests and that the District file a declaratory complaint and
19 judgment action with the Adams County District Court to have the Court decide whether the
20 report is confidential under Colorado Law.

21

22 Board Members Steven and Smith moved and seconded to seek a judgment from the Adams
23 County District Court regarding the confidentiality of the HR Report as presented by Legal
24 Counsel. By Roll Call Vote the motion passed 4-1 with Board Member Ford voting Nay.


25

26 **Adjourn**

27 With no further business before the Board, President Benallo adjourned the meeting at
28 9:48 PM.

29

30 **Respectfully Submitted,**

31 
32 **James Allen**
33 **Secretary**