

**MINUTES OF THE REGULAR MEETING OF THE LOWER FOUNTAIN
METROPOLITAN SEWAGE DISPOSAL DISTRICT BOARD OF DIRECTORS**

December 13, 2023

Opening:

Dr. Durbin called the regular meeting of the Board of Directors of the Lower Fountain Metropolitan Sewage Disposal District (LFMSDD) to order at 6:00 p.m. on December 13, 2023.

Directors Present:

Dr. Durbin
Mrs. Bandfield *via telephone*
Mr. Christian
Mr. Blankenship

Also in Attendance:

District Manager Jim Heckman
Asst. District Manager Jonathan Moore
District Administrator Cindy Murray

Guests in Attendance: Larry Holtz, FSD representative, Tara Kelley, CSU representative (*via telephone*), Joseph Rasmussen and Justin Fecteau, CSU

A. Approval of Minutes:

1. Mr. Christian made a motion to approve the regular meeting minutes of November 8, 2023. Second by Mr. Blankenship. Motion carried.

B. Approval of Bills

1. Mr. Christian made a motion to approve the November bills for payment. Seconded by Mr. Blankenship. Motion carried.

Note The Board reviewed the financial statements for November 2023 with no comments or questions.

C. Special Business-

1. Mr. Fecteau and Mr. Rasmussen representing Colorado Springs Utilities (Utilities) attended the meeting to request consent of the Board to construct a competing system project that will be used to convey wastewater from properties within the District boundaries. The proposed project consisting of a lift station and force main (“the competing system”) would be developed and constructed at Utilities sole cost and expense. The proposed competing system will convey wastewater from current properties within the District boundaries to the Utilities’ Las Vegas Street Water Resource Recovery Facility (“LVSWRRF”). The requested construction requires the Board’s acknowledgement and consent pursuant to Section 304 of the Sewage Treatment and Disposal Agreement (the “Agreement”) and C.R.S. §32-44-501 *et seq.*, (the “Act”). The Project would be located at the north end of the District’s inclusion boundary, and the flows to be conveyed through the competing system would come from an area not currently developed. As such, wastewater is not currently being collected from this area and is not currently being conveyed to a District facility (Harold D. Thompson WWTF) for treatment.

Under Section 304 of the Agreement, the District may consent to Acquisition or Improvement of a competing system and may approve the plans and specifications if the Lower Fountain Sewage Disposal District Board (the “Board) determines in writing that:

- A. it is not economically feasible for the District to furnish the desired treatment or disposal, *and*
- B. the Acquisition or Improvement of such facilities or system by the Member Municipality or Connecting Corporation or by any other Person within its boundaries will not materially impair the security for payment of District Securities or other obligations, *and*
- C. it is not inequitable or unreasonable for the District to grant such consent and approval, pursuant to §§32-4-506, 32-4-513, 32-4-516, and 32-4-538 of the Act, *and*
- D. the plans and specifications for the proposed competing system are acceptable to the District.”

Utilities is requesting written consent from the District to the construction of the competing system pursuant to Section 304 of the Agreement. Utilities interprets the Act as requiring that Utilities receive written consent from the District for this type of competing system. *See* C.R.S. § 32-4-538. The language of the statute indicates that consent from the Board on behalf of the District is adequate to allow Utilities to construct the proposed competing system.

Utilities cannot speak to whether it is economically feasible for the District to provide service to this area or to whether the proposed lift station and force main will materially impair the security for payment of District Securities. Utilities believes that approval of this infrastructure would be equitable and reasonable pursuant to §§32-4-506, 32-4-513, 32-4-516, and 32-4-538 of the Act, because the new lift station and force main would not compete with the District’s wastewater system.

Utilities anticipates conceptual design for the lift station and force main to be ready in the third quarter of 2024 and final plans and specifications to be completed in 2025. Utilities would like to understand the Board’s position on the project before it moves forward with procuring final plans and specifications, because the costs associated with these activities are extensive. Preferably the Board

Discussion followed. Mr. Heckman stated that he spoke with Al Testa at Colorado Centre Metropolitan District and with his operations team and they could not come up with any items now or in the future that could negatively impact the District, CCMD and or FSD. Mr. Heckman is recommending the Board formally consent to the proposed competing system at the conceptual design phase subject to the condition that the District must agree final plans and specifications substantially conform to the presented conceptual design. Utilities further agree the District will be notified of any material changes, any further projects, etc. and such changes, further projects will be subject to the review and approval of the District.to the construction of a competing system by Utilities. Mr. Christian made a motion to approve Utilities request to move forward with construction of a competing system as stated. Second by Mr. Blankenship. Motion carried.

2. Dr. Durbin opened the meeting for public comment on the 2024 Proposed Budget. Mr. Heckman stated that the year end actual numbers have been adjusted to reflected anticipated expenses. He has spoke with Al Testa and Mr. Testa has no issues with the 3% cost increase for Operational requirements. Staff believes the 2024 budget will provide for

the necessary operational and capital funding needs to provide the level of services required. With no public comment or questions or concerns from the Board of Directors, Dr. Durbin closed the meeting for public comment.

3. Mr. Christian made a motion to approve Resolution No. LF2023-01, Appropriate Sums of Money for the 2024 Proposed Budget. Second by Mr. Blankenship. Motion carried.
4. Mr. Christian made a motion to approve Resolution No. LF2023-02, Resolution to adopt the 2024 Proposed Budget. Second by Mr. Blankenship. Motion carried.
5. Mr. Heckman presented the Board with Resolution No. LF2023-03, Regular Meeting Date/Time Designation. He stated this would move the Regular meetings of the Board of Directors to the 2nd Thursday of each month at 5:00 p.m. Mrs. Bandfield stated that she does not get off work until 5pm and would not be able to get to the meetings in time. Discussion followed. Mr. Heckman requested that the Board approve Resolution LF2023-03 as presented and then he will figure out the new time. Mr. Blankenship made a motion to approve Resolution No. LF2023-03, Regular Meeting Date/Time Designation as presented. Second by Mr. Christian. Motion carried.
6. Mr. Christian made a motion to approve Resolution No. LF2023-04, Posting for Meetings. Mr. Heckman stated that the designated posting locations remain unchanged, which are the Fountain Sanitation District's Administration Offices, Colorado Centre Metropolitan District offices and the Fountain Sanitation District's website. Second by Mr. Blankenship. Motion carried.
7. Mr. Christian made a motion to approve the Notice of Public Meetings for scheduled meeting dates in 2024. Mr. Heckman stated that there are no conflicting holiday dates and the designated posting locations remain unchanged, which are the Fountain Sanitation District's Administration Offices, Colorado Centre Metropolitan District offices and the Fountain Sanitation District's website. Second by Mrs. Bandfield. Motion carried.

D. General Business

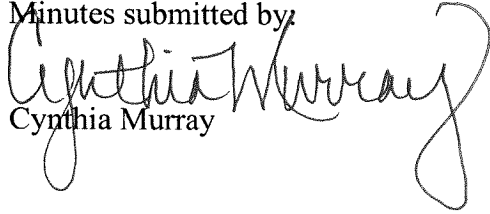
1. Legal Report – The written report of the District's environmental legal counsel, Ms. Connie King, was previously distributed to the Board of Directors. The Board had no questions or comments.
2. Mr. Heckman reported on the BNR curtain replacement. They are in the process of repairing it. He will keep the Board updated.

E. Other Business – None

Adjournment:

1. Mrs. Bandfield made a motion to adjourn the meeting at 6:43.m. Second by Mr. Blankenship. Motion carried. The next regular meeting will be at 5:00 p.m. on January 11, 2024.

Minutes submitted by

A handwritten signature in black ink, appearing to read "Cynthia Murray". The signature is written in a cursive style with a large, looping "M" at the end.

Cynthia Murray