

**MINUTES OF THE REGULAR MEETING OF THE BOARD OF WATER AND SEWER COMMISSIONERS NOVEMBER 18, 2021, AT 8:30 A.M., IN THE PLANNING ROOM AT THE MUNICIPAL BUILDING, 101 N. HALAGUENO STREET, CARLSBAD, NM**

<b>VOTING MEMBERS PRESENT:</b>	<b>Craig Stephens</b>	<b>Chairman</b>
	<b>John Bowen</b>	<b>Member (left at 9:08)</b>
	<b>Fred Beard</b>	<b>Member</b>
	<b>Dennis Miehl</b>	<b>Member</b>
	<b>Gary Perkowski</b>	<b>Member (left at 9:15)</b>

**VOTING MEMBERS ABSENT:**

<b>EX-OFFICIO MEMBERS PRESENT:</b>	<b>Eddie Rodriguez</b>	<b>Ex-Officio/Mayor Pro-Tem/Member</b>
	<b>John Lowe</b>	<b>Ex-Officio/City Administrator/Secretary</b>

**EX-OFFICIO MEMBERS ABSENT:**

<b>OTHERS PRESENT:</b>	<b>KC Cass</b>	<b>Deputy City Administrator</b>
	<b>Ron Myers</b>	<b>Director of Utilities</b>
	<b>Melissa Salcido</b>	<b>Director of Finance</b>
	<b>Wes Nichols</b>	<b>Deputy Director of Utilities</b>
	<b>Joe Harvey</b>	<b>WWTP Superintendent</b>
	<b>Denise Madrid Boyea</b>	<b>City Attorney</b>
	<b>Olga Ramirez</b>	<b>Assistant to City Administrator</b>
	<b>Maria O'Brien</b>	<b>Modrall Sperling</b>
	<b>Daniel Arrington</b>	<b>Citizen</b>
	<b>Mrs. Arrington</b>	<b>Citizen</b>

**1. Roll Call and Determination of a quorum**

C. Stephens called roll and it was determined that there was a quorum of voting members.

**2. Approval of Agenda**

The motion was made by G. Perkowski and seconded by D. Miehl to approve the Agenda. The vote was as follows, Yes: C. Stephens, D. Miehl, J. Bowen, G. Perkowski, F. Beard No: None. Absent: None. The motion passed.

**3. Approval of Minutes of the Board of Water and Sewer Commissioners Regular Meeting held September 16, 2021**

The motion was made by G. Perkowski and seconded by J. Bowen to approve the minutes of the September 16, 2021 regular board meeting. The vote was as follows, Yes: C. Stephens, D. Miehl, J. Bowen, F. Beard, G. Perkowski. No: None. Absent: None. The motion passed.

**4. Consider Approval of Request from Jimmy Fuson for Outside City Limits Water Service for properties located at 1614 Standpipe Road, 1614B Standpipe Road, 1702 Standpipe Road and 1704 Standpipe Road**

Councilor Rodriguez stated for the record, the company he works for owns this property. R. Myers told the board the applicant was not present, he believes they are looking at other options.

The motion was made by G. Perkowski and seconded by F. Beard to table this item. The vote was as follows, Yes: C. Stephens, D. Miehl, J. Bowen, G. Perkowski, F. Beard. No: None. Absent: None. The motion passed.

**5. Consider Approval of Request from Daniel Arrington for Outside City Limits Water Service for three lots located near 2002 Mission Avenue**

Mrs. Arrington stated they just purchased the property and are wanting to put a couple of houses on the 3-acre lots. The Arrington's would like to put some water meters to service the properties.

R. Myers reported to the board the waterline ends about 300 feet from this property. The Arrington's would have to extend the waterline to the property and then if approved the city would install the meters. R. Myers stated the applicant would still have to cross the CID to install the meters.

G. Perkowski asked if they had already contacted the CID. Mr. Arrington stated they had, everything is good with them. C. Stephens asked for clarification of where the property was located. F. Beard asked if city staff was good with this request. R. Myers stated he was good with whatever decision the Board made. G. Perkowski asked if this was part of the La Huerta waterline. R. Myers responded the end of the waterline is part of La Huerta; this particular property is outside the La Huerta District.

J. Lowe mentioned to the board, they have three lots and they are requesting three meters. They will only get service for their residence, if they sell one of the lots that water service does not go with the new owners. The new property owners would have to come before the board to request water service.

J. Bowen asked if they were planning to sell any of the property. Mr. Arrington responded that is the plan, but further in the future. C. Stephens asked if they understood that if the property changed ownership, the new owner would be required to come in and request water service for their property. Mr. Arrington asked so there is no assurance they would have water service for all three properties. C. Stephens stated no sir.

M. Salcido stated with the new Munis system, the finance department could put a note in the system if someone other than the Arrington's requested water service for any of the properties.

G. Perkowski asked about extending and exchanging the boundaries to La Huerta District. R. Myers stated that is something worth considering. F. Beard stated they are requesting to extend

the waterline and put one meter, and then put the waterline to the other properties without a meter. Mr. Arrington stated they would ask for approval for the other meters later. J. Lowe mentioned the city would not extend the waterline, if they want that service the Arrington's would be responsible.

The motion was made by G. Perkowski and seconded by D. Miehls to approve for one meter, and any additional meters they would be required to come back for approval. The vote was as follows, Yes: C. Stephens, D. Miehls, F. Beard, J. Bowen, G. Perkowski. No: None. Absent: None. The motion passed.

**6. Consider Approval of Renewal Agreement between the City of Carlsbad and Select Energy Services for the purchase of Effluent Wastewater**

J. Lowe introduced Maria O'Brien from Modrall Sperling Law Firm. J. Lowe gave the board a brief review of the 2016 Agreement. He stated in 2016 the city entered into an agreement with Gregory Rockhouse Ranch to purchase effluent water. In 2018, the city consented to give those rights from Gregory to Select Energy Services because Select purchased Gregory Rockhouse. During that time, the city amended the price. In the original 2016 agreement, the city has the right to extend the agreement for one additional five-year term. City Staff and Ms. O'Brien have been working with Select and they have agreed to the terms of the agreement.

M. O'Brien gave a brief overview of the agreement. She stated the city's effluent water is private water, unless the city cannot demonstrate any longer physical or control of custody of that water. Councilor Rodriguez asked for clarification, does loss of control mean not able to put to beneficial use. M. O'Brien stated not exactly, since its private water there is not a beneficial use requirement. She stated that in 2016 instead of overturning into the Pecos, in order to maximize the value of the effluent, the use of the effluent, the city entered into an agreement with Select.

D. Miehls asked is it permissible to enter into an agreement to make a profit. M. O'Brien stated yes, it is. The agreement establishes the mechanism of the city maintaining custody and control of the effluent as defined by the agreement.

M. O'Brien told the board besides the compensation another change in the renewal amendment is to add an alternative delivery point for Select. Select has the option of selecting where to take legal custody of effluent water. M. O'Brien stated the city does not have exclusive rights to Select, subject to prepaid 400 acre feet of effluent. It is the city's sole discretion as to what is available and/or potential to a third party. However, Select has the first right of refusal.

M. O'Brien said another amendment is the compensation has changed from 36.5¢ to 11¢ subject to renegotiation in January 2023. J. Lowe said it can't go higher than 36.5¢ or lower than 11¢. C. Stephens asked if there was a hold harmless language in the agreement. M. O'Brien stated yes. C. Stephens asked where in the agreement it states Select will reimbursement the city if any legal issues come up. M. O'Brien stated it is in there, this agreement incorporates all of the 2016 indemnifications.

The motion was made by F. Beard and seconded by D. Miehl. The vote was as follows, Yes: C. Stephens, D. Miehl, F. Beard, G. Perkowski No: None. Absent: J. Bowen. The motion passed.

**7. Consider Approval of Recommendation to Council for Approval of Agreement with Select Energy Services**

The motion was made by F. Beard and seconded by D. Miehl. The vote was as follows, Yes: C. Stephens, D. Miehl, F. Beard, G. Perkowski No: None. Absent: J. Bowen. The motion passed.

**8. Utilities Department Monthly Reports and Project Updates presented by Ron Myers**

R. Myers stated there was not too much to report; everything is just business as usual. Councilor Rodriguez asked how the new 5 million gallon tank was holding up. R. Myers stated it is doing good, it's a great addition to the city system.

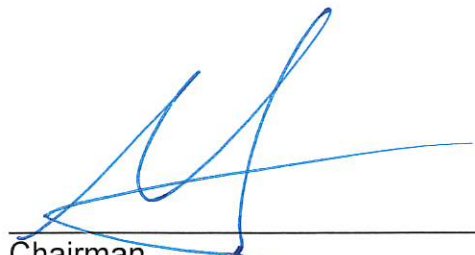
**9. Financial Reports presented by Melissa Salcido**

M. Salcido gave a summary of the September Financials. Revenues are unfavorable to the budget. This is mostly due to waiting on grant reimbursements. She stated the water rates were increased effective October 1<sup>st</sup>. Labor costs are favorable to the budget. Operating costs are favorable to the budget. Capital costs are favorable to the budget.

C. Stephens ask what big projects are planned for next year. R. Myers stated they have some big sewer projects down south, Derrick Road down to Old Cavern Highway; they just completed the Cherry Lane sewer project, Bataan Lift Station and a small project on Rose Street. He stated those are just a few.

**10. Adjourn**

The motion was made by D. Miehl and seconded by F. Beard to Adjourn. The vote was as follows, Yes: C. Stephens, D. Miehl, F. Beard No: None. Absent: J. Bowen, G. Perkowski. The motion passed.

  
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Chairman