

**MINUTES OF THE SPECIAL MEETING
OF THE BOARD OF DIRECTORS OF
GRANT WATER & SANITATION DISTRICT**

MARCH 28, 2022, at 9:00 a.m.

The special meeting of the Board of Directors of the Grant Water & Sanitation District was held on Monday, March 28, 2022, at the hour of 9:00 a.m., via Zoom conferencing. Directors present were Mike Cowan, Bruce Guard, Sam Garza, Eric Edwards, and Darren Bradshaw. Also attending were Justin Meeks, Judy Simonson, Nicki Simonson, Rebecca Hill, and Jennifer Bailey. Mr. Cowan presided.

1. Administrative Matters

a. Disclosure of Conflicts of Interest. There were no changes to the board member disclosures.

b. Open Forum. Monte Sudbeck, a new Board member effective in May was in attendance. John Kleinfelder, President of the Poppy Hills HOA Board and Poppy Hills Board member Pete Webb were also present. They expressed their concern regarding not only the outstanding repair issues from the previous construction within the Poppy Hills neighborhood, but concern for further road work and any associated impact. They communicated that the homeowners have been more than patient with damaged and open roads that have made driving difficult. The Board informed them that it has declined to wash windows on homes in the construction area but did listen to concerns and acknowledge them and is committed to addressing. Poppy Hills HOA Board asked for continued transparency from the District Board when a solution has been identified to remedy outstanding issues and bring the neighborhood back to a pre-

construction condition. The Board is committed to communicate and update the Poppy Hills community.

2. Engineering & Maintenance Matters.

i. 2021 Capital Improvement Projects (CIP). Mr. Cowan gave a brief history of the project and the current issues and why JBS was initially selected. Mr. Meeks then reported as follows: The JBS management team attended a meeting with the Surety and the District, but JBS was not prepared to present a plan to resolve the current defects. A deadline was set for JBS to provide a schedule and workable plan by end of day Friday, March 18, 2022. JBS did submit documentation, however, it was lacking information and didn't meet the District's expectations. JBS requested additional materials costs and were attempting to shift blame to the District. The District informed the Surety and JBS in writing that the District is declaring the contractor in default and that it would explore other options to get the project finished. In the meantime, the District will take the necessary steps with the Surety to call on the Performance Bond.

The District has reached out to Brannan Construction and C&L Water Solutions, both of which have current contracts with the District. Mr. Meeks met with C&L to walk the failed trench on Lamar Street and observed additional subsidence from when it was originally observed on March 8, 2022 and which is expected to continue to subside until it is fixed. They also walked through the Poppy Hills neighborhood to assess road damage and discuss the sag in the newly constructed line. C&L stated they were not comfortable repairing work completed by another contractor as the extent of repairs couldn't really be ascertained until the road was opened up. They were asked to provide a quote for the repair work prior to the Monday, March 28, 2022 Board meeting. No quote has been received as of the meeting time. Brannan Construction worked up a

basic cost and schedule but stated that further geotechnical studying needed to be done on suitable backfill materials and could change the cost of the original quote. Brannan stated they could keep a crew onsite and piggyback on the current 2022 capital improvement project they are working on in the District. The Board is confident in Brannan due to their familiarity with clay and moisture sensitive soils, the Board's satisfaction with past projects Brannan has completed for the District, and Brannan's history of standing behind their warranty. The San Marino neighborhood would be the priority with Poppy Hills being secondary. It was noted that if the District moves forward with Brannan, the original project budget will be exceeded, but at this point, the District is more concerned that the work be done quickly than minimizing short term costs. Fortunately the District's budget includes an emergency repairs contingency. A few items were not included in the Brannan estimate including fixing the fire lane in SW Health Park/Concordia and possible irrigation damage from the original construction. It won't be known if any irrigation systems were damaged until late spring. Justin also noted that there was a concrete cross pan that needs to be reinstalled at the Cross Drive location and concrete repairs in Poppy Hills including a driveway that was damaged by a JBS vehicle during the original construction. There will be additional Change Orders to include the additional items once Brannan finishes the more critical repairs on Lamar Lane and Poppy Hills.

Ms. Bailey summarized the current legal situation. When she notified JBS and the Surety of the District's intention to terminate the contract, she was advised that there is a 6-week timeframe in which the Surety would perform an independent investigation, using in-house and/or independent investigators and engineers to investigate and analyze the claim before reaching its conclusions regarding the default of the involved parties. The Surety and the attorney for JBS both independently reached out to Ms. Bailey to ask the District to reconsider its decision to declare a

contractor default and asserting that JBS was motivated to complete the job to the District's satisfaction. However, JBS, through its attorney, continued to assert that the problem with the trench failure was a design issue.

Mr. Edwards asked the District to consider whether there was any owner default that could limit reimbursement to the District under the terms of the performance bond. He also expressed concern over the length of time estimated to complete the investigation and the possibility of the unattended repair sites getting worse. He also made note of the District's responsibility to mitigate any further damage. Mr. Cowan responded that JBS hasn't taken any responsibility for the trench failures and the owner of JBS continues to blame the District for lack of design. JBS did not perform soil testing in compliance with the contract and if that lack of performance were to continue in its repair efforts, resulting in additional trench failures, there would be public outcry. Public safety is by far the District's biggest concern. There is an active failure on Lamar Street which Brannan could start work on potentially by the end of the week. JBS only posted four caution cones at the failed road section and didn't follow up with more robust traffic control when it was brought to their attention in the meeting with the Surety. Martin/Martin coordinated with C&L Water Solutions to provide additional traffic control devices around the entire length and width of the failure. Mr. Meeks committed to overseeing the repairs and to being onsite as much as needed. Mr. Bradshaw stated that a full-time person onsite wasn't necessary and that a part-time person, 4 hours a day or as needed, would suffice. DRC could assist in repairs by videotaping all the lines that weren't videoed by JBS and repairing the infiltration in the manhole at the SW Health Park.

In the interest of protecting public safety, mitigating further damage to the roads and the District's infrastructure, and promptly resolving an emergency situation, Brannan Construction and

DRC were approved to complete the repair work resulting from the 2021 Capital Improvement project upon motion by Mr. Garza and second by Mr. Edwards.

Mr. Garza then moved to ratify the decision of Mike Cowan that was made based upon authority granted to him by the Board to declare a contractor default against JBS which was approved upon second by Mr. Edwards.

3. Adjournment. The meeting was adjourned by Mr. Cowan at 10:25 am.

Respectfully submitted,

Bruce Guard, Secretary