

# Tab 2

**MONDAY, APRIL 17, 2023**

Minutes of the 872<sup>nd</sup> meeting of the Metropolitan Water District of Salt Lake & Sandy Board of Trustees held Monday, April 17, 2023 at 4:40 p.m. at 3430 E Danish Road, Cottonwood Heights, UT 84093.

The following trustees attended the board meeting:

Tom Godfrey	-Chair
John S. Kirkham	-Vice Chair
Patricia Comarell	-Secretary
Cindy Cromer	-Trustee
Joan Degiorgio	-Trustee
Donald Y. Milne	-Trustee

The following trustees were excused:

John H. Mabey, Jr. -Trustee

The following staff and guests attended the board meeting:

Michael DeVries, General Manager  
Annalee Munsey, General Manager designee  
Wayne Winsor, Assistant General Manager - Chief Engineer  
Darin Klemin, IT Manager  
Gordon Cook, Maintenance Manager  
Sonya Shepherd, HR Program Manager  
Jeff Matheson, Laboratory Manager  
Cláudia Bauleth, Laboratory Manager  
Matthew Tietje, Operations Manager  
Ammon Allen, Engineering Supervisor  
Kelly Stevens, Senior Engineer  
Breana Jackson, Executive Assistant  
Josh Croft, Accountant  
Shawn Draney, Snow, Christensen & Martineau  
Dani Cepernich, Snow, Christensen & Martineau  
Marie Owens, AE2S  
Steve Van Maren, Sandy City resident

**Work Session Agenda**

1. Presentation on Preliminary Design Report for the Salt Lake Aqueduct Replacement-Cottonwoods Conduit project (SLAR-CC)

**Board Meeting Agenda**

1. Call to order

2. Public comment
3. Consider approval of resolution of appreciation for Michael J. DeVries
4. Engineering Committee report
  - a. Consider approval of Supervisory Control and Data Acquisition (SCADA) software license renewal
  - b. Consider approval of SLAR-CC easement procurement guidelines and forms
  - c. Capital project report
5. Finance Committee report
  - a. Consider adoption of FY 2024 tentative budget
  - b. Consider acceptance of financial reports
  - c. Annual fraud risk assessment
  - d. Periodic reporting items
    - i. Semi-annual deposits and investments report
    - ii. Quarterly check register
    - iii. Electronic payments
    - iv. Credit card expenditures reports
  - e. Reporting items
6. Consider approval of Resolution 1923 for proxy for Provo River Water Users Association annual meeting
7. Consider approval of Board Meeting minutes dated March 27, 2023
8. Consider approval of Board Meeting minutes dated April 3, 2023
9. Reporting/Scheduling items
  - a. Water supply and demand update
10. Other business
11. Items to be discussed at future meetings
12. Closed session
  - a. Pending or reasonably imminent litigation
13. Adjourn

### **Work Session**

#### **Presentation on Preliminary Design Report for the Salt Lake Aqueduct Replacement-Cottonwoods Conduit project (SLAR-CC)**

Mr. Kelly Stevens provided an update on the Cottonwoods Connection project (SLAR-CC). The project is at 30% design. This progress is covered in the Preliminary Design Report. Mr. Stevens outlined the design elements of the project, levels of services, hydraulic performance, design criteria, construction constraints, and cost opinion and schedule in the Preliminary Design Report.

Mr. Kirkham asked if there is a timeline for the new Big Cottonwood Water Treatment Plant (BCWTP) to be completed. A timeline for BCWTP is currently unknown, however the SLAR-CC project will proceed to provide resiliency for member city water supply.

### **Board Meeting**

### **Call to order**

At 4:40 p.m. the Chair called the meeting to order and welcomed board members, staff, and visitors.

### **Public comment**

Mr. Steve Van Maren expressed appreciation for Mr. DeVries. He noted his kindness and professionalism.

### **Consider approval of resolution of appreciation for Michael J. DeVries**

Mr. Kirkham read the resolution of appreciation for Michael J. DeVries.

Mr. Kirkham motioned to approve the resolution of appreciation for Michael J. DeVries. Mr. Milne seconded the motion and the motion passed unanimously.

### **Consider approval of Supervisory Control and Data Acquisition (SCADA) software license renewal**

The District uses the GE software to monitor, record, and control the water treatment plants and remote sites. This software is required in order for the operators to operate the water treatment process and to help the District maintain compliance with drinking water regulatory requirements. The cost of this software has now exceeded the \$50,000 threshold and requires approval from the Board.

Mr. Milne motioned to approve \$52,081.92 to GE Digital LLC care of GrayMatter Systems to renew the District's SCADA HMI software license. Mr. Kirkham seconded the motion and the motion passed unanimously.

### **Capital project report**

Mr. Godfrey welcomed any questions regarding the capital project report. No comments were made.

### **Consider adoption of FY 2024 tentative budget**

Mr. Kirkham noted the District's requirements for tax changes since the board is appointed by two separate city councils. Approval of the FY 2024 tentative budget would allow the District to pursue tax increase consent from both city councils.

Mr. Kirkham motioned to adopt the FY 2024 tentative budget. Mr. Milne seconded the motion and the motion passed unanimously.

### **Consider acceptance of financial reports**

Mr. Kirkham motioned to accept the February 2023 financial reports. Mr. Milne seconded the motion and the motion passed unanimously.

### **Annual fraud risk assessment**

Ms. Munsey provided the board with the annual fraud risk assessment. The score remains the same since the District does not employ a CPA. Instead, the District has an accounting consulting agreement with WSRP, a firm with CPAs.

### **Periodic reporting items**

Mr. Kirkham noted the Finance Committee had received the periodic financial reporting reports.

### **Consider approval of Resolution 1923 for proxy for Provo River Water Users Association**

In preparation for the annual Provo River Water Users Association meeting, the District provides a proxy for the District. The District is recommending Ms. Munsey as the proxy.

Mr. Kirkham motioned to approve Resolution 1923 for Ms. Annalee Munsey to proxy for Provo River Water Users Association. Ms. Cromer seconded the motion and the motion passed unanimously.

### **Consider approval of Board Meeting minutes dated March 27, 2023**

Ms. Cromer motioned to approve the Board Meeting minutes dated March 27, 2023. Ms. Comarell seconded the motion and the motion passed unanimously.

### **Consider approval of Board Meeting minutes dated April 3, 2023**

Ms. Cromer motioned to approve the Board Meeting minutes dated April 3, 2023. Ms. Comarell seconded the motion and the motion passed unanimously.

### **Reporting/Scheduling items**

The Provo River Water Users Association meeting is on June 29<sup>th</sup>. Sandy City Public Utilities Advisory Board meeting for April is cancelled.

### **Other business**

Mr. Winsor reported a public notice of the Multi-Hazard Preliminary Design Report has been posted on the District's website and the public may schedule a time to view the report at the District until May 18, 2023. The board discussed ways to encourage public comment on the report.

Mr. Godfrey congratulated Darin Klemin on his promotion as well as Jake McGill and Jared Rose on their service anniversaries.

**Items to be discussed at future meetings**

Ms. Cromer requested a field trip of the Managed Aquifer Recharge Project.

**Closed Session**

Mr. Milne motioned to go into closed session to discuss pending or reasonably imminent litigation. Mr. Kirkham seconded the motion and the motion passed unanimously. All board members were present with the exception of Mr. Mabey; the following staff were also present: Mr. DeVries, Ms. Munsey, Mr. Winsor, Ms. Jackson., Mr. Draney, and Ms. Cepernich.

Mr. Kirkham motioned to go out of closed session. Mr. Milne seconded the motion and the motion passed unanimously.

**Consider approval of SLAR-CC easement procurement guidelines and forms**

There are currently 79 parcels that have been identified that will require an easement to be acquired.

Attached to these minutes is the background memo for this agenda item.

Mr. Kirkham motioned to approve the SLAR-CC easement procurement guidelines and forms. Ms. Degiorgio seconded the motion and the motion passed unanimously.

**Reporting/Scheduling items**

Mr. Tietje provided a water supply and demand update for the board. He reviewed the water supply forecasts and average precipitation. Mr. Tietje noted record flows and flood control measures.

**Adjourn**

At 6:07 p.m. the board meeting adjourned.

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Tom Godfrey, Chair

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Patricia Comarell, Secretary

## SLAR RIGHT OF WAY ACQUISITION PROCESS

### 1. Order of acquisition

- a. Approximately 79 easement parcels have been identified. Approximately 23 city street locations have been identified. There may be a small number of slight alignment changes coming.
- b. A parcel priority was created based on criteria such as project schedule, parcel size, likely or actual negotiation hitches, etc. This is a living document.
- c. Public outreach contact with landowners will be made if possible before Davenport contacts landowners.

### 2. Appraisals

- a. Davenport will mostly use exemplar appraisals, rather than parcel-specific appraisals, to prepare valuations and initiate negotiations. Exemplar appraisals will be of selected properties that share common characteristics with others, such as location on the same street. Davenport's experience will guide valuations that account for parcel specific differences from the exemplars, such as corner location, etc.
- b. A parcel-specific appraisal will be obtained upon landowner(s) (we will drop the plural for ease of reading) request, and the full appraisal report will be provided to the landowner.

### 3. What is being acquired

- a. The SLA
  - i. Davenport will not invite SLA easement modification discussion, but will discuss the fact that the property is already encumbered by an SLA easement, and how this impacts the value of the new easement.
  - ii. If a landowner raises the issue of modifying an existing SLA easement this will be referred to staff.
- b. The governing documents
  - i. Davenport will try to get one of the following documents executed: (1) an Easement Purchase Contract; or (2) a Right of Entry and Occupancy Agreement, in that order of preference.
    1. The Easement Purchase Contract, is a landowner commitment to execute the Easement Agreement for an identified compensation.
      - a. The executed Easement Purchase Contract will be recorded promptly.

b. The executed Easement Agreement will be recorded promptly upon compensation. Except as noted below, closing will not involve an escrow or title insurance.

2. If Davenport cannot negotiate an Easement Purchase Contract before the District must start condemnation, Davenport will attempt to get a Right of Entry and Occupancy Agreement. This will give the District immediate occupancy, but will allow the landowner to continue to negotiate compensation and in some cases to challenge the District's power to condemn.

a. The Right of Entry and Occupancy Agreement will give the landowner the option of receiving the appraised value immediately and waive all defenses to condemnation except the claim for more compensation. This will require a parcel-specific appraisal.

ii. We recommend the GM and GC have authority to make modifications to the form of the three documents (the Easement Purchase Contract, Easement Agreement, and Right of Entry and Occupancy Agreement) so long as the modifications are not materially less favorable to the District, and are not likely to create issues with other landowners.

1. Modifications will be rare, based on unique circumstances regarding a particular property or landowner, recognizing the value of uniformity.

#### **4. Compensation**

a. Amount

i. Davenport will begin negotiations after public outreach contact with an offer based on the valuation or parcel-specific appraisal; not lower.

b. Method of payment

i. Once a landowner signs an Easement Purchase Contract, or a landowner who has signed a Right of Entry and Occupancy Agreement requests the offered compensation, Davenport will request a District check.

ii. The GM (or the GM's designee) has the authority to issue checks as provided above and consistent with the P&P.

#### **5. Closing**

a. Residential properties

i. Residential properties will close without escrow, and without a title policy.

ii. Before compensation is paid, apparent record ownership will be confirmed through County Recorder records based on the last conveyance only.



iii. The landowner will not be required to obtain a subordination agreement from any lender with a trust deed, and any such trust deed will be excluded from the landowner's title representation and warranty in the Easement Agreement.

iv. The Easement Agreement will be recorded promptly. While the District may record without charge in person, SCM can record electronically with a charge, and that speed and convenience is preferred.

b. Non-residential properties

i. CRS has identified 11 non-residential properties that are not city streets.

ii. The following will be closed through escrow with a title company and title insurance (a title company cannot act as escrow without issuing a policy):

1. Memorial Estates (and associated entity) parcels (5)
2. Wasatch Recovery Treatment Center
3. Walker Development Partnership parcels (2)

iii. The following will not be closed through escrow and will not involve a title policy:

1. Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-day Saints parcels (4)

c. City streets

i. Staff will coordinate construction in city streets in accordance with Utah Code Section 17B-1-103(2)(p).

**6. Decision to initiate condemnation**

a. The GM and Chair will initiate the condemnation process if required.

b. Once the GM and Chair make this determination:

i. A parcel-specific appraisal will be ordered if one has not already been prepared or if the appraisal is too old per statute.

ii. Davenport will:

1. Provide the full parcel-specific appraisal report to the landowner.
2. Continue negotiations with the landowner.

3. Provide copies of the appropriate materials available on the Office of the Property Rights Ombudsman (Ombudsman) website and as required by statute (even if this was previously provided).

4. Extend an offer to acquire the easement in accordance with paragraph 4(a) above (even if made previously).

iii. The Chair will determine when to set this matter—consideration of the adoption of a resolution authorizing the use of eminent domain as to particular property or properties—as a Board agenda item.

1. The Board meeting must be at least 14 days after Davenport provided the materials described in paragraph 6(b)(ii).

iv. At least 10 business days before the Board meeting, notice of the meeting will be sent to the landowner by mail and door hanger notifying the landowner that a vote will be taken on whether to authorize the use of eminent domain to acquire the easement over the property, and that the landowner has a right to be heard. More than one parcel may be address in the same meeting.

v. At the Board meeting, the landowner must be given an opportunity to be heard regarding the proposed condemnation.

vi. If the Board adopts the resolution, SCM will prepare and file a complaint and motion for immediate occupancy as soon as 30 days have passed since Davenport provided the materials described in paragraph 6(b)(ii). Note, any landowner demand for mediation or arbitration does not delay the motion for immediate occupancy.

vii. SCM will request a check for the appraised value to be deposited with the Court.

1. The GM (or the GM’s designee) has the authority to sign a check requested by SCM as consistent with this paragraph and the P&P.

## **7. Mediation and Arbitration**

### **a. Mediation**

i. The landowner has the right to request mediation before the Ombudsman.

ii. The landowner has the right to request that the Ombudsman require the District to pay for an additional appraisal, typically to be performed by the appraiser requested by the landowner.

iii. If a landowner demands mediation, SCM, at least one Trustee (but less than a quorum), and the GM or an AGM will participate in the mediation.

iv. Unless agreement is reached within Board spending authority, any agreement must be ratified by the Board.

b. Arbitration

i. The landowner has the right to request arbitration before the Ombudsman.