

Timpanogos Special Service District
Administrative Board
Electronic Meeting Minutes
6400 North 5050 West Utah County, Utah

APPROVED

May 18, 2023 6:00 p.m. Conference Room/Electronic Meeting

Board Members:

Present: Sullivan Love - Chair Jay Meacham – Vice Chair David Bunker
Mark Christensen Neal Winterton Joel Thompson
Brian Braithwaite Lon Lott Blaine Thomas*
Richard Nielson Chris Condie*

Electronic: Mack Straw

Excused: Chandler Goodwin

District Staff: Richard Mickelsen, District Manager (electronic)
David Barlow, District Engineer
Danette Smith, Board Secretary

Others: Mark Bell, Hayes Godfrey Bell Brandon Wyatt, Bowen Collins Associates
Wade Stinson, Aqua Engineering Ryan Bench, Carollo Engineers
Dale Eyre, Utah County Rod Mann, Utah County

Call to Order

Sullivan Love, Board Chair, called the meeting to order. 6:00 p.m.

1. Public Comment

There was no public comment.

Approval of Minutes

1. Approval of the April 13, 2023 Administrative Board Meeting Minutes

Brian Braithwaite made a motion to approve the minutes of the April 13, 2023 Administrative Board Meeting as presented. David Bunker seconded the motion. Those voting “Aye” – Jay Meacham, Mark Christensen, Mack Straw, Blaine Thomas, Brian Braithwaite, David Bunker, Richard Nielson, Lon Lott, Neal Winterton and Joel Thompson. Sullivan Love abstained as he was absent last month. The motion passed unanimously.

*Chris Condie arrived. 6:03 p.m.

Consent Calendar

- 1. TSSD Check Register**
- 2. CL-N1: Sundt Pay Request No. 7**
- 3. MWPP Report**
- 4. Fraud Risk Assessment Report (FY 2022 and FY 2023)**

Mack Straw made a motion to approve all items on the Consent Calendar as presented. Brian Braithwaite seconded the motion. Those voting “Aye” – Sullivan Love, Jay Meacham, Mark Christensen, Mack Straw, Blaine Thomas, Chris Condie, Brian Braithwaite, David Bunker, Richard Nielson, Lon Lott, Neal Winterton and Joel Thompson. The motion passed unanimously.

1 **Finance**

2 **1. Financial Report**

3 The financials for March 2023 were in dropbox for the board to review.
4

5 **Action Items**

6 **1. Highland Manhole Relocation**

7 Rich Mickelsen said a couple of years ago the District went out for bid to have all the District manholes evaluated.
8 There are about 330 manholes and nearly 10% of those are inaccessible. Rich said he was given direction to repair or
9 replace those manholes, so they are more accessible. We have \$250,000 in the collections budget to fix those a little at a
10 time. We have a series of manholes that cut through where they are putting in a new development. It is a TSSD line
11 that cuts along their property and connects into a line at the intersection. The developer has obtained bids to replace the
12 16" line, and manholes so they are accessible in the street. David Barlow said three options were looked at for this
13 project. The first option is to work together with the contractor of the development with a 50/50 split cost. The two
14 quotes received had an average cost of \$220,000, and it would be about \$115,000 for the District. Option two we would
15 not do anything during this development but come in later when this line needs to be replaced with an estimated cost of
16 \$380,000, plus additional costs such as curb and gutter, and engineering. The third option would be to go in now and
17 rehab the pipe with a cured in place pipe with an estimated cost of \$245,000. David Barlow said option three is not
18 preferred, because it still doesn't give us access to the line. This was discussed in each of the committee meetings.
19 Staff's recommendation is to get it done with the developer at a shared cost. David Bunker said comments were made in
20 the committee meeting about making sure the design of the new District line meets the District standard and the
21 manholes aren't located in the curb and gutter flow line. David Barlow said we have not received final design yet; the
22 developer was waiting for the Board's decision before moving forward.

23 Mark Christensen asked if this purchase would meet our bidding and procurement policy. Mark Bell said we did not
24 secure the bids and we are essentially partnering with the developer. With the current procurement policy, we are
25 probably outside of small purchases. There is a general exception in the purchasing code that the procurement officer
26 may find there are compelling reasons and partnering with someone that brings the cost down considerably may apply.
27 Mark Bell recommended that a motion be contingent upon the procurement policy review. Mark Christensen said there
28 was robust discussion about this in the finance committee. The conflict is the idea that typically municipalities require
29 developers to move these lines, and should this cost be born solely by the developer or should we participate. Mark
30 Christensen said he still holds to his beliefs as argued in that meeting and he will be a no vote on this for a variety of
31 reasons. Brian said he would propose that we approve the amount not to exceed \$112,700, contingent upon meeting
32 approval for our procurement policy and it meets the TSSD Engineering review and approval. We would pay the
33 developer the not to exceed amount and if it comes back with design changes or additional costs that would be on him.
34 Mark suggested that the reimbursement happen post-performance of actual costs, not to exceed that amount. Richard
35 Nielson asked if the District's contract would be with the contractor or a betterment agreement with the developer.
36 David Bunker said we should call it a betterment agreement with the developer; he thinks that puts us in a better position
37 as far as our procurement. Lon asked how we protect ourselves if the developer does not pay his portion of it. Mark
38 Bell said we would require a construction, performance and payment bond to make sure we are protected.
39

40 **Brian Braithwaite made a motion to authorize the District Manager to move forward with a betterment**
41 **agreement with the developer in Highland for the not to exceed amount of \$112,700.00 to be paid after**
42 **completion of the project and that it is contingent upon our procurement policy as well as meeting our TSSD**
43 **engineering review and approval. David Bunker seconded the motion. Sullivan Love took a roll call vote. Those**
44 **voting "Aye" – Sullivan Love, Jay Meacham, Mack Straw, Blaine Thomas, Chris Condie, Brian Braithwaite,**
45 **David Bunker, Richard Nielson, Lon Lott, Neal Winterton and Joel Thompson. Those voting "Nay" – Mark**
46 **Christensen. The motion passed with a majority vote.**
47

48 **2. TSSD to Local District**

49 Sullivan said this action item is for the conversion of TSSD to a Local District. This has been discussed off and on
50 for a number of years. Rod Mann, Utah County Auditor and Dale Eyre, Utah County Attorney's Office are present for

1 this item. Rod Mann, Utah County Auditor, thanked the board for moving forward with this. The reason for the interest
2 in this now is the County is on a fiscal year budget, and the District is calendar year; so occasionally they do not have
3 the District's report in time for their audit. It is not the District's nor the County's fault, but it does affect the auditor's
4 department. Mr. Mann said he spoke with the county commissioners, and they are 100% behind this. We have a
5 moment in time when there is strong support for this. David Bunker said he wished we would have known years ago that
6 there was a problem with the auditing, we could have figured out some way to get this done.

7 Dale Eyre, Utah County Attorney's Office, said a special service district is created by a county to take care of a
8 specialized need. Hopefully at some point that need is taken care of by a city, or a local district and they provide that
9 service. It is a maturing process, and he thinks TSSD has outgrown the special service district system. This should
10 probably be one of the easiest reorganizations in the state. Dale said the most important thing the County needs is the
11 consent of all of the cities in the District. It is very clear that the statute requires that before moving forward. Each city
12 would have to put it on their agendas, vote and have a resolution or ordinance consenting to the reorganization of TSSD.
13 Rodd Mann said he has spoken with all the mayors except the Draper mayor, and they are in agreement with this. Rod
14 said he could call the mayor of Draper and let him know this was coming. Brian thought that would be a good thing
15 coming from the County level.

16 Dale Eyre said the county needs a resolution to initiate the process and then they need to hold a public hearing. From
17 the County's standpoint, it would be much better if the cities had already consented, and they had all those city
18 resolutions. There are some things TSSD will have some input on such as the name. The County resolution will state
19 what the new name will be. The boundaries need to be determined, and the county will get that information from TSSD.
20 When the District was created there were four municipalities and now there are ten, so obviously the boundaries have
21 changed a lot. Mark Christensen asked if there is any way that information can be provided by the County, because the
22 assessor's office has all that information. Richard Nielson said it is very possible, it is something that should be readily
23 available. Dale said the county can look at it and then the District can confirm the boundaries.

24 Dale said the board would be a board of trustees, which is a little bit different. Also, the membership could be
25 different. The board can tell the county what they would like the future board to look like i.e., how many members, who
26 is represented, and staggered terms might be a good idea. The county would pass the resolution and send it to the
27 Lieutenant Governor's Office. Once they issue a state certificate of corporation, you would be a special district and be
28 on your own. Sullivan said he assumes the County would prefer the sooner the better. Rod said the county does not
29 provide a lot of services for the District but for the auditing purposes that is the most important concern.

30 Mark Christensen asked what this would do to our impact fees and fee schedules. Mark Bell said, there is a specific
31 provision in the special district's code that spells out what has to be done to convert a special service district into special
32 district (formerly a local district). The transition does not affect any of our existing contracts including bonds, so if we
33 follow the process correctly, we are clear on that. Mark Bell said you can no longer call yourself a special service
34 district and his recommended name would be Timpanogos Improvement District because the sub-specialty type of
35 District will be an Improvement District. Neal Winterton asked if there is fiscal note associated with this at all. Rich
36 said there will be some administrative costs.

37 Mark Christensen said we are going to have to work through what the board will look like. That may be something
38 we want to sort out before the cities decide to agree to this change or not. Mark Bell said the code is very specific for an
39 improvement district, every city whose boundaries are wholly within the district boundaries has a seat on the board. The
40 cities that are not wholly within the boundaries (Vineyard, Draper, Eagle Mountain), are not provided a seat on the board
41 under the code. With the way we are structured there would be seven automatically in, and then there would be two
42 more. It becomes a nine-member board. We could set things up in a way where those other two could rotate among the
43 other three cities whose boundaries are not wholly in the district. You could even set it up to have those last two
44 positions elected. Mark said there are provisions in the code for the transition where as long as it is stated, we can leave
45 the board the exact same composition that it is now, but you would need to set a milestone in the resolution that would
46 ultimately get us to a nine-member board.

47 Brian asked if it was possible to have a non-voting member on the board. Mark Bell said yes, he does not think there
48 is any prohibition on that. Mark Christensen said given the fiscal implications of what we are talking about; and billions
49 of dollars in the future, we need to talk to our councils and see their position on this. A larger board is great for an
50 inclusive discussion, but he thinks the member cities should have a stronger voting presence, and a larger board is

1 conflicting with that. Chris said it is important to understand the options; it sounds like regardless we have to be a nine-
2 member board. Mark Bell said yes, as the law stands today, that doesn't mean we cannot go to our legislators at the
3 state capital try to have the law changed. Chris said as of right now, to present anything different than a nine-member
4 board to our councils is not factual. Mark Bell said if any of the ten cities say no, we stay exactly the same.

5 Brian said it impacts three municipalities, it doesn't really change anything with the other seven, so we need to talk to
6 the representatives of those three cities and walk through it with them. If we cannot find a solution to those three
7 organizations and they say no, it is a mute issue for the rest of us. Neal Winterton asked if the law allows us a certain
8 period of time to be outside of the requirements for board representation. Mark Bell said the maximum amount of time
9 would be two years, but a year is probably more realistic. The county can draft the resolution in a way that sets the two
10 years as the hard cut off and as a board you can make a decision to cut it off sooner. Mark Bell suggested that he and
11 Dale Eyre put together a memorandum to be distributed to all the mayors and city councils along with a draft resolution
12 to consider supporting this. A presentation can be made if requested.

13 Sullivan asked if it would be better to have the method of choosing the board members for the new organization in
14 place so those cities would feel comfortable. Mark Christensen said it could be structured so those three entities were
15 rotating seats of the 2, and you would have representation 8 of 12 years. Sullivan said while Vineyard's total boundaries
16 do not fit within the District boundaries, there is probably only about 5% of their wastewater that does not come to
17 TSSD. Mack Straw asked what their benefit is to vote for this, if they lose a seat. Sullivan said yes, if Vineyard saw
18 this as some way that they would not have a voice, then they could stop this. Sullivan said he does not want that,
19 because he thinks Vineyard needs TSSD.

20 Brian said a clear example of why they wanted to do this many years ago and still do, is because currently the County
21 Commission has the ability to eliminate this Board at will and choose who they want to replace this board at any time.
22 You can go from having a vote to having no vote, or you can have a vote 8 out of 12 years. Brian said he didn't think
23 the current County Commission would do that, but it wasn't many years ago that it was being pushed hard by one of the
24 County Commissioners and it almost passed. David Bunker said that is mostly true except the four original cities who
25 started the District (American Fork, Alpine, Lehi and Pleasant Grove), will always have a seat at the Board. Neal asked
26 who chooses the boundary, and why couldn't we include all of Vineyard? Dale said, from the county standpoint, they
27 would be reorganizing as the District's current boundaries and would not be expanding them, because that would trigger
28 more notice requirements and probably more hearings. Their intent was simply to reorganize as you currently exist and
29 then if you want to expand, you will go through that process as a service district. David Bunker said there are a lot of
30 options, but he thinks for the county's purpose, it is the right thing for us to do as a district. David thinks we need to
31 have a lot more discussion, but tonight we should let the county representatives know if we are in favor of moving this
32 forward and getting a resolution that the cities can review. David thanked Rod Mann and Dale Eyer for attending
33 tonight and said he appreciates all the work they have done.

34 Chris Condie clarified that each city that is currently member has to vote in favor for this to happen. Mark Bell said
35 yes, correct. Chris said he is in favor of this, but he can see where the three that will not have a seat may vote against
36 this. David Bunker said another thing to look into is how those entities were brought into the District in the first place.
37 Chris said regardless of how they came into the District, he does not know why that matters, because they are in the
38 District now and have a vote as to whether or not this happens. Richard Nielson said if you expanded the district
39 boundaries like Neal brought up and you had all ten cities in there, as he understands it, you could have ten members
40 plus two. Chris said that would be helpful to get that clarified, because he thought it was a maximum of nine. Mark
41 Christensen asked if 100% of Draper that is in Utah County, is part of the District, if so, would there be a legal argument
42 to say 100% of Draper that is in Utah County is part of the District. Mark said the way the statute reads it talks about
43 cities whose boundaries are entirely within but not contiguous with the boundaries of the District and Vineyard, Draper,
44 Eagle Mountain are not. There may be some things we can look at, if and when the change is made, in terms of
45 expanding boundaries, getting consent from the city to expand our boundaries where it overlaps our service area. Mark
46 said under the current status of the transition, he doesn't think we can ask Utah County to do something like that. Mark
47 Christensen said there are probably some things we can consider such as annexing the entire city into the boundary, but
48 at the same time, contract with someone else to provide that service for us. Mark Christensen said he supports the
49 county continuing down this path and realizes there is going to be growing pains in sorting through the issues.

50 *Blaine Thomas left. 7:08

1 Rich Mickelsen said part of Draper City that is in our area is already under the jurisdiction of another improvement
2 district, which is South Valley Sewer District. Because there are two different improvement districts, by law, we would
3 need to have another type of agreement that comes together. There is another layer of legal ease that Mark needs to learn
4 on those improvement districts, because Rich knows that our agreement with them has some special contingencies. That
5 needs to be taken into account as well. David Bunker said that is what his comment was regarding why we need to look
6 at how they came into the District; if it was by contract like South Valley (Draper) it makes a difference. Brian said
7 technically they may not even be a member of our District we may just contractually take their wastewater. Dale Eyre
8 said they just need the board's direction whether they should continue down this road. Brian Braithwaite said yes, get a
9 draft motion for the cities and we will work on how we present it to those three cities and how it is addressed. Sullivan
10 thanked Dale Eyre and Rod Mann for being present and helping with this.

11

12 **Communication**

13 **1. Manager's Report**

14 Rich said the plant numbers are within performance parameters. We have 95% BOD removal; the ammonia is a little
15 high at 3.5 mg/L and Phosphorus is still below 1mg/L.

16

17 **Closed Session**

18

19 **Chris Condie made a motion to go into closed session for the purpose of Litigation, Property Acquisition and**
20 **Personnel at Timpanogos Special Service District Board Room. Mack Straw seconded the motion. Sullivan Love,**
21 **Board Chair, took a roll call vote. Those voting "Aye" – Sullivan Love, Jay Meacham, Mark Christensen, Mack**
22 **Straw, Chris Condie, Brian Braithwaite, David Bunker, Richard Nielson, Lon Lott, Neal Winterton and Joel**
23 **Thompson. The motion passed unanimously. 7:11 p.m.**

24

25 **Brian Braithwaite made a motion to go back into regular session. Jay Meacham seconded the motion. Those**
26 **voting "Aye" – Sullivan Love, Jay Meacham, Mark Christensen, Mack Straw, Chris Condie, Brian Braithwaite,**
27 **David Bunker, Richard Nielson, Lon Lott, Neal Winterton and Joel Thompson. The motion passed unanimously.**
28 **7:37 p.m.**

29

30 Sullivan Love said a couple of weeks ago he attended the WEAU conference in St. George where the District
31 recognized for the outstanding laboratory for 2022, and outstanding water reclamation facility over 5 mgd for 2022.
32 Also recognized was Alan Robinson, Treatment Manager, for serving over 35 years. Sullivan said his understanding is
33 that these awards are not just drawn out of a hat. Rich said yes, typically the plant of the year over 5 mgd is very
34 prestigious. They come out and interview Rich and the operators to make sure the whole facility is part of this process.
35 They tour the plant and then we are voted on by our peers. It is pretty awesome that we got the award. Rich said the
36 laboratory award is all the facilities throughout the whole state. They do not distinguish the less than/over than 5 mgd.
37 The lab did a fantastic job to get that award. Sullivan said he would like to extend his congratulations to the team here at
38 TSSD. Under the leadership of Rich, the District is doing a great job. Sullivan asked the board if it would be
39 appropriate to give 4-hours' time off as recognition to staff. Mark Christensen said he supports Rich doing something,
40 and as a board, we should encourage Rich to reward his employees as he deems appropriate within his authority. Board
41 Members agreed with Mark.

42

43 **Adjourn: David Bunker made a motion to adjourn. Richard Nielson seconded the motion. All present "Aye."**
44 **Meeting adjourned. 7:44 p.m.**

45