
RECORD OF PROCEEDINGS

CHERRY CREEK VALLEY WATER AND SANITATION DISTRICT

REGULAR MEETING OF THE BOARD OF DIRECTORS

October 19, 2010

The regular meeting of the Board of Directors of the Cherry Creek Valley Water and Sanitation District was held at the District Offices, 2325 S. Wabash Street, Arapahoe County, Colorado at 7:00 P.M. on October 19, 2010.

PRESENT

Paul Hanley – Chairman
Sheldon K. Ginsberg – Vice Chairman
Paul Thayer – Secretary/Treasurer
Louis D. Halsell Jr. - Director
Jorge-Ayn Riley – Director

OTHERS PRESENT

John R. Warford – Manager
Lisa Desmond – Administrative Assistant
April Clendenin – Accountant
Chuck Buchanan – Maintenance Supervisor
Carmine Iadarola – AquaSan Network
Ron Dvorak – McLaughlin Rincon
Darryl Farrington – Semple, Farrington & Everall P.C
J.M. Fay – Resident

ABSENT

None

Mr. Hanley, Chairman of the Board, called the meeting to order at 7:00 p.m.

Mr. Hanley asked if there were any corrections or additions to the minutes of the September 21, 2010, Board meeting. There were none. Mr. Halsell made a motion to approve the minutes as presented. Mr. Thayer seconded the motion. Motion carried.

Next on the agenda was the Treasurer's Report and Bills Payable. Mr. Warford stated legal counsel bill included charges for getting boundaries approved regarding the lakes; should get court proceedings signed sometime this week. Check # 21828 is to Guildner Pipelines for \$54,031.93 for pipeline video, cleaning, & maintenance; completed for 2010 and this check pays them in full. The pipeline video did show some repair that needed repair at one place. Check # 21835 is to Waste Management for trash removal on the old property at 8501 E. Iliff; we used a canister to haul stuff off, and we used some outside labor for that clean-up. Mr. Warford asked if there were any questions. Mrs. Riley inquired about checks that referenced refunds. Mr. Warford explained that they were contractors and property owners who overpaid for very old taps, and we have not been able to locate them in the past to refund them. We are required to notify the original party who paid them and attempt to refund that money, and if these checks come back to us, then we will send the money to the State as unclaimed refunds - the Great Colorado Payback, and the parties can look themselves up on the State's website to see if they have any money there that's owed to them. Mrs. Riley asked if there were only three checks for this purpose and Mr. Warford said yes. Mrs. Riley made a motion to receive the Treasurer's Report and to pay the Bills. Mr. Halsell seconded the motion. The motion carried.

Mr. Hanley then opened the meeting for public comments. Ms. Fay offered a written comment

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which Mr. Farrington read to the Board. 1) You need to do the right thing, as you are the Board. As the Board, and also the manager, you haven't been prepared to do it for some time. We refer to \$47.00 we had to pay additional for us to have water. Mr. Warford failed to contact HOA to turn water off, and Mr. Warford won't take responsibility for being late in turning it back on. \$47.00 is a lot for somebody on a fixed income. 2) Elections. We all know that what Mr. Warford did is against the law. Cherry Creek Water needs to take responsibility for Mr. Warford's actions and allow a new election and compensate us for our costs.

There being no other public comments Mr. Hanley went to the next item on the agenda, Mr. Iadarola's report.

- **Wabash Complex** – Report submitted to the Board, which included a summary of the 2009-2010 water year. The water year runs October 1st thru September 30th of each year. We, Aquasan, have filed the annual water report with the State Engineer, with the help of the Cherry Creek Valley Water & Sanitation District ("CCV") staff. In summary, CCV pumped about 270 acre feet of tributary water, mostly from the Holland/Marcus wells, which are located on the Cherry Creek Country Club, and also from CCV's alluvial well # 2. As reported in August, CCV has a problem with the location for alluvial well # 4 ("AV4"), which would have doubled CCV's capacity to move water. A new water right application will need to be submitted to the Water Court regarding AV4's legal description. Because of the augmentation program, we only had to replace 147 of the 270 acre feet in the past year. That water was taken out of priority. Due to Lagged Depletion and several other credit issues, CCV only had to replace 91½ acre feet out of the 147. The value of the augmentation program was estimated to be at least \$120,000 in this past year. CCV didn't have as much augmentation in the beginning of the year. Most of the pumping occurred in August, with about ½ of the water during that dry month. CCV also pumped 158 acre feet from our two non-tributary wells, which are the Arapahoe and Laramie-Fox Hills wells. From the reports, all wells are working well.

When CCV first made its Wabash Complex application, we were the first District to ask, as a point of diversion, for the storm water – to tap into the storm water line. CCV did receive an ability, to divert water from the Parker/Iliff storm water line, which runs down Parker, into our reservoirs as part of our decree. There's been a plethora of information about a new conservation measure called "rainwater harvesting". CCV would have an ability to collect rainwater from the Parker/Iliff storm water line. But, it is argued in Colorado that rainwater harvesting is illegal. There is now a pilot program in the last legislative session, which indicates that legalizing this conservation method is gaining momentum. Should it become fully legal, then we would have another source of water for the Wabash Complex. Mr. Ginsberg asked if this measure takes water out of the rivers. Mr. Iadarola answered yes. Mr. Thayer asked if the water from this would need to be metered then, as it's put into our reservoirs. Mr. Iadarola answered yes. Mr. Iadarola returned to Mr. Ginsberg's question, to explain more fully. In Colorado, the key issue is called "return flows". If historically that water went into the river, which then people downstream relied upon, then that water is considered as if it were directly drawn from the river and you cannot interfere with that water flow. Any water that has historically flowed into Parker/Iliff has historically gone into the river. But there are other situations where water is gained from changes in flow, such as when a hardtop is put over ground where the water used to just evaporate or transpire. The water flow then changes to run-off from the hard-top and into the storm sewer rather than evaporated or transpired, and so it increases the water level in the river and this addition could be used by us if it's connected to the Parker/Iliff storm sewer. Mr. Warford mentioned that CCV could retain all water, use it first, and then return to the river. The EPA partnered with CCV in the past regarding this method. Mr. Iadarola said that CCV was the pioneer for this, the first to do that. We can't take it out of priority, but if we have priority we can take it. Mr. Warford says that farmers have been using this for years. Mr. Thayer inquired about stock

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ponds, and Mr. Iadarola said that stock ponds are exempt from the law against rainwater harvesting depending on their size.

- **Denver** – Denver Water staff have finished their 10 year capital plan. They have submitted it for review. It has a significant impact, lots of improvements to do. The question was “how fast do they want to address these, balance financial targets, and make system reinvestments?” The rate increases, depending on which scenario they took, were 23% for the first one, 11% for the second one, and 9.5% for the third, on average. The proposed rate increase as it was submitted to the Denver Water Board this week for Master Meter districts was 14.9%.
- **Conservation** – On September 21, 2010 the USGS officially put Colorado on the Drought Monitor list, which means severely reduced amount of precipitation over the last several months. That sprung alerts at the Denver Water Board, and they have since issued warnings that if this continues we will be looking at some significant conservation measures to be implemented in 2011. As background, October is the second sunniest month of the year, however November is one of the lowest sunshine months of the year. On average we get about 1 inch of precipitation and 4.2 inches of snow in October.
- **Misc** – US government just completed a study of the population of water supplies and Colorado’s front range was listed as one of the three most endangered areas in the contiguous United States for water supply shortages over the next 30 years. Any water you develop or conserve will apparently become very valuable.

Mr. Hanley asked if there were any comments regarding Mr. Iadarola’s report. Mr. Halsell asked Mr. Iadarola if there is anything going on to limit growth, or limit taps, since the water resource is finite and it appears to be getting worse? Mr. Iadarola said that back in the 70’s and 80’s we talked about limiting our taps, but it was decided water districts could not do this legally because water districts do not have the ability to decide land use issues. Water districts are to provide water based on land use issues made by the various legislative bodies. Any attempts by water districts to limit taps based on growth and concerns about growth were considered illegal. It clearly is an issue that continues to be debated, because we are in an area, the Southwest, with the least amount of water and a lot of the water shortages are predicted to occur; the “water short” areas. As more people move into our state, there is more stress on these water systems, particularly the Colorado River. The Colorado River is already over-appropriated, the system cannot continue to sustain the population that it now sustains. One of the areas where they are looking is the idea of “distributive water systems”. This takes used water from a house, and recycling it again in the house – such as for clothes washing, toilets, etc. And then trucking in water for potable purposes, so that the drinking water - potable water would be highly purified; in fact, cleaner than what we drink today. The recycled water would meet today’s clean water standards, just not the higher level. With this, the need for additional diversions would be significantly reduced and we could extend our supplies even further. Mr. Warford mentioned that agriculture, and irrigation for lawns, are the largest users of water. Residential uses are a small percentage of total water use. Conservation is not good for farmers because Colorado law requires the farmers to use their water rights or they lose them. Mr. Halsell said he agrees, that land use planning is not our responsibility as a water district, but that he wanted to know if any of the planners and such understand that, even with extreme conservation efforts, the water supply won’t be enough to supply the growing population density; and are making some sort of efforts to control the water demand. Mr. Iadarola addressed this with an answer of no, because it is a politically hot topic that doesn’t really get talked. Only related items discussed in political circles have been matters of controlling immigration from other countries, and the southwest has a significant proportion of immigration from countries to our south. Mr. Hanley asked if there were any more questions for Mr. Iadarola. There were none so they moved on to the Manager’s Report.

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Mr. Warford notified the Board that the budget has been revised to reflect the latest proposed water rates for 2011 from Denver Water – an increase of nearly 15%. Mr. Hanley asked Mr. Warford for explanation about a couple of line items which seemed to increase more than inflation would account for: Plant Payroll and Utilities. Mr. Warford explained that the proposed increase to payroll was due to a possible increase in the number of employees next year, and the proposed increase to utilities was due mostly to rate increases that Xcel has informed us of, which should take place next year if the PUC approves them.

Mr. Hanley then opened the public hearing for the 2011 budget at 7:35pm. Ms. Fay offered a written comment which Mr. Farrington read to the Board. 1) Where is the public copy of the budget? 2) Why do the budget this month with 60, 61, 101 on the ballot?

Mr. Warford answered that it is not our responsibility to budget for those until they are actually passed. Mr. Hanley stated that we could amend the budget if they passed, but he doesn't think we would even know how the Districts' properties would be assessed, until legislation determines how to implement these. It probably wouldn't be done until next session and we have to get the budget done by the end of the year. We can always handle anything supplemental by amendments and supplemental appropriations.

The public hearing on the proposed budget was closed at 7:36pm. Mr. Farrington asked if the notice was properly published. Mr. Warford stated that it had been published twice in a local newspaper. Mr. Farrington examined the publisher's affidavit and indicated the notice said that proposed budget was available for the public's inspection here at CCV's main office. Mr. Hanley asked if there were any other questions on the budget. There were none. The 2011 Budget Resolution and 2011 Budget Appropriation Resolution were presented to the Board. Mr. Hanley passed the resolutions around to all the Board members, and then verified that the numbers on the Resolutions matched the budget as presented. During the review of the resolutions by the Board, Mr. Warford added that the increase in water revenues and expenses was being budgeted at a rounded-up figure of 15% rather than the exact increase from Denver Water. This is to allow for the District to possibly begin accepting credit card payments next year, which will cost the District about 3 to 3½% of the payment in fees depending on the credit card company. We've been getting more and more people wanting to pay by credit card. Also, we did not have any increases in our usage fees last year because Denver did not increase Master Meter district usage rates last year. We did increase our meter charge last year, some of it was passed on to Denver Water for their meter charge increase and some of it we retained. Denver has three ways to collect money from Districts now: meter charges, tap fees based on square footage charge, and usage. Mr. Warford also informed the Board that the general elections for this elections district will be held at CCV's maintenance building, with the other polling place being Cunningham's. Mrs. Riley moved to approve the Budget and Budget Resolution 2010-1019-1 as presented, and distribute it to proper authorities. Mr. Halseef seconded the motion. Motion was carried. Mr. Halseef moved to approve Appropriations and Budget Appropriation Resolution 2010-1019-2, as presented. Mr. Thayer seconded the motion. Motion was carried.

Mr. Warford began discussion regarding the Service Agreement for Cherry Hills Village. He stated that when Cherry Hills Village was first formed, the service to them via the Denver Water Board was thru our District. There were about 47 homes in that district which could not get sanitary service unless it came thru our lines. That part of the Cherry Hills Village District we are still serving with sanitary sewer. Now the Cherry Hills Village District Board is in the process of replacing and updating water lines and they want our District to participate, financially, in such. But we have never received any revenues from the Cherry Hills Village District other than from those 47 homes for sanitary service; no mill levies, no water revenue. We've never had to maintain any of their lines except the ones we are providing sanitary service to. Mr. Farrington presented his review of the Service Agreement with Cherry Hills Village District regarding services provided, etc. He said that the Agreement required the residents through the Cherry Hills Village District, called the Village District in this agreement, to construct and install water mains, and then prior to their connection, they transfer them to our

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District, called the Valley District in this agreement. It further states that "the Village District shall assume full responsibility for the maintenance, care and operation of said water mains and hold the Valley District harmless for any cost or expense in connection therewith." Further on, it says that the Valley District is relieved from all obligations for supervising the installation of the water mains or for the maintenance of such mains. The Cherry Hills Village District's attorney spoke with Mr. Farrington regarding their assertion that the Valley District should have to perform replacements since the agreement only talks about initial installation and maintenance, and not specifically replacement. Mr. Farrington believes that there are many arguments against this line of thought, including the fact that the lines were deeded over to us for no reason other than to fit within the distributor's contract with Denver, so they could get Denver Water under our distributor's contract. Mr. Farrington did not wish to give technical legal advice on this, without going into Executive Session, but instead inquired of the Board what their intentions are at this time. Did they wish to resist any requests that we replace water lines in Cherry Hills Village District? The Board indicated that this is the position that they wish to take. Mr. Farrington indicated that he will now reply to the Village District's attorney with the Board's position on this matter.

Mr. Warford reported on the progress of the Wabash Bridge, stating that the bike path has been changed and the work crews have gotten a lot accomplished with the good weather we've had. There have been a couple glitches in the alignment of the storm sewer and our agreement with the County and the School - we have a non-potable water line, and a power pole, that are within the alignment of the conduits. We will probably have to make some adjustment with our non-potable water line because of the alignment of the storm sewer line going into the detention pond across the street. He expects it to cost about \$15,000. When the non-potable water line was put it, it was put in deeper than usual specifically in hopes of avoiding having to move it when construction occurred later, but it didn't help in this case. Mr. Dvorak reported that the bores for the first phase of the soils testing for the reservoir have been done. They are doing the analysis in the lab right now, so we should get a report shortly of the quantity of the value of the soils that we need to remove, which will dictate whether or not we need a mining permit. Mr. Hanley asked if there were any more questions for Mr. Warford. Mr. Ginsberg inquired about the status of the objection that Aurora filed. Mr. Warford indicated that it has been addressed and the court approval documents should be received within a few more days. Mr. Warford is working on an application for a direct pump from the stream, but doesn't want to apply for this yet until this prior issue is taken care of.

There being no further matters to come before the Board, Mr. Hanley called for the Board to adjourn. Mr. Ginsberg moved to adjourn, seconded by Mr. Thayer. Motion carried. Mr. Hanley declared meeting adjourned at 8:00p.m.

READ AND APPROVED



DATED Nov 16 - 10