

RECORD OF PROCEEDINGS

CHERRY CREEK VALLEY WATER AND SANITATION DISTRICT

REGULAR MEETING OF THE BOARD OF DIRECTORS

April 19, 2011

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 April 19, 2011.

PRESENT

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

OTHERS PRESENT

John R. Warford – Manager
April Clendenin – Accountant
Chuck Buchanan – Maintenance Supervisor
Carmine Iadarola – AquaSan Network
Ron Dvorak – McLaughlin Rincon
Darryl Farrington – Semple, Farrington & Everall P.C
Jonathan Fung – Sanford C. Bernstein & Co., LLC
J.M. Fay – Resident (late arrival – 7:05pm)

ABSENT

Louis D. Halsell Jr. – Director

Mr. Hanley, Chairman of the Board, called the meeting to order at 7:02 p.m.

Mr. Hanley asked if there were any corrections or additions to the minutes of the March 15, 2011 Board meeting. Mrs. Riley said that she read through the minutes, especially the portion where the Board discussed and raised the fees for people who have had the District turn the water off due to non-payment. She wanted to make it clear that she understands that the District needs to look at its costs and it is appropriate to increase it, but she felt like since this is such a sensitive time in people's financial situations that maybe the District could have not done it. Mr. Hanley asked if she wanted any changes made to the minutes to add this clarification, in case it wasn't clear there. She said that she did not have a change for the minutes, only wished to express this clarification verbally now at this meeting. Mrs. Riley made a motion to approve the minutes as presented. Mr. Ginsberg seconded the motion. Motion carried.

Next on the agenda was the Treasurer's Report and Bills Payable. Check # 22259 is to Arapahoe County for \$1,000.00 for fees for the review of the borrow site for the school fill-in project. Check # 22260 is to Arapahoe County for \$540.00 for a street-cut permit for the Jewell Avenue project. Mr. Warford expressed some disappointment at having to pay these fees, given that Arapahoe County is already involved in both of these projects and will be using the infrastructure that is built too, but the County will not waive the fees. Check # 22277 is to Dana Kepner for \$21,604.80 for water line pipe for the new installation along Jewell Avenue, and that project is underway and will likely be finished in the next week. Check #1546 from the Escrow account for \$153.00 is reimbursing the operating account for a check that was drawn in error from that account for some of Valentia Court project's fees. Mr. Warford asked if there were any other questions regarding the Treasurer's Report and Bills Payable. Mr. Thayer made a motion to receive the Treasurer's Report and to pay the Bills. Mrs. Riley seconded the motion. The motion carried.

Mr. Hanley then opened the meeting for public comments. There being no public comments Mr.

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Hanley went to the next item on the agenda, Mr. Iadarola's report.

- **Wabash Complex** – Updates were given on the four water projects that are priorities to be completed in 2011.
 - The first and most important project was to get the substitute water supply plan ready for alluvial well number 2. AquaSan has developed the depletions model based upon the decree received in November. AquaSan also wanted to include in the new depletion schedule the infiltration gallery data for Alluvial Well # 2, so that it could be incorporated into the SWSP application. But it was decided by CCV staff and consultants to move forward and get this done as quickly as possible so that the District has this available for the irrigation system this year. A request was filed with the State Engineer in mid-March for a new Substitute Water Supply Plan. It is now under review by the State Engineer and AquaSan is hopeful that it will be done by the end of April.
 - The flume at the Cherry Creek Country Club needs to be rated on a regular basis to make sure it operating correctly. This is being coordinated by Chuck and Steve and should be complete by the end of this month.
 - The tree canopy inventory and net irrigated area measurement needs to be completed for the Plan for Augmentation. The first round of measurements has been completed and now the date is being double-checked.
 - The SWSP accounting worksheet that needs to be revised pursuant to the final consolidated decree provisions by the end of April is not yet completed. Another week worth of revisions to the accounting program is still required to get it done.

- **Denver Water** – Denver Water has been conducting an updated Strategic Plan since September. The Plan update has come as a result of the new Manager of Denver Water, Jim Lochhead, who wants to establish a “new Denver Water”. He has asked for the Plan to look at the following perspectives:
 - Customers – strive for customer satisfaction (which includes dealing with distributors)
 - Financial well-being of Denver Water
 - Internal organization operations – maintaining and recruiting exceptional employees and be responsive to changing events
 - External relationships – how they can partner with government officials, western slope entities, etc.
 - Response to security issues and unforeseen events (i.e. terrorism, fires, natural disasters, etc.)

The Plan was submitted to the Denver Water Board. The Denver Water Board does want to improve their customer satisfaction; defined widely as business community, distributors, and individual meter customers. There were several questions asked by the Denver Water Board and answered by Mr. Lochhead.

There was a question about getting information to the public about rate increases. Cherry Creek Valley Water & Sanitation District (CCV) itself has questioned this in the past – it seems that CCV doesn't really have enough time to review the rate increases in order to respond and react to them. The answer was, as part of the Strategic Plan, they are going to have an open line of communication and be more transparent in the future.

There was another question about involving the distributors in the various planning processes and again it was stated very clearly by Mr. Lochhead that they were striving to improve communications with the distributors and get them included in the planning process.

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There was a specific question asked about Master Meter customers such as CCV and communication. For this, Mr. Lochhead answered that they are studying how to make that work.

In summary, the Strategic Plan is still at a high level, but it does appear that they are trying to improve their perception to people and organizations outside of Denver Water and to renew a commitment to be more transparent and communicative.

- **Moffat Project** – The Moffat Treatment Plant is the northern part of the Denver system. The southern part of the Denver system is the Foothills Treatment Plant. Right now, CCV depends 80% on the Foothills Treatment Plant. If Foothills Treatment Plant goes out, the ability to provide water to the Denver metropolitan area is really impaired. The Hayman fire really brought this to light, when the debris and soot began to clog up the Foothills Treatment Plant and it was touch and go for about a week as to whether or not the Foothills Treatment Plant would be able to continue to operate. Denver Water was able to solve that problem. From that experience, Denver Water has made a commitment to get Moffat Treatment Plant up to Foothills Treatment Plant standards, so that if one goes down, the other can serve. The Moffat Treatment Plant is in the middle of a residential neighborhood near Wheat Ridge. They have several proposals, one is to keep and expand it, and the other is to move it. So far, Denver Water has received over 5,000 comments on this question, both pro and con. Mr. Iadarola says that from his observations of the Denver Water Board's reactions, it seems that the Denver Water Board is in favor of moving it. A draft wildlife mitigation plan was also presented. There were several comments about whether the hydroelectric (water turbine) permit should be renewed. Mr. Iadarola believes that it currently provides about 14 megawatts of power.

Rates – The Denver Water Board did adopt the proposed 2011 system development charges, which have gone up by 11.4%, on average. These are the fees for new taps, mostly paid by new home builders. Homebuilders at the meeting commented that this is not the time to be raising rates.

- **Miscellaneous** – Governor Hickenlooper announced with Denver Water and West Slope representatives the successful completion of the mediation process. They are ready to start putting this to the test as it pertains to specific trans-basin issues. Mr. Farrington asked if this includes the Blue River case. Mr. Iadarola says that it does include the Blue River case. Former Governor Ritter started a process at the beginning of his administration, getting everybody to sit down from the different basins to mediate how Colorado can do trans-basin from the Arkansas River to the Platte River, from the Platte River to the Arkansas River, from the Colorado River to the Front Range and it had to do with mitigations for whoever was losing the water, as pay-backs. They came up with a plan for the mitigation. In theory, it will make the trans-basin process a lot smoother and easier to do, opening up the ability of Denver Water to export more of its water out of the Colorado River. Mr. Farrington asked for confirmation that this doesn't actually settle the Blue River case. Mr. Iadarola confirmed that it does not settle anything yet. Mr. Warford added that the mitigation will likely cost the Front Range, driving up water rates considerably. Various projects have been discussed for the mitigations. Mr. Iadarola added that the projects include such things as building reservoirs, parks, and water recreation facilities.

As part of the mediation process, Denver Water has negotiated a deal with the City of Littleton which allows the City to annex any property they want but limits water availability. The City of Littleton had a very unique contract which allowed them to annex any property they want and the annexed property would automatically be included in the service area – Denver Water would have to serve them without Denver Water approval. All other cities have to have Denver Water's approval to expand their service area, which usually came at a price. Denver Water approached Littleton and asked them

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to agree to a limited amount of water that they have available for future annexations, which is the basis of this new contract. Denver Water said that this new Agreement removed an impediment to the West Slope Settlement Agreement negotiations. It should also open the way for the WISE program, which will provide water to Douglas County, through a diversion down by Commerce City, piped back to Aurora; basically looping the entire Denver system through Aurora and back to the foothills.

Mr. Ginsberg commented that he had read that the trans-continental diversions are causing serious problems in the Fraser River and the Colorado River. He said that he read that there are plans to take even more water out of those two sources. Mr. Iadarola said that is part of the Moffat plan. Mr. Ginsberg continued with a question: "What does anybody plan to do about that? We are destroying two very, very important tourist attractions." Mr. Iadarola added that they are also gold-medal trout streams. He answered that the mitigation is to build storage up above the diversion so that they can collect the water and then when they divert the water out of the Fraser River and into the Moffat Tunnel, they will release an equal amount of water out of the reservoir. Mr. Ginsberg then asked, "When will the diversions be built?" Mr. Iadarola answered, "Not until the mitigation is built". Mr. Ginsberg asked if they have an idea on where the reservoir will be built. Mr. Iadarola's answer was that they haven't decided on where to put it yet. They are thinking of anywhere from Winter Park – which is property that is owned by Denver – to further up the pass where there's a narrow gulch where they think they can get about 5,000 acre feet of storage.

Mr. Hanley asked if there were any comments regarding Mr. Iadarola's report. There were none so they moved on to the Manager's Report.

Mr. Warford reported that it looks like the Wabash Street bridge will be open in June, or maybe before.

Mr. Warford reported that the County doesn't want to start the storage pond project until the seeding and some of their other projects are completed. He said it's not a big handicap for CCV.

Mr. Warford reported that the original lowest bidder for the work of filling in the detention pond on the Denver Campus for Jewish Education property and installing lines from that property has rescinded their bid. Their bid was pretty low, about \$80,000. The next lowest bid is about \$93,000 from Concrete Express. Mr. Warford says that there is a positive benefit to this, because Concrete Express is the same vendor who is also doing the new road. Another contractor would have to work something out with regarding using the new right-of-way and curb-cuts, now they are responsible for it themselves. Mrs. Riley motioned that the District accept the bid from Concrete Express. Mr. Thayer seconded. The motion carried.

Mr. Warford provided an update on the replacement of the water lines under Jewell between Parker and Dayton. The District's improvements are under way. The County's improvements are going to be much slower than originally thought. Mr. Warford reports that the County has been telling him that it is because Qwest and Comcast are not responding to the County's requests. Xcel is moving fairly reasonably. Things will likely stretch out through September. The road is closed from Parker Road to Jewell on a daily basis while it's under construction. Right now, it's mostly for the line CCV is putting in. There will only be one lane service going through this area.

Mr. Warford said that there has not been any movement yet regarding the secondary power feed from Xcel to the old District office for the back-up pumps. He does not have a quote yet for a generator, and hasn't decided yet whether one is needed.

Mr. Warford introduced a new topic for discussion – penalties, suspensions, disconnects and other possible remedies for customers wasting water through faulty plumbing. A memo from Mr. Farrington was presented to the Board, which listed what CCV currently has available as

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remedies under CCV's Rules and Regulations. Mr. Farrington said that there already is a prohibition for wasting water thru faulty plumbing (Section 8-1-7), but there isn't a specific penalty for it. The only penalty that CCV has right now is that CCV makes the repairs and charges the property owner for those repairs, under the Cure of Violations section in 3-5, or to terminate service for the violation. Mr. Farrington suggested that if a specific penalty charge for this violation is desired, then CCV should change section 3-7 to add a charge for the violation of 8-1-7. Mr. Hanley asked for the context of why this is being discussed now, has there been a situation? Mr. Warford answered that conservation has been discussed at various times with the Board, and there has been a specific situation where somebody has been notified of the violation and was not having their plumbing repaired. Mr. Warford would like to see the assessment vary based upon the timing of the notices to the property owner and the extent of the wasted water. Mrs. Riley asked for an example of such procedures. Mr. Warford explained how some plumbing leaks are small and others are much larger, depending on what the problem is. Mr. Ginsberg asked for the definition of "significant waste of water" that is referenced in the Order to Cure letter that Mr. Farrington had drafted. Mr. Ginsberg expressed concern that the lack of definition allows the user to argue that their waste was not "significant". Mr. Farrington said that it's CCV's rule, so CCV can interpret it as they see fit, so long as they are consistent. Mr. Farrington asked if CCV can measure the waste. Mr. Warford said that about the only way would be to compare to historical usage. Mr. Hanley asked Mr. Warford to gather data from other Districts and bring it to the next Board meeting to the Board see what procedures they have for these types of issues – what timeframes they use, what their penalties are like, and what percentage or amount of excess water use over prior year is considered waste. Mr. Riley suggested that Mr. Warford contact Denver Water.

Mr. Warford requested the Board to approve an increase of fees for ¾" hydrant valve use for various purposes, mostly construction, from \$11.40/day to \$15/day starting April 20, 2011 to reflect increases in the costs of water from Denver Water. Mr. Hanley asked if this was for contractors in construction. Mr. Warford answered yes. Mrs. Clendenin added that the Board did approve the increase to the regular hydrant usage fees at the last Board meeting, but this smaller hydrant valve's usage fees were missed on that increase. Mr. Hanley asked if this proposed increase is in line with the other. Mrs. Clendenin confirmed that it was. Mr. Ginsberg asked if the Fire Department was exempt from the hydrant usage fees. Mr. Warford answered yes, and added that the Fire Department wouldn't use a valve this small anyway. Mr. Ginsberg motioned to accept the proposed increase of the ¾" hydrant valve usage fees. Mr. Thayer seconded the motion. Motion carried.

Mr. Hanley asked if there was any additional business.

Mr. Dvorak said that the winning low bidder on the Jewell Avenue project was Ricor, and that they are moving right along with the project.

Mr. Warford said that the County has asked CCV to resubmit the application for the bond, for special use, for the Reservoir (location and extent). Mr. Hanley says that it's his understanding of the protocol is that it's a good idea to do it, but it's not legally required. Mr. Hanley says he has no trouble with re-applying, he can't see why it would be turned down again. Mr. Warford said he thought it was a long-shot that they turned it down the first time. Mr. Farrington added that if it is turned down again, CCV can overrule the County's action.

Mr. Ginsberg asked if the Board was going to go over the report that was at the bottom of today's Board packet on the table, the "Denver Water 2011 Cost of Service Rate Study Evaluation" by Red Oak Consulting, prepared for the Denver Water Distributors Technical Advisory Committee. He added that he has not had any time to read it yet. Mr. Hanley suggested that the Board take the reports home and review it, and if anybody has any concerns and wants to put it on the agenda for next month or some other time they can call John and he will have it added to the agenda and the Board can discuss it then.

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There being no further matters to come before the Board, Mr. Hanley called for the Board to adjourn. Mrs. Riley moved to adjourn, seconded by Mr. Ginsberg. Motion carried. Mr. Hanley declared meeting adjourned at 7:39 p.m.

READ AND APPROVED

Paul R. Thayer DATED 5-17-11