

RECORD OF PROCEEDINGS

CHERRY CREEK VALLEY WATER AND SANITATION DISTRICT

REGULAR MEETING OF THE BOARD OF DIRECTORS

December 13, 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 6:00 p.m. on December 13, 2011.

PRESENT

Paul Hanley – Chairman
Jorge-Ayn Riley – Vice-Chairman
Paul Thayer – Secretary/Treasurer
Louis D. Halsell Jr. – Director
Mark Lampert – Director

OTHERS PRESENT

John R. Warford – Manager
April Clendenin – Accountant
Darryl Farrington – Semple, Farrington & Everall, P.C.
Carmine Iadarola – AquaSan Network
Ron Dvorak – McLaughlin Water Engineers, Ltd
Jacob James – McLaughlin Water Engineers, Ltd

ABSENT

None

Mr. Hanley, Chairman of the Board, called the meeting to order at 6:03 p.m.

Mr. Hanley asked if there were any corrections or additions to the minutes of the November 15, 2011 Board meeting. Mr. Lampert asked for a spelling correction. Mr. Halsell asked for the Board to clarify whether they excused his absence or not. Mr. Lampert made a motion to approve the minutes as presented with the correction to the spelling error he had found and the addition of the board's action excusing Mr. Halsell's absence. Mr. Thayer seconded the motion. Motion carried.

Next on the agenda was the Treasurer's Report and Bills Payable. Mr. Warford reported that there wasn't really anything unusual activity this month. He asked if there were any questions. Mr. Hanley asked where 8891 E Wesley Dr is, regarding check # 22768 to Denver Water for \$12,406.78 for tap fees. Mr. Warford answered that it is in the Cherry Creek Country Club subdivision. Mr. Hanley asked if there were any other questions regarding the Treasurer's Report and Bills Payable. There were none. Mr. Halsell made a motion to receive the Treasurer's Report and to pay the Bills. Mr. Lampert seconded the motion. The motion carried.

Mr. Warford reported that the investments are holding course. He says that the Cherry Creek Valley Water and Sanitation District ("CCV") seems to be in pretty good shape so far.

Mr. Hanley went to the next item on the agenda, Mr. Iadarola's Water Resource Report.

- **Wabash Complex** – 2011 was a very eventful year for CCV and its water rights program. Several water rights were finalized and decrees issued regarding the Wabash Complex water rights including: the augmentation plan, storage right and diversion applications and Denver Aquifer. It is anticipated that during the first quarter of 2012 CCV will also have acquired the rights to ALV 2 well. That should complete the water rights which CCV needed to develop a water system.

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The water program that has been put together by Petrock & Fendel, Steve Board, McLaughlin Water Engineers, and the entire CCV team is very innovative. CCV not only has the storage rights, but also the underground water storage rights – which is the same type of storage as Aurora is moving towards with its WISE project. CCV now has the ability to recharge its wells, so water can be collected in the reservoirs and pumped back into the aquifer thus making the aquifer renewable. This is just a portion of the benefits obtained through this long two decade process. He added that there were also administrative and accounting benefits that he wouldn't go into tonight. He said that nobody will be able to develop water on Cherry Creek without CCV's approval, adding that CCV is pretty much the operating authority of the lower Cherry Creek.

- **Water Conservation** – Denver Water has just approved two new conservation programs. One is that they will be providing rebates for replacing grass with xeriscape; they will give a certain amount of money per square foot. The other is for the use of gray water. He reported that CCV just received water rights for gray water. If CCV's constituents start using gray water, Denver Water may help subsidize CCV's rates. Mr. Thayer asked if that means people could run water outside to irrigate after it has been used once inside. Mr. Iadarola answered yes, but it hasn't been totally sanctioned yet by the Department of Health. He added that several states, including California, have approved the use of gray water from the house to the lawn. Mr. Halsell asked if that was state-wide in California. Mr. Iadarola answered that it is statewide; it was statutory, done by state legislature, and has been promulgated by the California Department of Conservation. Mr. Lampert asked for clarification on how it works, can the water go to a cistern for use later? Mr. Iadarola answered yes – a person could collect water from the shower or dishwasher, store it in a cistern, and then pump it out onto the lawn. It has to be a completely separate, physically disconnected system from the potable water supply. Mr. Warford added that there is another caveat to this – in CCV's agreement with the Denver Water Board, Front Range water cannot be re-used. Mr. Iadarola added that is true.

Mr. Warford said that the Denver Jewish Day School (“the school”) uses potable water right now, from the alluvium. He said that might not last forever, it may change. He said that he has concerns about using gray water at the school for possible liability issues. There may also be concerns about using gray water on an individual's lawn and what may occur if that water spills over to a neighbor's yard. There may be some legal liability exposure for CCV in these circumstances and this will need to be examined by legal counsel before CCV approves its use. CCV has an agreement with the School to supply them with irrigation water. Currently, that's treated water. But CCV is working on building water storage that comes from the alluvium instead. Once the alluvium becomes non-potable, CCV will have to look at this because it is the supply that the School will be using for its irrigation.

- **Water Projects** – Mr. Iadarola went over water projects listed in an article in Forbes Magazine. The article talks about the extent that people are going to in order to bring water to their various communities all over the world. CCV has had the far-sight to focus its water development efforts in its own basin. CCV doesn't have nearly as many costs for bringing water from another basin, such as Platte River or Bear Creek. CCV only has costs for diversion and storage, not any additional costs for collection and delivery. The projects continuously come up and include:
 1. Water transfers from the Great Lakes or the Mississippi River or Alaska and Canada to the arid southwestern U.S.
 2. Water transfers from Alaska or Norway or the Artic/Antartic to Asia or the Middle East through the ocean – bringing icebergs down, or filling up tankers with potable water.
 3. Poseidon Resources Carlsbad desalination project – which is to take water to the San Diego from the San Bernardino, CA area via a desalination plant near Carlsbad.

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4. Cadiz Valley Water Conservation, Recovery and Storage Project (also known as Cadiz groundwater mining project) – which hopes to mine groundwater from an aquifer located in the eastern Mojave Desert in San Bernardino County, CA to send about 80 miles to Los Angeles.
- **Miscellaneous** – Texas has been experiencing a bad drought. Their department of Environmental Quality decided to start drying up farmland above Austin this month. That is a drastic move, taking away people's livelihood to supply the municipality. Mr. Iadarola added that water is being increasingly valuable and he has no doubts that the Board will find that having a water supply in their own backyard will be something that CCV and its constituents will appreciate for many years to come.
 - **Denver Water Rates** – Denver Water has started having public meetings regarding their water rates as they said they would in order to be more transparent than they were in this past rate-making process. They will have three levels of meetings: one for the general public which will be general overview, another level of meetings with the various distributors, and the last level will be a detailed discussion with the Technical Advisory Committee (TAC). There have been significant efforts to have more distributors join the TAC. There are about thirty-six distributors at the Denver Water board, and about one-third of them are members of the TAC now. All distributors are benefiting from the TAC, and the costs per member would likely be lowered if there were more members. The TAC created a good matrix regarding the rate model options, which Mr. Iadarola distributed copies of to the Board. One method is Cash Basis, and the other method is Utility Basis with Cash Residual. These are being proposed by the Denver Water Board, and the TAC is reviewing them both. Each has benefits and detriments.

Mr. Warford said that the American Water Works Association (AWWA) has a pamphlet relating to rate use charges. He asked if the Board would be interested in getting copies of such. Mr. Hanley said that it would be helpful if they are going to discuss this. Mr. Iadarola said that he thinks this will be a major part of the Board's agenda over the next twelve months. Mr. Warford said that he finds it very interesting that Denver Water is taking a look at changing their basis of use charges. He added that it is encouraging to him that they are recognizing that there are other ways to distribute capital improvements and use charges. Mr. Iadarola added that with the WISE project Denver Water would have a whole other set of distributors, which aren't bound by the old contracts with limits on their rate-making ability. Denver Water has looked to the old distributors to subsidize their in-city customer rates, and with WISE they will have a new source of higher profit than they can receive from the old distributors. It's now three groups of customers for Denver Water: Denver, Distributors, and the WISE participants.

Mr. Hanley asked if there were any further comments regarding Mr. Iadarola's report. There were none. Mr. Hanley thanked Mr. Iadarola for the report, and then moved on to the next item on the agenda, the budget hearing.

Mr. Hanley then opened the public hearing for the 2012 budget at 6:27 pm. There were no comments from the public. Mr. Hanley asked if any member of the board had questions or comments regarding the proposed budget. Mr. Lampert said that he previously had some questions, but they were answered earlier that business day in a private discussion with Mrs. Clendenin, CCV's accountant. The public hearing on the proposed budget was closed at 6:32 pm. The 2012 Budget Resolution and 2012 Budget Appropriation Resolution were presented to the Board. Mr. Lampert motioned to approve the Budget and Budget Resolution 2011-1213-2 as presented, and distribute it to proper authorities. Mrs. Riley seconded the motion. Motion carried. Mr. Lampert moved to approve Appropriations and Budget Appropriation Resolution 2011-1213-3 as presented, and distribute it to proper authorities. Mrs. Riley seconded the motion. Motion carried.

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Mr. Hanley went to the next item on the agenda, a Board resolution regarding the authorization for McLaughlin Water Engineers to act as CCV's agent during the Location and Extent application process with Arapahoe County Planning Commission ("County"). Mr. Hanley asked if this is the same authorization that the Board gave at last meeting. Mr. Farrington commented that the board resolution is the same, just a bit more formal so that the engineers can have it in hand when they present the location and extent to the County, and the County will acknowledge it. Mr. Warford commented that there should be one change to the resolution as presented – a phrase that refers to "Agreement" should be changed to "Authorization". Mr. Thayer motioned to approve Board Resolution 2011-1213-1 as amended. Mr. Lampert seconded the motion. Motion carried.

Mr. Hanley moved to the next item on the agenda, updates on the Denver Jewish Day School ("School"). Mr. Warford reported that CCV will likely be doing the underground storage tank for the School sometime in 2012. There hasn't been much work done on it right now, since efforts have been focused on the reservoir and there isn't as much urgency unless the School comes up with a need for more urgency. Mr. Hanley asked for Mr. Warford to refresh his memory as to what this project is about. Mr. Warford answered that it is for the irrigation program for the School. Mr. Warford said that the School is presently on treated water, but CCV will be supplying them the non-potable as he alluded to earlier in the meeting. Mr. Hanley asked if it's for their recreation fields. Mr. Warford answered yes; adding that it is for their entire irrigation system. Mr. Hanley asked whether the water is coming from a well. Mr. Warford answered that it will come from an alluvial well.

Mr. Warford reported that CCV is still working on the infiltration gallery, wells, and reservoir applications and permitting. Mr. James said that they are moving forward with the mining permit – they should have drawings ready next week and then the permit application should be written up in the next week or two for submission to the State of Colorado for their review. Following that, they will continue with the Location and Extent application to the County. The infiltration gallery still needs to acquire easements, and they still need to keep checking with the Corps of Engineers program to make sure they are following all their requirements. Mr. Hanley asked what the timing would be for the hearing regarding the Location and Extent application to the County. Mr. James answered that there would be two meetings. First one will be to request that the County waive the fees to CCV, second will be about the project overall. Mr. Hanley asked if the first one will be an issue. Mr. James said that they think they will be able to show that it will be to the public's benefit to waive the fees. Mr. Dvorak added that the fees were already paid the first time this was done and then rejected. Mr. James said that the fees are significant and CCV will not want to pay them again, especially since the County requested CCV to re-submit. Mr. Lampert said that the Library District's fees were waived, so they have history of waiving the fees. Mr. Warford said that CCV also provided the property for the detention pond for the School and the County for their storm run-off from the road. CCV has been very cooperative with the County. Mr. Lampert said that he urges the CCV board members take an active role in the hearings, especially Mr. Hanley and himself because they have been in front of the Arapahoe County Board of Commissioners and the Arapahoe County Planning Commission before. Mr. Warford says that they are attempting to get the application on the next scheduled monthly meeting after CCV receives the permit back from the State. Mr. Dvorak said that they had a preliminary meeting with the County and they asked for a letter from the State stating that this is a non-jurisdictional reservoir. Mr. Dvorak said that his firm contacted the State, and the State is now preparing that letter. He said that the County also asked for a statement from CCV's water resource engineer stating that CCV has the water rights to either store the run-off or augment it back to the Cherry Creek, and they now have that letter too. The Southeast Metro Storm Water Authority ("SEMSWA") is also asking for a grading and erosion control plan, which is usually done after final design plans. Mr. Dvorak said that his firm is asking for the grading and erosion control plan submission to wait until after the final design plans. Mr. Warford said that it would be best to wait, since there may be changes. He commented that SEMSWA is now a separate authority and no longer under the County.

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Mr. Dvorak asked if Mr. Warford or Mr. Farrington had received any further word from the County regarding the requested easement. Mr. Farrington said that he hasn't received anything back yet from the County's Assistant Attorney Mr. McNish. Mr. Warford said that he will call Mr. McNish and Mr. Farrington said that he had already emailed Mr. McNish but he would give him a call too. Mr. Farrington added that Mr. McNish may be out of town.

Mr. Warford reported that the Iiff underpass project is now under construction, starting December 6, 2011 because of the snow storm and cold temperatures. The County's contractors have started driving piling, and have torn up the intersection and re-directed traffic around some of their construction program.

Mr. Hanley moved to the next item on the agenda, the 2012 board meetings schedule. The Board discussed amending the meeting dates for December and September due to conflicts with the schedules of current board members, and amending the meeting time for December to start one hour earlier than the regular monthly dates and times. The typical dates and time are the third Tuesday of the month at 7:00 pm. Mr. Warford informed the board that the scheduling for the Cherry Creek Country Club for hosting dinner parties has changed and they are typically closed for such now on Mondays and Tuesdays. The Board discussed moving the December meeting to a Wednesday. Mr. Lampert said that if it is on the third Wednesday of the month, then there would be schedule conflicts with the Four-Square Mile monthly meetings. Mr. Warford said that the Board shouldn't worry about changing from Tuesday and he would work out the schedule arrangements as needed. Mr. Lampert asked if the budget meeting for its approval has to be done by December 15th. Mrs. Clendenin answered that it can be done sooner, that the statutory dates are that a draft is available to the Board of Directors by October 15th, adopted by the Board by December 31st, and filed with the State by January 31st. Mr. Farrington added that December 15th is only required for District's that file a mill levy. Mr. Halsell moved to accept the 2012 Board Meeting Schedule, including the change to the September and December meetings dates and the December meeting time, subject to any changes due to holidays or modifications by the Board, and to be posted at the traditional posting locations – the library, the fire department, the website, CCV's office, and at the County. Mr. Lampert seconded the motion. The motion carried.

Mr. Hanley moved to the next item on the agenda, designating an election official for the regular CCV election to be held on May 2012. There was discussion about whether there could be on-site election with absentee ballots this time, and not do an election by mail. Either way, the physical polling place must also be available, and would likely be CCV's main office or its warehouse building. Mrs. Clendenin said that she believes that there were some statutory changes in 2011 to elections, but it might not be specifically about whether mail-in elections are optional or required. Mr. Farrington said he would do some research on this and draft a memo to Mr. Warford and the Board about what the law allows and requires regarding mail-in elections. Mr. Hanley stated that the Board resolution tonight doesn't deal with that issue, and asked Mr. Farrington when would the Board need to decide? Mr. Farrington said that he believes the first deadline is in February 2012, so the Board should try to reach a decision in January 2012. Mr. Lampert suggested that if a mail-in election is required, that CCV try to coordinate their ballot mailings with Cunningham Fire Protection District (CFPD). The boundaries of CFPD are about three times the size of CCV, so it may not be administratively feasible. Mr. Farrington said that he isn't sure that a coordinated election with just one other district is allowed, but that the County can run a coordinated election for the special districts within the County. CCV has not participated in the past for strategic reasons. Mr. Lampert said that there may be cost savings in doing so. Mr. Hanley said he remembered mailing costs of about \$4,000 - \$5,000 last time. The 2010 election was the last time, and the only one that was mail-in ballots. Mrs. Riley asked for Mr. Farrington to email the memo. Mr. Hanley added that the Board will need that soon, definitely before the next meeting. Mr. Lampert motioned to approve Board Resolution 2011-1213-4 as amended. Mr. Halsell seconded the motion. Motion carried.

Mr. Hanley asked if there was any additional business. There being no further matters to come

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before the Board, Mr. Hanley called for the Board to adjourn. Mr. Lampert moved to adjourn, seconded by Mr. Halsell. Motion carried. Mr. Hanley declared meeting adjourned at 6:54 p.m.

READ AND APPROVED Paul Thy DATED 1-19-12