

RECORD OF PROCEEDINGS

CHERRY CREEK VALLEY WATER AND SANITATION DISTRICT

REGULAR MEETING OF THE BOARD OF DIRECTORS

January 18, 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 January 18, 2011.

PRESENT

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

OTHERS PRESENT

John R. Warford – Manager
April Clendenin – Accountant
Carmine Iadarola – AquaSan Network
Jacob James – 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 7:04 p.m.

Mr. Hanley asked if there were any corrections or additions to the minutes of the December 14, 2010, Board meeting. There were none. Mr. Halsell 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. Mr. Warford reported that the payables are down. Check # 22078 is to Aquasan for \$5,475.82 is mostly for work that HydroLogic Technology has charged to Aquasan for augmentation monitoring/calculations for the last six months. Mr. Iadarola commented that Mr. Warford has requested three times in the past for such charges to be billed monthly to the District, and Mr. Iadarola believes that he now has worked out a system with HydroLogic that will allow for monthly billing now, for future billings. Check # 22094 is to Special District Association of Colorado for 2011 Membership Dues for \$825.00. Mr. Warford asked if there were any other questions. Mr. Hanley inquired about check # 22039 to Concrete Express for \$6,528.00 noted as "Wabash Irrigation Relocate". Mr. Warford explained that it was to raise the non-potable water line in order to put concrete storm-water conduits underneath, for the water resource plan. Mr. Hanley asked if there were any other questions regarding the Treasurer's Report and Bills Payable. Mr. Halsell made a motion to receive the Treasurer's Report and to pay the Bills. Mr. Thayer seconded the motion. The motion carried.

Mr. Warford informed the Board that he has instructed Smith Barney to purchase \$3,000,000 in U.S. Treasury bills. He has also instructed them to keep a close eye on municipal bonds and to get out of any municipal bonds that show any downgrading. He suggests that they get back into mostly U.S. Treasury bills in a reasonable amount of time. Mr. Hanley agreed that there are forecasts for an increased risk of municipal bond defaults in the near future, and so it makes good sense to watch for downgrading, and perhaps move into the U.S. Treasury bills for better security. Both agreed that the rates for U.S. Treasury bills have recently gone up too, which also makes it a good investment choice at this time.

RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE CHERRY CREEK VALLEY WATER AND SANITATION DISTRICT OF JANUARY 18, 2011, CONTINUED.

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

- **Wabash Complex** – AquaSan is preparing a presentation on Cherry Creek Valley Water and Sanitation District's ("CCV" or the "District") water system operation for the February 2011 CCV Board meeting.

The project goals for AquaSan in the first half of 2011 include:

- 1) Getting the Substitute Water Supply Plan ("SWSP") for well CCV ALV-2 finalized and filed so CCV can begin pumping in March to provide an alternative water supply to the Cherry Creek Country Club (CCCC). Matt, District Water Attorney, is working on the legal paperwork, and Ron, District Engineer, is preparing the map, while AquaSan completes the SWSP application for filing by the February Board meeting.
- 2) The water measuring flume at the CCCC needs to be rated prior to April 1 of this year pursuant to the District's augmentation plan. AquaSan is working with Chuck to calibrate and prepare for the mandatory inspection. In the past, there have been problems with balancing the water, and there were possibilities that the flume was not reading correctly. Mr. Warford added that storm water that goes through the system may be causing some of the problems too. When the storm water goes into the ponds, over and above what is being pumped into those ponds from the alluvium, it causes some of those high amounts of water being augmented.
- 3) Pursuant to CCV's Plan for Augmentation, the tree canopy inventory and net irrigated area measurement is being prepared for submittal to the State Engineer by March 15. This tree canopy inventory is to be done every five years.
- 4) The accounting worksheet also needs to be revised pursuant to the final consolidated decree provisions agreed to in November. Aquasan will be working closely with Ms. Clendenin on the new accounting worksheet, to update it for new accounting requirements as part of the decree signed in November.

- **Denver Water** – Denver Water is being pressured by the EPA to rid asbestos from Denver Water's entire water system. Asbestos in water systems is most commonly found in Cement Asbestos Pipe. Mr. Warford reported that the District doesn't have any such pipes within its boundaries, with the exception of one area within the District's boundaries which has pipes that were never accepted by the District for maintenance, repair, etc. Back when it was built, the Board at that time allowed the developer to build it as they wished, with the understanding that the District would not be responsible for that system's maintenance. The District does not allow this any more. If that area is forced to replace their system, it will have to be done at their expense, not the District's, and that will be a big cost to them.

Mr. Thayer asked if the Cement Asbestos Pipe could be lined, like sewer lines in other situations, to stop the Asbestos from being hazardous. Mr. Warford said that they likely could, but that the problem comes not from use of the lines, but from when the lines break or repairs are performed on them. When in use, all lines, whether made from Cement Asbestos Pipe or not, build up a coating of mineral deposits after a few years which would likely make enough of a barrier that the asbestos fibers would not leach into the water supply. He said that asbestos is still used in Europe.

Mr. Iadarola stated that asbestos can be found not only in asbestos-cement pipe but also in conduits, felt wrap, and gaskets. The key issue is that if Denver Water asks all distributors, which would include CCV, to do a thorough investigation of whether or not there is any asbestos in their system, it would have to be a certified professional test for it. Should asbestos be found, the material's disposal is regulated by the EPA and there are state permits required if you remove or disturb an Asbestos Cement Material ("ACM"). Also, any asbestos discovered in CCV's system is a long term liability even if the ACMs

RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE CHERRY CREEK VALLEY WATER AND SANITATION DISTRICT OF JANUARY 18, 2011, CONTINUED.

have been properly disposed of in a regulated landfill. CCV is the only district to Mr. Iadarola's knowledge that has always been free of ACM. Mr. Thayer asked if the District would be pulled in somehow to the costs and liabilities associated with the fact that Denver Water has so much ACM. Mr. Iadarola said it is likely, at least indirectly through Denver Water's billing rates. Denver Water has already been sued in the past for dumping things – such as sewage at the Lowry landfill – and all the distributors helped to pay for it.

- **Water Conservation** – Mr. Iadarola presented numbers he has received from Denver Water regarding the 2010 Denver Water Conservation Residential Rebates by Distributors. There was discussion about how these numbers were lower than what CCV had tracked themselves. Rebates have to come through the CCV office for review and approval before being sent to Denver Water. CCV office staff is keeping tracking reports for these in case there are issues with processing and to avoid duplicate submissions. CCV office staff will send their tracking over to Mr. Iadarola so that the differences can be determined and more accurate numbers can be reported to the Board and Denver Water's reporting can be corrected.
- **Water Education** – Mr. Warford is working with the Technical Advisory Committee (TAC). Mr. Warford reported that there is a lot of work going on with the auditing of Denver Water's Capital Improvements and how the distributions of costs are applied to those who have contracts with Denver that are in the blue-line compared to what is happening in their agreements with Douglas County, Adams County, and other areas. Mr. Warford said that the TAC has been effective and has been doing a very good job auditing the Denver Water Board and making sure that those expenditures are applied to the right users.

Denver Water has a new education program that they are testing out in the Denver elementary schools. The program is geared more toward students and sustainability, rather than Denver and water conservation which were the main focus of the past programs. They want to educate the students about the entire Denver system, from its collection system to its distribution system, including water treatment. They are trying to make it into a standalone program in hopes of providing it to all the schools in the Denver service area.

The Denver Water Board needs to lock in the legal description of its Combined Service Area which is a requirement of the proposed West Slope Mediation settlement and have asked distributors with potential annexation/expansion plans to submit their changes. Mr. Iadorola stated that while CCV likely does not have any growth plans outside of its current boundaries, the District is still affected by this because those entities with plans for growth, such as possibly Littleton and others with much land that they may wish to include into Denver Water's Combined Service Area, will cause new water supply to occur and the costs of those Capital Improvements for the new water might make their way into the rates that CCV pays. The TAC will have to keep a close eye on this and try to distinguish the costs of the new water so that those costs are not charged to distributors like CCV who do not have any expansion. Mr. Warford confirmed that CCV does not have any areas outside of its current boundaries which would be annexed or included into the District. There are a few areas within the current boundaries that are excluded from the District which could become included in the future.

- **Miscellaneous** – For the first time in 50 years federal health officials have recommended a reduction of fluoride in municipal drinking water systems including the Denver system. The proposed recommendation of 0.7 milligrams of fluoride per liter of water replaces the current recommended range of 0.7 to 1.2 milligrams.

The outlook for the coming water year looks good, with all the snowpacks currently way

RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE CHERRY CREEK VALLEY WATER AND SANITATION DISTRICT OF JANUARY 18, 2011, CONTINUED.

above average. The lowest of the snowpack levels is the South Platte river basin, but even it is above average at 126 percent of average.

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 began discussion regarding the permitting process for the Reservoir. Mr. Warford – along with Mr. Dvorak, Mr. James, and others from McLaughlin – recently had a meeting with the State Engineer. The meeting was a fairly positive one. It will be a fairly long process, but it seems that the District may not need as many permits as originally thought. Mr. James said that his firm is preparing a letter to the State Engineer to ask for a formal permit determination. Mr. Warford said that it would be helpful to CCV in dealings with the State if CCV gets Arapahoe County's approval on this project. Mr. Farrington said that he is somewhat hesitant about starting the "location and extent" process again; since the County has rejected it before and from a legal perspective the District does not need to seek their approval again for the same project. Mr. Farrington said that if there is a benefit to CCV's relationship with the County by getting their approval, perhaps it might be worthwhile. Mr. Farrington will have a conversation with the County attorney to get his opinions on this matter. Mr. Warford will talk to the County Planning Director to see how they feel as well.

Mr. Warford reported that the Wabash bridge work has been on hold due to the cold weather. Project completion is still estimated to be in April of this year, but the work will be moving slow. Mr. Thayer asked if they will be making the new road out of concrete, since the contractor doing the bridge is Concrete Express and they usually work with concrete. Mr. Warford said that he hasn't seen the plans, but that he thinks it will be concrete. He said that it's about the same price any more to do it in concrete.

Mr. Warford announced that there were some problems with the bid that the Board approved at the December Board meeting for filling in the detention pond on the Denver Campus for Jewish Education property and installing lines from that property. Concrete Express's bid on the job was using an assumption that they would need to bring dirt in to fill it, while Wilson Brothers Construction assumed that they would pull dirt from the area that will be the future site of the reservoir. This likely caused pricing differences between the two which may have been significant to the bidding process. There is estimated to be about 400,000 cubic yards of dirt to remove from the future reservoir site when building the reservoir, so if they used this dirt it would help defray some of the District's costs to remove the dirt. Mr. Warford asked that the Board cancel the approval of Wilson Brothers Construction on this work, so that it can be re-bid.

Mr. Warford stated that this time the District's engineer is preparing a bid proposal that will be advertised and bidders will submit sealed bids. He said he has spoken with both of the original bidders and they have agreed to the re-bid. The re-bid will detail the requirement for the contractor to use dirt that it will remove from the future reservoir site. There was a brief discussion whether Wilson Brothers Construction has any rights in this matter, given that a Notice to Proceed was not issued, and no contract has been signed. Mr. Farrington indicated he could draft a letter documenting the reason for the cancellation and rebid, and Wilson Brothers' agreement to that approach. Mr. Thayer motioned to cancel the award of the work to Wilson Brothers Construction subject to possible documentation with Wilson Brothers Construction regarding the cancellation. Mrs. Riley seconded the motion. Motion carried.

Mr. Warford requested the Board to approve an increase of water rates to pass on the water rate increases received from Denver Water. Mr. Halsell motioned to accept the proposed increase of the water rates from \$3.01/kGal to \$3.45/kGal starting March 1, 2011. Mr. Thayer seconded the motion. Mr. Hanley asked how it relates to the 2011 budget, and Mr. Warford confirmed that it matches the 2011 budget. Mr. Hanley asked what the billing increases were last year. Mr. Warford stated that last year the District increased the sewer rates and the meter service charges, but not the water rates. Mrs. Riley asked how the District will let people know. Mr. Warford said that there will be a notice mailed to the customers, either with their bill or in a separate

RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE CHERRY CREEK VALLEY WATER AND SANITATION DISTRICT OF JANUARY 18, 2011, CONTINUED.

envelope depending on the volume of other notices that may be needed at the time. Mr. Hanley asked for further questions. Since there were none, Mr. Hanley called for a vote. Motion carried.

Mr. Warford introduced a new topic, electronic bill payment for the District's customers, and asked Mrs. Clendenin to present a proposal to the Board on the matter. Mrs. Clendenin began by stating that the District's office staff receives numerous calls each month requesting to make a payment immediately. They ask to pay over-the-phone or online rather than mailing or dropping off a payment. Sometimes they are overdue customers whose water is about to be shut-off. Others don't have the time or desire to mail or drop off a payment and would like to set up an automatic payment from their checking account or credit card instead so that they don't have to worry about it. The proposal is for a service that the customer can get payments directly from their checking account or credit card either online or by calling the District's office. Payments can be made one-time for those in an emergency situation, or set up for recurring payments so that their bill is paid each month automatically. It would allow the District to accept Visa, MasterCard, and Discover credit cards, as well as ACH from checking accounts for electronic methods of payment either over-the-phone or online. The costs of accepting American Express credit cards were higher than others, and their use was not as widespread, so the proposal excludes the acceptance of American Express.

The District's average bill among its entire customer base for all months of the year in 2011 is estimated to be around \$170. Using that as an average transaction amount, estimates were calculated on the transaction fees for the usage of this service, many of which are based on a percentage of the transaction amount. In order to determine the volume of transactions, Mrs. Clendenin used estimates of 30% using credit cards, 30% using electronic withdrawals from checking, and the remaining customers continuing to pay by sending a paper check or money order, by using their own online banking to mail a check to the District, or by using cash. The approximated fees per month are about \$1,900. The set-up fees are relatively low. It will be about \$200 to set up the service, but another \$3,425 to purchase an additional module for the utility billing software. With the additional module, the service can talk to the utility billing software are generate electronic billing statements, as well as directly post payments received into the customers accounts with a simple five minute download each business day. This will save the District some money in labor costs since posting receipts to the customers' accounts is a lengthy process when done manually. It will also improve accuracy since it eliminates the manual data-entry for the District. Also, with the electronic bills, there is an option for the customer to turn off receiving paper statements. If the customer chooses this option, then the District would save on the time, paper, ink and postage that it takes each month to print, stuff, and mail that bill. There is one more option that could be added for each month for an estimated additional cost of \$150 per month. This option would have the District receive checks electronically that the customers have entered into their own online banking, which are currently received as paper checks printed from their bank and mailed to the District. Since it isn't necessary and the customer wouldn't see a difference with or without it, Mrs. Clendenin's recommendation is that the District waits to see if they want to add this option at a later date, once the volume of other transactions, costs, and the District's satisfaction with the basic offerings as proposed have been determined.

Mr. Hanley asked how many people currently pay that way. About 15% currently use online bill pay with their own bank, which is about 293 customers. Mr. Warford said that he understands that there is a significant number of customers who want to use electronic bill pay arrangements and credit cards, but he said that there are still also many others who want to continue to use the current payment methods and a negative effect of this is that these folks will also have to share in paying for this process with their billing rates. Mrs. Clendenin said that there are two options regarding who pays for the service. One way is to have the District pay the \$1,900 - \$2,000 per month and split those costs, as all other overhead is, between the customers via their billing rates. The other is to charge a surcharge to the customer at the time when they use the service. Unfortunately, the credit card companies have some prohibitive rules about this which makes it nearly infeasible. The District must charge as much as the highest fee for one payment method to

RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE CHERRY CREEK VALLEY WATER AND SANITATION DISTRICT OF JANUARY 18, 2011, CONTINUED.

all the payment methods. For example, you can't charge one fee for Visa transactions and another for MasterCard transactions; they'd both have to be charged the same, which would be whatever the highest fees are. At this time, that works out to be nearly \$5 per transaction that the District would have to charge to anybody wanting to make an electronic payment, for each time that they make a payment. Even if the District chose to have customers pay this \$5 fee, the District would still have to pay the monthly fixed fees for the service and the additional software module license of about \$85 per month. Mr. Hanley asked about how the estimates for the numbers of people using credit cards versus electronic checks versus current payment options were determined. Mrs. Clendenin stated that they are purely a guess; there was no research that she could find on what the typical distribution is for a utility company with these types of payment options. She added that if the transactions go up, the District's cost will go up, and if the transactions go down, so will the costs, because the majority of the costs are based on the number and size of the transactions using the service. Mr. Hanley also said that looking at it from a cash flow perspective; the District will receive the dollars into its bank account a lot faster than they are now if people use this electronic payment service. Mrs. Clendenin said that the customers' accounts will also be updated faster.

Mr. Warford presented another negative side to accepting payments electronically. If a customer sells their house and moves, but forgets to turn off their automatic payments when they should no longer be paying a water bill to the District, then the District will owe them a refund for the amount that CCV will receive from the electronic bill paying service, which will cause some more administrative paperwork and labor costs. Mrs. Clendenin agreed that this situation will likely occur, but not on a very large scale, especially since the customer would likely call the District's office to turn off their water anyway and the staff could reset their online password if needed. Mrs. Clendenin said that there are situations that exist with the current billing and payment system that result in customer refunds, so this is not an entirely new problem. Mr. Warford agreed. Mr. Hanley and Mr. Warford both agreed that the time has probably come now where customers are expecting these payment services. Mr. Warford said that it will take a fair amount of work to get it all set up. Mrs. Clendenin agreed, and added that the service provider gave an estimated timeframe of about six weeks to set it all up. Mrs. Clendenin said that the office staff are up for the challenge, and believe it is a valuable service to offer to the customers.

Mr. Warford asked Mr. Farrington if there are any legal problems with not accepting American Express. Mr. Farrington stated that there are none, credit card companies are not a category that is protected by law against discrimination. Mrs. Clendenin said that the plan is to accept MasterCard, because they have the lowest fees; Visa, because they are the most widely used; and Discover, because their fees are about the same as Visa's. The plan is to not accept American Express, at least at this time, because their fees are much higher than the others and there isn't likely to be as much demand for only American Express. Mrs. Clendenin also pointed out that this service will charge the customer for returned items a \$25 fee, not the District. The District's own bank does not charge a fee for when CCV receives an NSF check, so this will be no change in costs to the District for customers using this service versus the current payment offerings.

Mr. Ginsberg asked about the security for the information that the customers will have to give to use the service. Mrs. Clendenin indicated that it is certified at the highest level, and the data is encrypted, but could not remember the name of the certification or the details about the encryption. Mr. Ginsberg said that it would be an awful lot of valuable information that somebody could get a hold of if they hacked into it. Mrs. Clendenin agreed that there is a risk, but it's a risk that a user takes whenever they do things electronically. The District's website is not holding this information, it is the third-party service provider who will house the financial information such as credit card numbers and bank account numbers and their website is the one that the customer will log into to make payments. The office staff will not see this online financial information, or the customer's password. Mr. Ginsberg asked if people would still be allowed to pay by paper check. Mrs. Clendenin confirmed that all the current payment methods will still be accepted, and at no cost to the District if people continue to use them. Mr. Ginsberg asked if any of the information collected is sold. Mrs. Clendenin answered that all the

RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE CHERRY CREEK VALLEY WATER AND SANITATION DISTRICT OF JANUARY 18, 2011, CONTINUED.

information is kept confidential, not sold or shared with anybody else. Mr. Ginsberg asked if that will be in their contract. Mrs. Clendenin indicated yes.

Mr. Hanley asked for any further questions or comments. Mrs. Riley commented that she liked that the office staff would not have access to the customer's passwords and other information. Mrs. Clendenin added that the office staff can still reset it to a system-generated password for a new initial password which will be emailed directly to the customer according to the email address that had in their profile when they set it up online. No password information, old or new temporary one, would be seen or accessible by the District's office staff. It is a third-party providing these services. Mr. Hanley commented that it is a pretty good idea; that is worth the costs; and the District should provide these services to those customers who want to use these payment methods; and he thinks that it is the way the world is headed. Mrs. Riley asked about when the customers will be notified. Mrs. Clendenin indicated that it will likely be the next billing cycle instead of the upcoming one, so that it is closer to the time when it is up and running, given the six week set-up timeframe. Mr. Thayer motioned to approve the costs for the set-up and annual fees of approximately \$24,000 per year. Mrs. Riley seconded the motion. Motion carried.

Mr. Warford briefly discussed a White Paper draft from the Metropolitan Denver Water Authority regarding Colorado's river compacts that was distributed to the Board. He expressed that he was pleased with the results of studies about water law and the compacts on the rivers for this state and others. He said that he thinks there will be a few more White Papers produced too.

Mr. Warford asked the Board to approve the official posting place for the 24-hour (agenda) notice of the 2011 Board meetings, as required to be approved by the Board at their first regular meeting of the year by section 24-6-402(2)(c), C.R.S. Mr. Farrington said that the Board might also need to ratify the other posting and notice approvals given at the December 2010 Board meeting because they may also need to be done at the first meeting of the year. Mrs. Riley motioned to ratify the notice resolution that was passed last month. Mr. Ginsberg seconded the motion. Motion carried. Mr. Ginsberg motioned to designate the official posting place for the 24-hour (agenda) notice of the 2011 District Board meetings to be at the District's main office located at 2325 S. Wabash St., Denver, CO 80231. Mrs. Riley seconded the motion. Motion carried.

Mr. Hanley asked if there was any additional business.

There being no other items for regular session the Board moved into Executive Session to discuss staff salaries, as authorized by CRS-24-6-402(4)(f), personnel matters – specifically payroll. Mrs. Riley made a motion to move to Executive Session. Mr. Ginsberg seconded the motion. Mr. Hanley requested an amendment to the motion, to include an attorney consultation as authorized by CRS-24-6-402(4)(b). Mrs. Riley made the amended motion, seconded by Mr. Thayer. Motion carried. The Board entered executive session at 8:05 p.m.

The Board came out of executive session at 8:30 p.m.

There being no further matters to come before the Board, Mr. Hanley called for the Board to adjourn. Mr. Halsell moved to adjourn, seconded by Mr. Thayer. Motion carried. Mr. Hanley declared meeting adjourned at 8:31 p.m.

READ AND APPROVED

Paul R. Thayer DATED 3/15/11