

RECORD OF PROCEEDINGS

CHERRY CREEK VALLEY WATER AND SANITATION DISTRICT

REGULAR MEETING OF THE BOARD OF DIRECTORS

March 15, 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 March 15, 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 (late arrival – 7:04pm)
Ron Dvorak – McLaughlin Rincon
Darryl Farrington – Semple, Farrington & Everall P.C
Jonathan Fung – Sanford C. Bernstein & Co., LLC
J.M. Fay – Resident

ABSENT

None

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 January 18, 2011 Board meeting. There were none. Mrs. Riley made a motion to approve the minutes as presented. Mr. Halsell seconded the motion. Motion carried.

Mr. Hanley stated that at the January 18, 2011 meeting, there was a discussion of employee salaries during an executive session. However, the minutes of such meeting do not reflect that the Board came out of Executive Session before adopting the motion to approve the salary increases. In order to make certain that the action approving salary increases is done in open meeting, Mr. Hanley asked for a motion to ratify the approval of the salary increases as presented at the January 18, 2011 Board meeting. Mr. Thayer made a motion to ratify the approval of the salary increases as presented at the January 18, 2011 Board meeting. Mr. Ginsberg seconded the motion. Motion carried.

Next on the agenda was the Treasurer's Report and Bills Payable. Check # 22167 is to Datamatic for \$403.49 for the meter reading equipment service contract. Mr. Warford said that he will cancel that contract soon and then the District will not be subject to those fees, since the District is switching all the meters over to the Orion system. The District still has some Datamatic meters, but the employees can manually read them until the last of the old meters are changed out – likely to be completed by the end of this summer. Check # 22176 is to Wilson Brothers for Hydrants installed over by the new Valentia Court project site for \$14,675.00. The Fire Department requested that more hydrants be added along South Valentia Street considering that a shopping center and the Club Valentia residences are already in that area that there were not enough fire hydrants in the area for adequate fire protection. Mr. Hanley asked why the fire department did not pay for it. Mr. Warford answered that it's the water district's responsibility to provide the hydrants, not the fire department. Check # 22202 is to Land Title for a customer refund for an overpayment by the title company at the closing on a sale of property for \$37.58.

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Mr. Warford asked if there were any other questions. Mr. Hanley inquired about check # 22168 to Denver Water for \$13,566.23 for tap & soil inspection fees, asking if the District is reimbursed for it. Mr. Warford indicated that the District collects all the money first, and then sends on the amounts due to Denver. Mr. Hanley asked if there were any other questions regarding the Treasurer's Report and Bills Payable. Mr. Halsell asked for an explanation about check # 22135 to Denver Water for \$128,805.43 which references Highline Canal rights. Mr. Warford explained that the Highline Canal rights are the water rights with Denver for some water in the Highline Canal which the District wants to maintain the rights for in case there is a need for it in the future, or if the District wants to sell them in the future. Mrs. Clendenin clarified that amount of the check pertaining to the Highline Canal rights is less than \$100 – the majority of the check is for January water usage to Denver. Mr. Ginsberg asked for further explanation of what the soil inspection fees are for. Mrs. Clendenin answered that those inspection fees are for \$100, imposed by Denver Water. Mr. Warford added that the soil amendment requirement began in 2008 and is necessary to be completed before a tap is hooked up. 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. Hanley then opened the meeting for public comments. Ms. Fay offered a written comment which Mr. Farrington read to the Board as follows: "It's time to put conservation plans in place. Require companies to do weekly or twice-a-month checks on water and follow-up if there is a known problem with the heads being run over when grass is cut. You really need to have in place this and other ways to reduce waste before you think of going to the Planning Commission and Board of County Commissioners with regards to the reservoir. Were the pipes under Yale and Syracuse checked before the concrete work was done? We need to remind you about the pipe burst at Syracuse and Harvard and that was after the County had the repaving done."

There being no other public comments Mr. Hanley went to the next item on the agenda, Mr. Iadarola's report. Mr. Iadarola wished to be put further down the agenda because his report would be a Powerpoint slideshow presentation this time and he wanted more time to test his A/V equipment. Since Mr. Fung had not arrived yet, he was on the agenda to arrive after Mr. Iadarola at about 7:30pm, Mr. Hanley moved on to the Manager's Report.

Mr. Warford began discussion regarding the status of the bid for the work of filling in the detention pond on the Denver Campus for Jewish Education property and installing lines from that property. The public bids were done, and the District will likely accept the lowest bidder. There were 9 bidders, with the bids ranging from the lowest that was around \$80,000, to the highest which was around \$147,000, for that job. The District will award that contract based on the timing of Concrete Express finishing the storage vessel for the storm water. The lowest bidder is on notice that the District is waiting for that to occur. Mr. Hanley asked when it needed to be awarded. Mr. Dvorak stated that it needs to be awarded within 60 days of the opening of the sealed bids, and that was February 18th. Since the contractor's bond and other matters still need to be reviewed, Mr. Warford and Mr. Dvorak suggested that the Board consider bid approval at the next Board meeting.

Mr. Warford reported that the Wabash bridge work will start up again Monday of next week.

Mr. Warford informed the Board that there is an opportunity to replace water lines under Jewell between Parker and Dayton. The county is widening the road, and realigning the storm sewer and will be repaving, and installing curb and gutter. Mr. Warford suggests to the Board that the District should take the opportunity of this project to replace all the water lines in the area. The water lines there are forty to fifty years old. Xcel has some very high voltage conduits right above the District's lines, so if there are any water line breaks it would be very dangerous and costly to have it repaired. The estimate from Mr. Dvorak is about \$100,000, plus or minus 20%, to replace all the water lines in that area while the street is being worked on for the County's projects. Mr. Warford said that he was considering doing a change order on the existing campus project rather than publishing notice of bids for this as a separate project. Mr. Dvorak added that

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the District would want to invite only qualified contractors on this type of work, and it should save some time to do as Mr. Warford suggested. No final decision was made as to how to bid the project. Mr. Warford noted that the area is full of many different utilities and such. Mr. Warford asked the Board if there were any objections to replacing the lines as suggested. Mr. Ginsberg asked when the power conduits were installed, before or after the District's water lines, and by whom? Mr. Warford answered that they were put in by Xcel after the water lines. Mr. Ginsberg asked why Xcel doesn't have to bear some of the expense of moving the lines. Mr. Warford says he has consulted Mr. Farrington on this matter already. Mr. Farrington said that he cannot find a case that says that Xcel has to pay for any of it. The County seems to have complete control over the issue of who moves what and who pays for it. Mr. Ginsberg then asked why doesn't the County pay for it? Mr. Farrington stated that the County can always tell the District, or Xcel, to move its own facility at its own expense. The financial obligation is on the owner of the facility, and the County has that authority when the facilities are in the County's street. It is the price the District pays for using the County's street rather than having to obtain the District's own easement. In this case, the County is not requiring either the District or Xcel to move its underground facility. Mr. Hanley said that he believes it's a good idea to go ahead and replace the lines, being that they are forty to fifty years old. Mr. Hanley asked if there were any other comments. Since there were no further comments or objections, he indicated to Mr. Warford to proceed with acquiring the bids.

Mr. Hanley asked Mr. Iadarola if he was ready to present now before going to another topic in the Manager's Report. Mr. Iadarola agreed, if Mr. Warford was willing to give the floor to him at this time. Mr. Warford indicated that Mr. Iadarola may proceed and Mr. Warford will finish the other items in his report later in the meeting.

Mr. Iadarola gave the Board a presentation which provided a summary of the District's water collection and distribution systems, including in-depth discussion about the different wells and their locations and uses within the District. This also included some explanations about return flows and augmentation, and other terminology related to the water systems. It was stated that CCV has the senior water right on the lower Cherry Creek and a program has been developed to fully utilize its valuable surface water in conjunction with its ground water. There was also discussion about the future of the system once the reservoir is built and in operation. Since the District has the rights to fill, then empty and refill, the reservoir as frequently as desired, the District may wish to consider recharging the wells with water from the reservoir in wet years where there is more abundant water than can possibly be used. The alluvial storage area on the Country Club is one location for the storage of surplus surface water. The alluvial storage will require the installation of a slurry wall around the golf course at a later time so that the water sent into the storage area is confined and reserved in the CCV area for its uses. There is also a need to recharge the non tributary wells, most likely the Arapahoe Aquifer. This will require treatment before injecting the aquifer with the surplus surface water. This technology will require expertise from ground water recharge experts to complete. The treatment process, however, can now be done using packaged solar powered treatment plants that fit in a semi trailer and can treat water to any standards, including potable standards, at approximately the same cost as presently being charged by Denver Water. Having more water in the wells would increase the long-term water supply, giving the District the ability to provide water in even longer cases of drought or political issues that may impact the District's other current water supplies. And recharging the wells will likely help the District avoid buying and drilling additional wells, it is estimated that the average number of years before each new well is needed is seven at a present day estimated cost of \$750,000.

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

Mr. Fung presented the investment strategies that Bernstein has used and will be using to protect the District against losses in the municipal bond market with local and state governments that have budget deficits and are possibly heading toward bankruptcy. This included investing more

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in municipal bonds that are repaid from revenue sources other than taxes and being especially cautious about investing in states with restrictive tax laws, like California and Colorado where laws prevent the governments from raising taxes as needed due to limitations such as growth/inflation – for example, TABOR in Colorado. Some examples of the types of municipal bonds they are purchasing include utilities such as water districts, sewer districts, etc., which are paid by user fees, and airport bonds which are paid by passenger fees, which have not decreased in this economy. The bond market for these types of bonds is not impacted very much by international concerns, such as Japan's earthquake and tsunami recently, other than possibly raising demand for municipal bonds because of concerns over the marketability of U.S. Treasuries – for example, Japan is one of the largest holder of U.S. Treasuries, and they might not sell their holding, but they likely will not be in a position to buy any more for a while as they recover from their recent natural disasters. Bernstein's forecasting models also provide indicators of investments that may be downgraded soon, and they will try to sell those investments before the downgrade occurs.

Mr. Hanley asked if there were any comments regarding Mr. Fung's report. There were none so they moved back to the Manager's Report. Mr. Fung left the meeting.

Mr. Warford presented three grease trap variances for the Board's approval. One was for Subway at 8450 East Iliff Ave, Unit 1. The second was for a new business called Mugsy's Bar at 7950 E. Mississippi Ave, Unit J. And the third was for a new business called Copper Kettle Brewing Company at 1338 S. Valentia St, Unit 100. All three have submitted letters stating that they will not be using the sinks, etc. for cooking or disposing of any greasy substances. Mrs. Riley motioned to approve the variances. Mr. Halsell seconded the motion. Motion carried.

Mr. Warford requested the Board to approve the cancellation of the service contract with Datamatic. They were the meter equipment and readers that the District is phasing out of, and the field employees are now at a point where they can manage the remaining meters manually without the service support from Datamatic. It costs the District about \$400 per month to keep the service contract. Cancellation requires 60 days notice, and the District is paid up through April 2011. Mr. Halsell motioned to approve the cancellation of the Datamatic service contract. Mr. Thayer seconded the motion. Motion carried.

Mr. Warford discussed the secondary power feed from Xcel to the old District office for the back-up pumps. He stated that he would like to cancel that service with Xcel, and if the District does need back-up power at some time to power the pumps, which would only occur if the main power were to be out at the same time as the large water conduits from Denver were to become non-operational, a generator could be used. John asked for input from the Board about whether a generator should be purchased now or later when such a remote emergency may occur. The Board requested that Mr. Warford gather cost proposals/estimates for a generator and then they will discuss again whether or not it is reasonable to pursue a generator. The secondary power feed service rate from Xcel is being increased to a very high amount, whether the power is used or not. Mr. Thayer motioned to approve the cancellation of the contract for the Xcel secondary feed to the old District office. Mr. Ginsberg seconded the motion. Motion carried.

Mr. Warford presented a proposal to increase the fee for water turn-on/turn-off for customer non-payment from \$20 to \$40 starting April 1, 2011 and expand it to include all service calls, such as situations where a plumber needs us to turn the water off and on at the meter. Mr. Ginsberg asked if these are taxes or fees. Mr. Warford answered that they are fees. Mr. Ginsberg then asked for confirmation that TABOR doesn't apply for this increase. Mr. Farrington answered that TABOR does not apply to this fee. Mrs. Clendenin indicated that the District's office staff called many other water districts in the metropolitan Denver area and the lowest other district was \$25 and the highest – Denver Water was \$100. The average was about \$50. Mrs. Clendenin also added that the District does its best to provide advance notice of shut-off situations to the customers in the event of non-payment; shut-offs do not occur until the customer owes more than two billings cycles worth of charges; and if the customer contacts us with the reasons for why

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they can't pay it all, we work out payment plans and such with them to allow them to slowly get caught back up without being shut-off. Mr. Warford indicated that if he is aware that there are children in the home or a daycare/school, the District tries even harder to avoid shut-off. Mr. Halsell said that if the costs to get the District's field employee out to perform the shut-off/turn-on are about \$40, then the District should charge such in order to recoup such expenses. Mr. Warford confirmed that it is the staff's estimate, given the labor costs of the employee's time, sometimes on overtime to perform a shut-off/turn-on, and the gas and maintenance for the service trucks. Mr. Ginsberg proposed that the District charge the average of \$50 rather than the original \$40 proposed. Mr. Halsell said that the average district is likely a bit larger than ours, causing more drive time and gas use for their average trips for shut-offs. Mr. Ginsberg motioned to increase the turn-on/turn-off fee to \$50. Mr. Thayer seconded the motion. Mr. Hanley asked if there was any further discussion before calling the vote. Mrs. Riley asked how often water is turned off on families. Mr. Warford says the District has a run of people who are pretty much the same people each month. He continued by saying that it's not too often. The District puts the notices on the doors or windows and people come in and we let them pay a minimal amount. When there are situations where summer is coming up and they will be using more water, the District tries to get the customer caught up in the winter when their bills are lower. The District tries to work with people so that they aren't shut off. Mr. Hanley called for the vote. Four votes for – Mr. Hanley, Mr. Halsell, Mr. Ginsberg, Mr. Thayer; and one vote against – Mrs. Riley. Motion carried.

Mr. Warford requested the Board to approve an increase of fees for hydrant use for various purposes, mostly construction, from \$44/day to \$50/day starting April 1, 2011 to reflect increases in the costs of water from Denver Water. Mr. Ginsberg asked if they were metered. Mr. Warford answered that they are not; the District charge a flat rate instead and provide the user with a hydrant valve instead of a meter. The meter would have to stay in place for the whole project and they are often damaged or stolen. Denver used to have a flat rate too for a while, but they went back to being metered. But they are much larger. The fee has not increased in years, so an increase is warranted considering increases in costs. Mr. Thayer motioned to accept the proposed increase of the hydrant fees. Mr. Ginsberg seconded the motion. Motion carried.

Mr. Warford requested the Board to approve an increase of prices starting April 1, 2011 for meters and yokes to reflect increases in the costs from the District's vendors. The proposed increases are 5.1% for meters and 4% for yokes. Mr. Ginsberg asks for explanation of what a yoke is. Mr. Warford explained that it is a device that the meter sits in. Mr. Thayer motioned to accept the proposed increase of the meter and yoke prices. Mr. Ginsberg seconded the motion. Motion carried.

Mr. Hanley asked if there was any additional business.

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 8:55 p.m.

READ AND APPROVED

Paul R Thayer

DATED

4-19-11