

RECORD OF PROCEEDINGS

MINUTES OF THE BOARD OF WATER COMMISSIONERS

Open Session

October 28, 2009

A duly called Regular Meeting of the Board of Water Commissioners was held Wednesday, October 28, 2009 beginning at 7:45 a.m. in the Board Room, Room 309, 1600 West 12th Avenue, Denver, Colorado. Members of the Board present during the Regular Meeting were:

Penfield W. Tate, III, President
John R. Lucero, First Vice President
Thomas A. Gougeon, Vice President
Paula Herzmark, Vice President
H. Gregory Austin, Vice President

Board employees and others present during portions of the Meeting were:

H. J. Barry, Manager	P. L. Wells, General Counsel
D. B. LaFrance, Director of Finance	G. C. Fisher, <i>Acting</i> Director of Planning
B. D. Good, Director of Operations & Maintenance	C. R. Dermody, Director of Information Technology
J. Anderson, <i>Acting</i> Director of Public Affairs	C. Elam-Floyd, Director of Human Resources
R. J. Mahoney, Director of Engineering	G. Wilcox, Manager of Budgeting
M. L. Walker, Attorney	J. Martin, Engineer
T. L. McGuire-Collier, Manager of Community and Media Relations	D. Mallory, Auditor
J. Wright, Manager of Rate Administration	B. Gogas, Environmental Scientist
J. G. Fischer, Manager of Demand Planning	T. Roode, Assistant Chief of Engineering
R. Peters, Water Resource Engineer	R. Wirth, Supervisor of Treasury Operations
M. Bond, Community Affairs	
U. Sharma, Treasurer	
C. Piper, Water Resource Engineer	

RECORD OF PROCEEDINGS

MINUTES OF THE BOARD OF WATER COMMISSIONERS

S. Zimmerman, Office Management Assistant	A. Chavez, Budget Analyst
S. Miller, Manager of Health Care and Benefits Administration	J. Figurelli, Budget Analyst
P. Coleman, Manager of Internal Auditing	T. Segura, Budget Analyst
D. B. Engleman, Human Resources	A. Rettig, Treasury
K. K. Riegle, Attorney	S. Niemi, Rate Analyst
G. J. Rosenschein, Attorney	K. Bates, Attorney
W. C. Austin, Manager of Safety and Security	J. Graves, Office Management Assistant
Joe Pacheco, Retiree	Carol Pace, Denver Resident
Bruce Field, Former Employee	Ernest Quintana, Retiree
James E. Phillips, Jr., Former Employee	Carol A. Stevens
Curtis Stevens, Retiree	Adrienne Anderson, Rocky Mountain Center for Peace and Justice
Drew Beckwith, Western Resource Advocates	
Hamad Zanjani	Colleen O'Connor, Denver Post

Commissioner Tate called the meeting to order.

Commissioner Tate explained that, because the consideration of the proposed 2010 Water Rates had previously been scheduled for 9:15, the Commissioners would wait to hear comments from the public regarding water rates until that time.

Commissioner Tate invited members of the public to address the Board regarding any other matters that were not included on the Board's agenda. There was no response.

Upon motion regularly made, seconded and unanimously carried by the Commissioners then present, unless otherwise noted, the Board acted upon the following agenda items:

RECORD OF PROCEEDINGS

MINUTES OF THE BOARD OF WATER COMMISSIONERS

1. **ITEM 2–A–1: 2009 – 2010 WEATHER MODIFICATION PROGRAM**

Approved entering into an Agreement with Intrawest/Winter Park Operations Corporation and Western Weather Consultants LLC to provide weather modification services for the period November 2009 through January 2010 including operation of described generators at a cost not to exceed \$110,000, of which amount the Board will be responsible for \$55,000, all as more particularly described in the Agreement, a copy of which is attached to and incorporated in these Minutes as Exhibit "A."

Mr. Barry explained the Consultant was engaged during the 2002 drought to focus on watersheds that would impact the Board's water collection system. The current joint effort focuses on the Winter Park Resort and the Moffat Collection System. The Colorado Water Conservation Board has also undertaken a weather modification program to operate two high-elevation remotely controlled generators, which are also expected to benefit the Moffat Collection System. The Colorado Water Conservation Board's efforts will be funded in part by the Colorado River Lower Basin States.

2. **ITEM 2–A–2: CONTRACT FOR CHEESMAN DAM UPSTREAM CONTROL PROJECT — PHASE 1**

Authorized award of a contract to Global Diving and Salvage, Inc. for the Cheesman Dam Upstream Control Project – Phase 1, at a cost of \$12,736,904, which includes a contingency amount of \$380,000.

Jeff Martin provided a short presentation describing the project. Because of the unique nature of the project, construction in an underwater environment, Denver Water has also requested proposals for a construction manager for the project. The Engineering Division expects to bring a recommendation for such a position to the Board at the November meeting. Mr. Mahoney explained that Staff will report back to the Board regarding the use of the contingency allowance. The underwater construction portion of the project is expected to start in March or April.

RECORD OF PROCEEDINGS

MINUTES OF THE BOARD OF WATER COMMISSIONERS

3. **ITEM 2–A–3: CONTRACT FOR THE WILLIAMS FORK SMALL HYDRO/OUTLET WORKS PROJECT**

Authorized award of a contract to Moltz Civil LLC for construction of the Williams Fork Small Hydro/Outlet Works Project at a cost not to exceed \$16,991,800, including a contingency allowance in the amount of \$510,000.

Jon Fischer provided a short presentation explaining the project overview, the process for selection of the contractor and the scope of the project. Mr. Mahoney explained that installation of the hydro-power turbine would enable Denver Water to generate energy on low-flow releases from the reservoir.

4. **ITEM 2–A–4: AUTHORIZATION OF FOURTH AMENDMENT TO TASK ORDER AGREEMENT WITH AECOM USA, INC. FOR Foothills FLOCCULATION/SEDIMENTATION BASIN STRUCTURAL EVALUATION AND DESIGN**

Authorized the Fourth Amendment to the March 17, 2009 Task Order Agreement 11109G with AECOM USA, Inc., at an additional cost of \$51,346, and a total amended contract amount of \$177,198, all as more particularly described in the Fourth Amendment, a copy of which is attached to and incorporated in these Minutes as Exhibit "B."

5. **ITEM 2–A–5: CONTRACT AMENDMENT NO. 1 FOR RELOCATION OF CONDUITS 12 AND 18**

Approved Contract Amendment No. 1 to the August 28, 2009 Contract with Lillard & Clark Construction Company, Inc. for the relocation of Conduits No. 12 and 18, Contract No. 12019A, to include replacement of Conduit No. 37 at an additional cost of \$138,869, bringing the total amended contract amount to \$1,315,678.90, all as more particularly described in Contract Amendment No. 1, a copy of which is attached to and incorporated in these Minutes as Exhibit "C."

RECORD OF PROCEEDINGS

MINUTES OF THE BOARD OF WATER COMMISSIONERS

6. **ITEM 2-A-6: CHANGE ORDER NO. 2 TO THE CONTRACT WITH STURGEON ELECTRIC TO PROVIDE AND INSTALL NEW SWITCHYARD EQUIPMENT AT THE BROOMFIELD PUMP STATION**

Approved Change Order No. 2 to the August 29, 2008 Contract with Sturgeon Electric, Contract No. 11773A, to purchase and install a new 15KV power feed to the pump station transformer at the Broomfield Pump Station at a cost of \$280,950, and extending the final completion date to June 30, 2010, all as more particularly described in Change Order No. 2, a copy of which is attached to and incorporated in these Minutes as Exhibit "D."

7. **ITEM 3-A-1: DISCUSSION AND INFORMATION: PROPOSED 2010 OPERATING BUDGET**

Ms. Wilcox, having previously provided the Commissioners with a memorandum describing the proposed 2010 Operating Budget, provided a comparison of the ten-year plan to the Proposed 2010 Operating Budget, and described variances from the 2010 Ten-Year Plan, which had recently been identified by Staff. Ms. Wilcox explained the 2010 revenue forecast and capital improvement plan will be discussed at the November 11 meeting, and a full draft Budget is scheduled to be presented to the Board at the November 25 workshop. The final budget will be presented to the Board for adoption at the December 9, 2009 meeting.

RECESS TO TRUSTEE MEETING

Upon motion made, seconded and unanimously passed, the Commissioners adjourned the Regular Meeting to consider the Trustees' Agenda at 8:44 a.m. The Minutes of the Trustee Meeting are separately maintained.

RECONVENED REGULAR MEETING

At 9:15 a.m., Commissioner Tate reconvened the Regular Meeting for consideration of the proposed Water Rates for 2010.

RECORD OF PROCEEDINGS

MINUTES OF THE BOARD OF WATER COMMISSIONERS

8. ITEM 5-A-1: ADOPTION OF PROPOSED WATER RATES FOR 2010

Commissioner Tate requested that Mr. Wright make a short presentation regarding the proposed rates for 2010, after which the Commissioners would take public comment.

Mr. Wright provided the Commissioners and members of the public with a copy of his presentation entitled "Proposed 2010 Water Rates, October 28, 2009", a copy of which is attached to and incorporated in these Minutes as Exhibit "E." Mr. Wright explained the need for increased revenue, including the need to invest in capital projects required to provide Denver's needs for 2010 and beyond. Mr. Wright explained that Denver Water's aging infrastructure is in need of repair or replacement and described some of the projects scheduled to commence in 2010. Mr. Wright then described the impact of the proposed rate increase on average single-family residential users in the city and in the various contract service areas. Mr. Wright explained that 2010 is the final year of a three year phase in to full cost rates for customers in the "Other" irrigation rate class, and the impact of that change was presented. Mr. Wright explained that if the Board adopted the rates at the present meeting, they would become effective February 3, 2010.

PUBLIC COMMENT ON PROPOSED 2010 WATER RATES

Commissioner Tate invited members of the public who were present to comment regarding the proposed 2010 increase. Commissioner Tate asked that each person identify themselves, and limit their remarks to three minutes, in order that the Commissioners could hear from all who were interested in addressing the issue.

Carol Pace, owner of a single-family residence in Denver, who is also affiliated with a 470 unit condominium complex in Southwest Denver, known as Woodstream Falls, addressed the Commissioners regarding the impact of the proposed rate increase on residents of the condominium complex, many of whom are unemployed or underemployed and on public assistance. Ms. Pace opined that Denver Water had not sufficiently addressed operating efficiencies, and suggested

RECORD OF PROCEEDINGS

MINUTES OF THE BOARD OF WATER COMMISSIONERS

that budgetary reductions would be more appropriate. Ms. Pace requested that the Commissioners freeze water rates for 2010, and provided written comments regarding the proposed rates, a copy of which is attached to and incorporated in these Minutes as Exhibit "F."

Drew Beckwith of Western Resource Advocates commented regarding the service charge and the need for a conservation price signal. Mr. Beckwith opined that use of a smaller service charge would provide a better price signal to the consumer. Mr. Beckwith suggested that for 2011, the Board consider moving to a budget-based rate structure, which would provide each water customer with a monthly water budget tailored to reflect that customer's individual circumstances. Mr. Beckwith opined that budget-based rates would be more appropriate for the wide range of users who receive Denver water.

Bruce Field, a former Denver Water employee, opined that a rate increase should not be considered if allegations he has made of fraud involving Denver Water construction projects have not been resolved. Mr. Field commented regarding oversight and accountability and suggested that rates be determined by an outside, independent consultant rather than Denver Water Staff. Mr. Field also urged the Commissioners to engage an independent party to undertake an investigation regarding his allegations of fraud and corruption at Denver Water's construction projects.

Joe Pacheco, a retired Denver Water employee commented regarding allegations made by himself and other former employees of illegal waste disposal by Denver Water at a former landfill site at 11th and Sheridan. Mr. Pacheco requested that the Commissioners freeze the current rates until an independent review of these allegations could be resolved. Mr. Pacheco alleged that other activities involving handling of toxic materials would be revealed to the news media.

Jim Phillips, a former employee of Denver Water, commented regarding allegations he has made of fraud, waste and misuse of public funds, lack of oversight, the need for an independent review of employee claims, mismanagement and his

RECORD OF PROCEEDINGS

MINUTES OF THE BOARD OF WATER COMMISSIONERS

opinions regarding Denver Water's operations. Mr. Phillips requested that the rates not change until a complete investigation of his allegations was made.

Adrienne Anderson spoke on behalf of the Rocky Mountain Center for Peace and Justice, CO-Watch Project, and opined that the rate increase was imprudent and should not be made during times of economic decline. Ms. Anderson questioned the costs of the projects which will be funded by the rate increase. She also commented regarding removal of cement-asbestos pipe currently in the Denver system and opined that Denver Water was not adequately addressing the claims of its former employees.

Ernest Quintana, a former Denver Water employee, commented that during his work career, he had worked with cement-asbestos pipe which had resulted in illness. Mr. Quintana opined that Denver Water should be responsible for his medical care based upon exposure during his working career.

Commissioner Gougeon requested that the Staff continue to work with the customers in the irrigation rate class. Commissioner Austin asked that the Staff provide a briefing regarding fixed charges in the First Quarter of 2010. Commissioner Tate suggested that an examination of the fixed charges also address the impact on the conservation signal.

The Commissioners thanked the members of the public for their comments and their attendance at the meeting, and noted that the weather made it all the more difficult for them to attend.

Whereupon, the motion having been regularly made, seconded and unanimously carried, the Board adopted water rates for 2010, as are more particularly described in Rate Schedules No. 1, 2, 3, 4, 5, 6 and 7, copies of which are attached to and incorporated in these Minutes as Exhibit "G" for meter readings on or after February 3, 2010.

RECORD OF PROCEEDINGS

MINUTES OF THE BOARD OF WATER COMMISSIONERS

SCHEDULING OF FUTURE BOARD MEETINGS

The Board confirmed that the first regular meeting for the month of November would take place on **Wednesday, November 11, 2009**, at **9:15 a.m.** in the Board Room, Room 309, 1600 W. 12th Avenue, Denver, Colorado.


No further business appearing, the Board voted unanimously to adjourn into Executive Session at approximately 9:50 a.m.

EXECUTIVE SESSION

On Wednesday, October 28, 2009, commencing approximately at 9:55 a.m. in the Manager's Office, located in the Administration Building, 1600 West 12th Avenue, Denver, Colorado, the Board of Water Commissioners met in Executive Session. The following matters which are authorized by C.R.S. § 24-6-402 or D.R.M.C. § 2-34 were discussed during the Executive Session:

1. Reports of Auditors § 24-6-402(4)(c)
2. Attorney-Client Matters § 24-6-402(4)(b)
3. Mediation § 24-6-402(4)(a), (b) & (e)
4. Security § 24-6-402(4)(c)

There being nothing further for the Board to consider, the Executive Session concluded at approximately 11:00 a.m.


Secretary


President