

RECORD OF PROCEEDINGS

**MINUTES
OF THE
BOARD OF WATER COMMISSIONERS**

Open Session

January 14, 2009

A duly called Regular Meeting of the Board of Water Commissioners was held Wednesday, January 14, 2009 beginning at 9:45 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
George B. Beardsley, Vice President
Susan D. Daggett, Vice President
Thomas A. Gougeon, 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
D. L. Little, Director of Planning
T. L. McGuire-Collier, *Acting* Director of Public Affairs
B. D. Good, Director of Operations & Maintenance
R. J. Mahoney, Director of Engineering
C. R. Dermody, Director of Information Technology
J. H. Bambei, Jr., Chief of Engineering
C. Elam-Floyd, Manager of Human Resources
A. T. Spaulding, Manager of Purchasing
K. Kempke, Treasurer
D. Pacetti, Distributor Services Supervisor
M. L. Walker, Attorney
R. Hernandez, Purchasing Agent
J. Buerkle, Purchasing Agent
A. Rettig, Treasury Analyst
S. Dominick, Engineer
A. Turney, Engineer

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L. Billeter, Staff Analyst
B. Reum, Mgr Geospatial Information & Technology
D. Judd, Asset Recording Administration
M. Van Nostrand, Engineer
S. Chesney, Community Affairs Specialist
S. Hall, Senior Community Affairs Specialist
T. Chavez, Community Affairs Specialist
C. Moe, Engineer
M. Elliott, Manager of Water Conservation
S. Miller, Manager of Health Care Administration
S. Smith, Conservation Specialist
John Wright, Manager of Rate Administration
Greg Sturtz, Sturtz Construction
Carol Pace, Citizen
Kim Calomino, Home Builders Association

Commissioner Tate called the meeting to order.

Upon motion regularly made, seconded and unanimously carried, the reading of the Minutes of the Regular Meeting of December 10, 2008 was dispensed with and such Minutes were approved.

Upon motion regularly made, seconded and unanimously carried, the Minutes of the Executive Session of December 10, 2008 were approved.

Commissioner Tate asked if there were any comments from members of the public regarding matters not included in the Agenda for the meeting. There was no response.

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

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1. ITEM V-A-1: HUMAN RESOURCE CHANGES

Approved the human resource changes set forth in Agenda Item V-A-1 dated, January 14, 2009, a copy of which is attached to and incorporated in these Minutes as Exhibit "A," effective the pay period beginning **December 13, 2008** unless otherwise noted.

2. ITEM V-A-2: EMPLOYEES ELIGIBLE FOR REGULAR STATUS

The following employees were classified as regular employees of the Board, with all rights and privileges thereof, effective **January 1, 2009**, unless otherwise noted:

Employee Name	Employment Date	Retirement Plan Participation Date Unless otherwise	Division/Section
Scott Snyders	07/03/2008	07/03/2008	Conservation #022
Brandon Conlon	06/09/2008	06/09/2008	Electrical Engineering #213
Jeffrey Martin	06/30/2008	06/30/2008	Dam Safety #214
Victor Rivas	06/09/2008	06/09/2008	Survey Field Crew #243
Erika Urban	06/30/2008	06/30/2008	Distribution Drafting #257
Damon Judd	07/01/2008	07/01/2008	Asset Recording Administration #260
Paula Daukas	06/16/2008	06/16/2008	Environmental Planning #305
Jesse Abad Sr.	06/16/2008	06/16/2008	Customer Service – Field #465
Heath Stuerke	06/06/2008	06/06/2008	South Platte Area #530
Joshua Bobbin	06/30/2008	06/30/2008	Ditches & Canals #540
Richard Martinez	06/30/2008	06/30/2008	Recycled Water Plant #650
Kevin Kleis	06/16/2008	06/16/2008	T&D Construction & Maintenance #710
Jesse Leyba	06/11/2008	06/11/2008	T&D Construction & Maintenance #710
Francine Martinez	06/16/2008	06/16/2008	Emergency Services #770
Ronald Jefferson	06/23/2008	06/23/2008	Buildings Maintenance #870
Tommy Moya	06/09/2008	06/09/2008	Electrical Shop #960

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3. **ITEM V-A-3: BANKING AND BROKERAGE RESOLUTIONS**

Approved a Banking Resolution and a Brokerage Resolution, copies of which are attached to and incorporated in these Minutes as Exhibits "B" and "C" necessary for the movement of funds into and out of the Water Works Fund and to manage investments, all as more fully described in the respective Resolutions.

In response to questions from Commissioner Tate, Ms. Kempke explained that Denver Water's current banking relationship is with U.S. Bank. Ms. Kempke reported U.S. Bank is one of the few banking institutions which have not required money from the Federal Bailout program.

4. **ITEM V-A-4: DESIGNATION OF AN AUTHORIZED PERSON FOR CERTIFICATES OF PARTICIPATION**

Designated the Director of Finance as the authorized person to provide instructions to the Bank of New York as trustee with regard to refunding Certificates of Participation issued in 1998 and 2001, all as more particularly described in the Certificates of Designation for the Lease Purchase Agreements, copies of which are attached to and incorporated in these Minutes as Exhibits "D" and "E."

5. **ITEM V-A-5: SECOND AMENDMENT TO CONTRACT WITH PECK, SHAFFER & WILLIAMS, LLP**

Approved the Second Amendment to contract with Peck, Shaffer & Williams LLP, Attorneys at Law, extending the time for Peck, Shaffer to serve as the Board's bond counsel to December 31, 2010, all as more particularly described in the Second Amendment, a copy of which is attached to and incorporated in these Minutes as Exhibit "F."

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6. **ITEM V-A-6: FIRST AMENDMENT TO CONTRACT WITH PIPER JAFFRAY & CO.**

Approved the First Amendment to contract with Piper Jaffray & Co. amending the November 8, 2006 Agreement to extend the provision of services to the Board for financial matters through December 31, 2010, and to modify the compensation, all as more particularly described in the First Amendment, a copy of which is attached to and incorporated in these Minutes as Exhibit "G."

7. **ITEM V-A-7: ANNUAL CONTRACTS SCHEDULED TO RENEW IN THE FIRST QUARTER OF 2009**

The Board approved renewal of the following contracts:

Contract with Exstream Software Inc. (Hewlett-Packard) to provide Dialogue software for the period January 1, 2009 to January 1, 2010, at an additional cost of \$51,000;

Contract with Environmental Systems Research Institute to provide GIS software for the contract period January 1, 2009 to January 1, 2010, at an additional cost of \$42,000;

Contract with Hewlett Packard to provide Data Protector Software for the contract period January 1, 2009 to January 1, 2010, at an additional cost of \$4,621.84; and

Contract with Tidal Software to provide I.T. Production job scheduling software for the contract September 30, 2008 to February 23, 2010, for an additional cost of \$92,882,

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all as more particularly described in the Attachment to Agenda Item V-A-7, dated January 14, 2009, a copy of which is attached to and incorporated in these Minutes as Exhibit "H."

8. **ITEM V-A-8: SECOND AMENDMENT TO SPECIAL OPERATIONS AGREEMENT BETWEEN DENVER WATER, VALLEY WATER AND CONSOLIDATED MUTUAL WATER COMPANY**

Approved the Second Amendment to Special Operations Agreement with Valley Water District and the Consolidated Mutual Water Company modifying the October 23, 1990 Special Operations Agreement by elimination of the monthly standby charge for an interconnect at approximately 42nd and Youngfield Street, all as more particularly described in the Second Amendment, a copy of which is attached to and incorporated in these Minutes as Exhibit "I."

9. **ITEM V-A-9: CONTRACT FOR CONSULTING SERVICES WITH SUKLE ADVERTISING AND DESIGN**

Approved entering into an Agreement with Suple Advertising and Design to provide the 2009 advertising campaign which supports the Board's conservation communication goals, investigates trademark and licensing opportunities and extends the "Use Only What You Need" campaign, at a cost of \$760,000, all as more particularly described in the Agreement, a copy of which is attached to and incorporated in these Minutes as Exhibit "J."

10. **ITEM V-A-10: CONTRACT FOR PRINTING SERVICES FOR PUBLIC AFFAIRS**

Authorized award of a contract to Lange Graphics, Inc. to provide printing services for the Public Affairs Section for the contract period January 1, 2009

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through December 31, 2011, at the prices set forth in the Tabulation of Bidder's Proposal No. 12046A, dated December 18, 2008, a copy of which is attached to and incorporated in these Minutes as Exhibit "K" for a total contract amount not to exceed \$625,000.

Mr. LaFrance explained that National Hirschfeld, the apparent low bidder had announced closure of its business on Monday, January 12, 2009, and because of that action, award of the contract was recommended to the second low bidder, Lange Graphics, Inc. Historically, the printing requirements of Public Affairs have been provided on an individual basis. A single contract was proposed in an effort to streamline the printing process and to secure more competitive printing prices. In response to comments from the Commissioners, Staff will investigate development of a relationship for printing with a backup supplier.

11. **ITEM V-A-11: RATIFICATION OF PURCHASE OF VEHICLES FOR CUSTOMER SERVICE**

Ratified the purchase of six three-quarter ton and one one-half ton utility pickup trucks from Burt Ford in Parker, at a cost of \$166,580; and two three-quarter ton utility pickup trucks from Heritage Ford at a cost of \$40,838, for a total authorization of \$207,418.

Mr. Good explained the vehicles are needed for the increase in Customer Service field staff necessary for monthly billing. Six additional personnel will start in February.

12. **ITEM V-A-12: THIRD AMENDMENT TO AGREEMENT WITH RSI COMPANY**

Approved a Third Amendment to Agreement with RSI Company further modifying the March 8, 2007 Agreement to provide upgrades, improvements

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and support for Denver Water SCADA System software and hardware, at an additional cost of \$84,000, and a total contract amount not to exceed \$186,400, all as more particularly described in the Third Amendment, a copy of which is attached to and incorporated in these Minutes as Exhibit "L."

13. **ITEM V-A-13: AGREEMENT WITH ADECCO TECHNICAL FOR AUTOCAD DRAFTING SERVICES FOR THE ENGINEERING DEPARTMENT**

Approved entering into an Agreement with Adecco Technical to provide AutoCAD drafting services for the Engineering Department through December 31, 2009, at a cost not to exceed \$248,880, all as more particularly described in the Agreement, a copy of which is attached to and incorporated in these Minutes as Exhibit "M."

14. **ITEM V-A-14: SECOND AMENDMENT TO AGREEMENT WITH STURGEON ELECTRIC COMPANY FOR ELECTRICAL FACILITIES SERVICES**

Authorized the Second Amendment to Agreement with Sturgeon Electric Company further modifying the April 19, 2007 Agreement to provide services at Denver Water facilities through December 31, 2009, at the unit costs described in the Amendment, at a cost of \$251,000, and a total amended contract amount of \$350,000, all as more particularly described in the Second Amendment, a copy of which is attached to and incorporated in these Minutes as Exhibit "N."

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15. **ITEM V–A–15: CHANGE ORDER NO. 7 FOR THE INSTALLATION OF AN OXYGENATION SYSTEM PROJECT AT MARSTON RESERVOIR**

Authorized Change Order No. 7 in the amount of \$56,718.39, to the January 9, 2008 Contract with RN Civil Construction, for the installation of an oxygenation system at Marston Reservoir, all as more particularly described in the Change Order, a copy of which is attached to and incorporated in these Minutes as Exhibit "O."

16. **ITEM V–A–16: CHANGE ORDER NO. 1 FOR THE KENDRICK PUMP STATION LOW-SIDE RENOVATIONS**

Authorized Change Order No. 1 in the amount of \$51,641.83 to the July 31, 2008 Contract with Sturgeon Electric Co. for the Kendrick Pump Station Low Side Renovation Project, all as more particularly described in the Change Order, a copy of which is attached to and incorporated in these Minutes as Exhibit "P."

17. **ITEM V–A–17: RATIFICATION OF CONSTRUCTION CONTRACT CHANGE ORDERS AND AMENDMENTS TO AGREEMENTS**

Ratified Construction Contract Change Orders and Amendments to Agreements authorized by the Manager in November and December 2008 are as follows:

Change Orders No. 5 and 6 to the January 9, 2008 contract with RN Civil Construction for the installation of the oxygenation system at Marston Reservoir;

Eighth Amendment to February 15, 2000 Agreement with WW Wheeler and Associates, Inc. to quantify Denver's lawn irrigation return flows;

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Second Amendment to December 28, 2007 Task Order Agreement with Boyle Engineering Corporation for the Conduit 305 Study and Partial Reuse Master Plan Update;

First Amendment to July 1, 2008 Task Order Agreement with HDR Engineering, Inc., to provide an on-line operations, maintenance and procedures manual for the 56th Avenue Pump Station and Reservoir;

First Amendment to May 8, 2008 Task Order Agreement with Integra Engineering for the Filter Backwash Recovery Basin solids removal improvement project at Foothills Water Treatment Plant;

First Amendment to September 11, 2008 Task Order Agreement with Integra Engineering for the Foothills Water Treatment Plant Washwater Recovery Basin Bubbler Deicing System;

First Amendment to September 18, 2008 Task Order Agreement with Lyman Henn, Inc., for the Dunes Reservoir Outlet geotechnical baseline reports;

First Amendment to August 6, 2008 Task Order Agreement with RMH Group, Inc. to provide engineering services for Building No. 16;

Second Amendment to September 12, 2007 Agreement with AMEC Earth & Environmental, Inc. (formerly Hydrosphere Resources) for a decision support matrix for Dillon Reservoir;

Second Amendment to January 9, 2008 Agreement with GEI Consultants, Inc. for the Dillon Dam seismic stability evaluation;

Second Amendment to January 9, 2008 Agreement with Project One Integrated Services for the Highlands Pump Station and Reservoir Office Building;

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Second Amendment to April 25, 2008 Letter Agreement with Moltz Constructors, Inc. for the Williams Fork Reservoir Small Hydro/Outlet Works Project;

First Amendment to August 21, 2008 Agreement with Moltz Constructors, Inc. for the Marston Treatment Plant No. 2 Upgrade Project;

First Amendment to August 27, 2009 Agreement with Habcon Services, Inc. for work in the Decker's and Foxtan areas; and

First Amendment to October 23, 2008 Letter Agreement with Restruction Corporation for investigation of a South Boulder de-aeration chute

all as more particularly described in the Attachment to Item V-A-17, dated December 10, 2008 (*sic*), a copy of which is attached to and incorporated in these Minutes as Exhibit "Q."

18. **ITEM V-B-1: APPROVAL OF EXTENSION OF STANDSTILL AGREEMENT**

Approved execution of the Eighth Amendment to Settlement Agreement with the Colorado River Water Conservation District and the Board of Commissioners of the County of Summit, State of Colorado in the form attached to and incorporated in these Minutes as Exhibit "R."

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19. **ITEM V-D-1: RISK MANAGEMENT AND INSURANCE PROGRAM – REVIEW OF 2008, RATIFICATION OF CHANGES IN PREMIUM AND PLAN FOR 2009**

Ratified increased costs to the Board's property insurance policy in the amount of \$4,445 made necessary by the addition of the Montclair Pump Station and the Quivas Building to the property insurance policy coverage.

20. **ITEM V-D-2: FIRST AMENDMENT TO CONTRACT WITH VAN GILDER INSURANCE CORPORATION**

Authorized the First Amendment to the January 1, 2008 Agreement with Van Gilder Insurance Corporation, extending the term of the Agreement to December 31, 2010 at the rates authorized in the original Agreement, all as more particularly described in the First Amendment, a copy of which is attached to and incorporated in these Minutes as Exhibit "S."

21. **ITEM V-D-3: RATIFICATION OF WORKER'S COMPENSATION AGREEMENT**

Ratified selection of a three-year renewal for Worker's Compensation insurance with Liberty Mutual at the premiums described in the Large Risk Alternative Rating Option Plan effective 2/1/2008, a copy of which is attached to and incorporated in these Minutes as Exhibit "T" for the period February 2008 to February 1, 2011.

Ms. Kempke explained that at the January 9, 2008 meeting the Board delegated authority to the Manager to renew the Worker's Compensation Insurance coverage with Liberty Mutual for either a one or three year term. Although Staff informed the Board that a three-year renewal had been selected that action was not ratified. Ms. Kempke explained that Denver

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Water's Safety and Clinic personnel had worked diligently to prevent and manage worker's compensation losses during 2008, and the losses were on track to be the lowest since the year 2000.

Mr. Barry informed the Commissioners that Ms. Kempke would be retiring in February. On behalf of the Commissioners, Commissioner Tate thanked Ms. Kempke for her years of service and attention to the financial matters of the Board.

22. **ITEM V-D-4: ADOPTION OF 2009 SYSTEM DEVELOPMENT CHARGES**

Tabled consideration of the proposed 2009 System Development Charges in order to provide additional time to obtain necessary background information regarding the suggested adjustments.

During consideration of the suggested changes, the Commissioners discussed the current national and local economic situation and the impact of adopting changes at this time. Mr. Wright provided the Commissioners and the public with copies of his presentation, a copy of which is attached to and incorporated in these Minutes as Exhibit "U." The Commissioners asked for additional information regarding the proposed changes at the January 28 Study Session.

23. **ITEM V-F-1: CONTRACT FOR LOW-INCOME AND NONPROFIT AUDIT AND RETROFIT PROGRAM**

Rejected the bid of Sturtz Construction, Inc. as not responsive, and authorized award of a contract to Mile High Youth Corps to provide water audits and retrofit water saving devices for economically disadvantaged residential and nonprofit customers within the Denver Water service area for the contract period February 1, 2009 through December 31, 2011, at the unit

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prices set forth in the Tabulation of Bidder's Proposal No. 12095A, dated December 29, 2008, a copy of which is attached to and incorporated in these Minutes as Exhibit "V" for a total contract amount of \$2,388,000.

Commissioner Tate recognized Greg Sturtz, President of Sturtz Construction, who submitted a letter to the Commissioners regarding the bid process and the proposal submitted by Sturtz Construction, a copy of which is attached to and incorporated in these Minutes as Exhibit "W." Mr. Sturtz explained the Sturtz Construction bid and his response to questions from Denver Water Staff.

Ms. Elliott explained the bid of Sturtz Construction was incomplete and Staff had asked for additional information before determining to make the award. Staff also attempted to follow-up with references which were supplied by Sturtz, but was unable to verify.

24. **ITEM V-F-2: AWARD OF CONTRACT FOR HIGH EFFICIENCY TOILETS FOR LOW INCOME AND NONPROFIT INSTALLS**

Authorized award of a contract to McMillan Sales Corporation to furnish high efficiency toilets necessary for retrofit projects to be completed by Mile High Youth Corps, Denver Urban Renewal Authority and other nonprofit organizations for the period January 1, 2009 through December 31, 2009, at the unit prices set forth in the Tabulation of Bidder's Proposal No. 12069A dated December 11, 2008, a copy of which is attached to and incorporated in these Minutes as Exhibit "X," for a total contract amount of \$321,372.00.

25. **ITEM VI-A-1: DISCUSSION AND INFORMATION: ITEMS FROM BOARD MEMBERS**

Commissioner Daggett provided the Commissioners with a copy of her letter of resignation dated January 14, 2009, a copy of which is attached to and

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incorporated in these Minutes as Exhibit "Y." Ms. Daggett explained that with her husband's appointment to fill Senator Salazar's seat it would be difficult for her to be an effective Board Member. The Commissioners thanked Commissioner Daggett for her contributions and participation, and expressed a sense of loss caused by her resignation.

The Commissioners asked that Staff set aside time at the January 28 Study Session for discussion of the current economic conditions and its impact on the 2009 Budget. The Commissioners discussed whether acceleration of capital projects would be appropriate if stimulus money were made available. In response to the comments, Mr. LaFrance explained that the finance staff, together with representatives of Piper-Jaffray, have been meeting with various State agencies in order to include Denver water projects in any State/Federal stimulus packages.

26. **ITEM VI-B-1: DISCUSSION AND INFORMATION: MANAGEMENT ISSUES LEGISLATIVE REPORT**

Ms. Duncan reported regarding legislation which has been introduced that could have an impact on Denver Water's operations. Ms. Duncan described House Bill-1006 which Denver Water currently opposes, House Bill-1017 which Denver Water would support if proposed Amendments were accepted, and House Bill-1031 which Denver Water currently supports.

27. **ITEM VI-F-1: DISCUSSION AND INFORMATION: STATUS OF THE INVESTMENT PORTFOLIO**

The Commissioners received the report, "Denver Water Investment Portfolio as of December 31, 2008" as set forth in Agenda Item VI-F-1 dated January 14, 2009, a copy of which is attached to and incorporated in these Minutes as Exhibit "Z."

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28. **ITEM VI-F-2: DISCUSSION AND INFORMATION: STATUS OF CONTRACT WORK**

The Board was furnished with the Status of Contract Work Report dated January 6, 2009, a copy of which is attached to and incorporated in these Minutes as Exhibit "AA."

29. **ITEM VI-F-3: DISCUSSION AND INFORMATION: BUDGET STATUS REPORT**

The Commissioners received the 2009 Budget Status Summary for the period ending December 31, 2008, a copy of which is attached to and incorporated in these Minutes as Exhibit "BB."

30. **ITEM VI-F-4: DISCUSSION AND INFORMATION: NEW CONTRACT SUMMARY**

The Commissioners received a summary of new contracts between \$10,000 and \$100,000 entered between October 1, 2008 and December 31, 2008, a copy of which is attached to and incorporated in these Minutes as Exhibit "CC."

31. **ITEM VI-G-1: SCHEDULING OF FUTURE BOARD MEETINGS**

The Board confirmed a Study Session will take place on **Wednesday, January 28, 2009**, at **9:00 a.m.** in the Three Stone Buildings, 1600 W. 12th Avenue, Denver, Colorado. An agenda, including topics to be discussed, will be posted prior to the meeting. A portion of the meeting will take place in Executive Session.

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The Board confirmed that the regular meeting would take place on **Wednesday, February 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 to a Trustee meeting at approximately 11:56 a.m. Following the Trustee meeting, the Board adjourned into Executive Session.

EXECUTIVE SESSION

On Wednesday, January 14, 2009, commencing approximately at noon in the Board Room, 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. Litigation § 24-6-402(4)(b)
2. Attorney-Client Matters § 24-6-402(4)(b)
3. Negotiations § 24-6-402(4)(e)

There being nothing further for the Board to consider, the Executive Session concluded at approximately 1:40 p.m.

President

Secretary