City of Greeley
Water and Sewer Board
Minutes of May 19, 2021
Regular Board Meeting

Chairman Harold Evans called the Water and Sewer Board meeting to order at 2:00 p.m. on Wednesday, May 19, 2021. Due to City remote operations status related to COVID-19, this meeting was held remotely and was aired via live stream for public viewing at **https://www.youtube.com/user/CityofGreeley.**

1. Roll Call

The Clerk called the roll and those present included:

Board Members:
Chairman Harold Evans, Vice Chairman Mick Todd, Fred Otis, Tony Miller, Joe Murphy, Manuel Sisneros, Roy Otto and Mayor Gates

Water and Sewer Department Staff:
Director Sean Chambers, Deputy Director Water Resources Adam Jokerst, Deputy Director of Operations Nina Cudahy, Utility Finance Manager Erik Dial, Water Resources Manager Jen Petrzelka, Water Resources Asset Coordinator Cole Gustafson, Technical Services Manager Joe Kunovic, Rates and Budget Analyst Kalen Myers and Office Manager Shannon Metcalf

Legal Counsel:
City Attorney Doug Marek, Counsel to Water & Sewer Board Attorney James Noble, Environmental and Water Resources Attorney Jerrae Swanson, Environmental and Water Resources Attorney Dan Biwer, Environmental and Water Resources Attorney Aaron Goldman

Other Guests:

2. Approval of Minutes

Vice-Chairman Todd made motion, seconded by Mr. Murphy, to approve the April 21, 2021 Water and Sewer Board meeting minutes. The motion carried 6-0.

3. Approval of and/or Additions to Agenda

There were no changes to the agenda.

4. Welcome New Employees

Mr. Chambers provided an introduction of new Water and Sewer Department employees starting this month.

5. Approve and Recommend to Council Industrial Pretreatment Code Modifications

Ms. Kunovic explained that following a routine audit of the City's Industrial Pretreatment Program, the United States Environmental Protection Agency made a list of recommended ordinance modifications and best practices for Greeley to implement. Staff worked with the EPA Pretreatment Program advisors and the Greeley City Attorney's Office to develop the program modifications that meet the expectations of the EPA. The modifications to the Industrial Pretreatment Program must be codified through amendments to the City Code. The code changes amend the definitions to better align with Federal definitions, align the ordinance with current program processes such as permitting, enforcement and correct minor clerical errors. The amendments will provide more clarity for enforcement actions.

Vice-Chairman Todd moved, seconded by Mr. Miller that the board recommend to City Council approval of the Industrial Pretreatment Program legal authority as presented and the associated revisions to the Greeley Municipal Code, substantially in the form of the draft ordinance included in the board packet. The motion carried 6-0.

6. Recommend to Council Approve an Ordinance Establishing a Local Improvement District for the Ashcroft Regional Lift Station

Mr. Miller recused himself from the discussion and vote on this item due to a possible conflict of interest.

Mr. Prior explained that this ordinance will create a Local Improvement District for construction of a regional wastewater lift station and gravity sewer line to serve existing and future developments. The 2.9 million gallons per day full build out capacity lift station is planned to be located adjacent to the southeast corner of the existing St. Michaels Subdivision along 65th Ave. Wastewater treatment for the residents in St Michaels Subdivision, which are Greeley W&S customers, is currently provided by the City of Evans, pursuant to an intergovernmental agreement. This IGA was amended in May of 2021 to establish temporary treatment rates and the terms by which Evans will provide emergency overflow after the proposed Ashcroft lift station is constructed. The proposed Ashcroft lift station will allow Greeley to provide wastewater treatment to existing and future developments in Greeley within the Ashcroft Draw Basin.

The LID will establish two rates for assessment, 1) properties only tributary to the downstream proposed gravity sewer, and 2) properties tributary to the proposed lift station, force main, and gravity sewer as depicted in Exhibit A of the Ordinance. The Lift Station service area is approximately 900 acres, while the gravity sewer service area is approximately 1080 acres, with 180 acres of the service area being directly tributary to the gravity sewer main.

The basis for assessments under the LID will be water service tap size and ¾" equivalents. The lift station will have a ¾" equivalent capacity of 5156 and the downstream gravity sewer will have a ¾" equivalent capacity of 7051. The current estimated budget for the project is $4.64 million, however the maximum estimated cost will be adjusted after receipt of GMP pricing, anticipated in the end of May 2021.

Vice-Chairman Todd moved, seconded by Mr. Murphy that the board recommend to City Council approval of an ordinance establishing Local Improvement District 343795 for construction of the Ashcroft Lift Station and associated infrastructure, substantially in the form of the draft ordinance included in the Board packet. The motion carried 5-0.

7. Executive Session

Mr. Otis recused himself from participating in the Executive Session and voting on this item due to a possible conflict of interest.

Chairman Evans moved, seconded by Vice-Chairman Todd, to hold an executive session to address the following matters, as provided by C.R.S. § 24-6-402(4)(a), (b) and (e) and Greeley Municipal Code § 2.04.020(a) (1), (2) and (5):

1. For the purpose of providing the Board legal advice and determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators on matters related to the purchase and sale of the Long Peak Dairy Water Rights.

The motion carried 5-0.

The Board left the public session and moved into a private, executive session. The live feed of the public session on YouTube stopped recording, but was still accessible to the public. While the Board conducted the executive session, the public was provided with a screenshot of the agenda and a message stating the Board was in Executive Session.

Present during the executive session were:

Chairman Harold Evans, Vice Chairman Mick Todd, Manual Sisneros, Joe Murphy, Tony Miller, Roy Otto, Director Sean Chambers, Deputy Director Water Resources Adam Jokerst, Utility Finance Manager Erik Dial, Water Administrator II Cole Gustafson, Outside

Legal Counsel Jim Noble, Environmental and Water Resources Attorney Jerrae Swanson, Environmental and Water Resources Attorney Dan Biwer, Environmental and Water Resources Attorney Aaron Goldman, and Senior Administrative Specialist Ettie Arnold

This executive session was authorized by Subsections (a),(b) and (e) of Section 24-6-402(4) of the Colorado Revised Statutes, and Subsections (1), (2) and (5) of Section 2.04.020 (a) of the Greeley Municipal Code.

The Executive Session ended at 3:05 p.m. The Board then left the executive session and moved back into the open, regular session. At that time, the live feed of the meeting resumed on YouTube.

8. Approve Purchase and Sale Agreement with Longs Peak Dairy and Recommend City Council Approve the Divestment of City Owned Property Identified Therein

Mr. Cole Gustafson explained that this is a Purchase and Sale Agreement for water rights with Longs Peak Dairy, LLC. The Agreement contemplates Greeley's purchase of five and one-sixth shares of the Water Storage and Supply Company ("WSSC"). Part of the negotiation was a leaseback with an initial term of twenty years, which may be extended for up to five additional one-year terms for the acquired WSSC shares. Sellers also agreed to grant Greeley a Right of First Refusal to purchase Seller's seven remaining shares of WSSC. Purchase price is $10,900,000.00 plus two Greeley owned farms (The Varra Farm & The Hasbrouck Farm). The ROFR agreement, dry-up covenants, revegetation covenants, lease for the acquired water rights and leases for water rights associated with the two farms are included in the PSA. The total compensation in the form of both cash and farm property for the Water Rights is $12,900,000.00.

Mr. Miller moved, seconded by Vice-Chairman Todd to approve the Purchase and Sale Agreement with Longs Peak Dairy and to authorize the Director, or his designee, to make minor amendments to the agreement, including but not limited to, contract deadlines and property descriptions, and recommend to City Council sale of the City owned property identified therein. The motion carried 5-0.

9. Non-Potable Development Policy Update

Mr. Dial reviewed the history of non-potable water usage in Greeley and discussed the long-term financial and water resource need to expand Greeley's non-potable system. Mr. Dial explained that to meet the non-potable usage projected in the non-potable master plan, the non-potable must expand as new development occurs. The proposed non-potable policy will require the installation of non-potable infrastructure in new development in most cases and will result in lower overall costs to the water rate payer and the development community in the long-term. A tentative schedule was proposed that would finalize the proposal by early fall. The Board provided feedback regarding their preferred policy structure and directed staff to continue refining the policy as staff communicates it to interested stakeholders.

10. Utility Rate Affordability Update

Mr. Dial explained that in late 2020, staff presented background material relating to the need and potential options for creating a utility bill assistance program. He reviewed a pilot program proposal that will build upon Greeley's Food Tax rebate program. The proposed program would be based on income eligibility, which is the same as the food tax rebate. For utility customers who qualify, a $45 credit would be applied to utility bills in June/July. Staff proposed to submit the pilot program as a budget increase request for the 2022 budget and would finalize the businesses processes if it is approved.

11. Legal Report

Jim Noble of Welborn, Sullivan, Meck & Tooley provided this month's legal report to the Board.

Based on a review of the March 2021 Water Court Resume, Mr. Noble recommended that the Board authorize filing a statement of opposition in Case Number 21CW3023. This is an Application of the Town of Berthoud for a change of water rights for 34 shares (out of 100) in the Ryan Gulch Reservoir Company for municipal uses. Ryan Gulch Reservoir releases water to the Big Thompson River. This application also includes two exchange rights on the Big Thompson River in the same stream reach as Greeley's exchanges and in the vicinity of the Greeley-Loveland Irrigation Company diversion structures. Mr. Noble recommended that Greeley file a statement of opposition to ensure that Applicant's claims do not cause injury to Greeley's Big Thompson River water rights and exchanges.

Vice-Chairman Todd made a motion, seconded by Mr. Miller, that the Board authorize the filing of statement of opposition in Case No. 21CW3023 for staff and legal counsel to seek resolution of issues raised by this cases consistent with Water and Sewer Board Resolution No. 3 (2015). The motion carried 6-0.

12. Director's Report

Mr. Chambers reported on the following items:

- Windy Gap Firming Project Activity Update
- Wildfire Mitigation Update

17. Such Other Business That May be Brought before the Board and Added to This Agenda by Motion of the Board

There were no additional items brought before the Board and added to the agenda.

Chairman Evans adjourned the meeting at 4:32 p.m.

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Harold Evans, Chairman

Shannon Metcalf, Office Manager