

## **Eldorado Springs LID Advisory Committee Minutes**

March 21, 2019  
Rocky Mountain Fire District Station 6  
4390 Eldorado Springs Drive  
Eldorado Springs, CO 80303

The meeting was called to order at approximately 6:30 pm.

**Members Present:** Vija Handley, Cathy Proenza, Jeff Mason, Ken Sheldon

**Guests:** Doug Larson, Dave Bangs, Eldorado Artesian Springs; David Levin, resident

**Staff:** Joan Barilla, Mark Ruzzin

### **Approval of Minutes:**

The board considered the minutes of the January 17, 2019 meeting:

**ACTION:** Ken moved to approve the minutes of the January 17, 2019 meeting, as presented; Vija seconded the motion and it passed unanimously.

### **Plant Operations:**

Due to the discussion about the Eldorado Artesian Springs Resort Project equivalency rating, plant operations were not discussed at this meeting. This discussion was tabled until the April meeting.

### **Committee Updates:**

#### *Eldorado Artesian Springs Resort*

The board began this agenda item by taking up the topic of the equivalency rating for the Eldorado Artesian Springs ballroom project.

Mark noted that on March 18, the staff sent the committee a memo written to answer questions the committee has had over the past few months about the proposal to set a new EQR for the EAS ballroom project and present options for discussion to move the conversation forward. He stated the goal is to settle on an EQR for EAS outlined in a Memorandum of Understanding (MOU) and move forward with this MOU once the renovation project is complete. The MOU could also be used as a guide for future decisions by the committee regarding commercial projects. Mark walked the committee through the memo, beginning with a discussion about adding a new E-one for the ballroom/snack bar. David Bangs informed the committee the renovation project design will accommodate separate E-ones and Doug Larson stated he was ok with this proposal.

**ACTION:** Jeff moved to accept Option 3 in the staff memo, setting an EQR of 6.50, including adding a meter to the dedicated E-one pump and reserve the right to re-evaluate the EQR after one year but never lower the EQR number. The motion was discussed, but no second was made by any other committee member.

Ken felt Option 3 was a good option because it was starting with something reasonable and could go up with the inclusion of metering. Cathy had several concerns about this option,

including an overall concern there is no adequate process in place to carry out the plan. She also expressed concern this is an unlimited, blanket option to increase EQRs which could have a negative impact on the other users of the system. She would like to have a cap placed on the usage and a county-based cap enforcement plan created. She does not support unlimited expansion of use and has concerns about occupancy assumptions currently being discussed. Cathy and Ken both expressed support for fairness, but fairness also includes taking care of the community.

Discussion continued about occupancy numbers and concern was expressed that final occupancy numbers have not been set which is generating an EQR anywhere from 5.65 to 14.5 for a three-fold difference in numbers based upon a range of assumptions. At this point in the conversation, Cathy would like firm occupancy numbers before making a decision and doesn't believe there should be vote on an EQR in the absence of better information. Mark and Jeff pointed out EQR numbers don't go down and the residential EQR numbers are not built for occupancy. Mark suggested setting an EQR and triuing it up after metering, but for how long is still to be determined. The occupancy numbers presented in the memo are based upon the large open space that is the ballroom. Staff proposed an EQR based upon unconcentrated use of the space and once the flow usage is metered, if it's a different type of use, the EQR number would change. Predicting use of the space into the future is not possible, but Cathy suggested the EQR should be adjusted annually in perpetuity. Mark stated the process contemplated by staff with an MOU is to set a provisional EQR that goes up or down depending on usage. For example, setting an EQR at 6.5 which would result in a PIF of \$73,000, collect half of this amount upfront, collect data for 12 months, set another EQR and collect the other half of the PIF or return a portion of the money if the EQR goes down. Of the upfront money collected, staff recommends taking half of that money and placing it in an escrow account to ensure funds are available for a potential refund. Cathy doesn't agree with this scenario as it calls for a permanent EQR and to protect the community, she thinks the EQR should be re-evaluated every year. Doug Larson feels this is unfair as it is not applicable to all users of the system. Vija likes the proposal for the first year but feels you can't predict what is going to happen and whether this venue will become extremely popular. Adjustment every year is a good process so it's fair to all users. Vija would like to establish a maximum flow per day on peak days and a penalty for going over this max by shutting off service.

There was some discussion about initial setting of EQRs and why they were not allowed to be reduced. Jeff reminded all, EQRs couldn't be refunded because the money was initially collected through taxes, but now PIFs are required and can be refunded. Mark stated he doesn't believe the committee has the authority to limit the amount of flow per day/per month and the recommendations in the memo were made within the committee's purview. Cathy believes this is unfair, since a single user could potentially negatively impact the system and pass the cost along to all others. In particular, a commercial user who can pass the costs along to their customers unlike a residential user. Mark will check with the LID attorney as to whether the committee can limit the commercial user's amount of flow. There is no question as total EQRs go up, the plant will start to run closer to capacity and there may be issues in the future.

David Bangs provided, in his opinion, with the proposed upgrade to the pool, there could be a potential decrease of gallons used per day. He agrees it's a good idea to meter and collect real time data to make decisions.

Vija initial thought is to go with a 14.5 EQR and collect all the money up front or get assurances from EAS to stay within the 2000 gallons of usage for the pool and approximately 2000 gallons of usage for the ballroom. She is concerned the entire community will suffer if the gallons go up and the state becomes involved in expansion discussions. Dave believes it is in no one's best interest to have the state involved as it impacts both residents and businesses. Mark stated the analysis in the memo did not account for a reduction in usage with the new pool filter and this new filter could reduce the overall EQR number once real data is collected.

Cathy feels plant capacity flow should be calculated across peak months, May, June, July, August and possibly September. If current capacity is calculated using peak flow data, the plant is actually operating at 70% instead of 60%. She would like to know how the state mandated flows are calculated, do they look at an average of a couple of months or just one month? Another question posed, how long can the plant operate at 85% and is there is enough safety margin built in for the community?

Doug Larson feels 14.5 EQR and a PIF of \$150,000 is too high. He cited an example of water usage for the whole month of December of 550 gallons, including a 4.5 hour sit down dinner and stated this renovation project is about bathroom use, there is no kitchen included. He understands the commercial operation is part of the community and he appreciates the community, but feels the resort is not solely responsible for increased usage during the peak months, residential usage contributes as well. Both Dave and Doug talked about upgrades to the sanitary and storm sewers, offering that the plans call for two separate systems now and believe this will help reduce flow. Doug feels the variable rating should apply to all businesses, not just his. He'd support an EQR that can be raised or lowered based upon measurement and in his opinion, this seems to be a fair way to go.

**ACTION:** Cathy made a motion to propose the whole project be subject to annual meeting review and a variable EQR that can go up or down with funds being placed in an escrow account. She asked if anyone would second the motion, the committee asked for clarification of the motion. It was clarified that an initial EQR will be set and reassessed annually up or down based upon metering on any and all E-one pumps that serve the entire complex. Vija seconded the clarified motion. Jeff liked the motion and Ken thought this was an important motion to establish a process going forward. No vote was taken on this motion.

**ADDENDUM TO ACTION (APRIL 2019 ESLAC MEETING): Since this motion was not officially voted on at the March meeting, Cathy made a motion to take a formal vote at the April meeting on the proposal that an initial EAS EQR will be set and reassessed annually up or down based upon metering on any and all E-one pumps that serve the entire complex. Cathy, Vija, Jeff and Ken voted in favor, Kevin abstained, the motion passed.**

Discussion continued around the resort's unique classification and how this project is being considered at length because of that unique classification. Vija does not agree with discounting the EQR by 1.25 since there are multiple buildings on the property which will eventually be used. Cathy and Vija both feel there should be a maximum use in the proposal, but Doug stated he would not sign off on anything with a maximum restriction in it.

Cathy would like to add to a future agenda, discussion to revise the bylaws for commercial properties to include provisions applicable to all commercial properties across the board including consideration as to whether the pool complex should be separate, or that all

commercial properties should be considered under the same set of bylaws to be fair and equitable.

The discussion then turned to setting a gallons per EQR number. Mark reminded the committee they had settled on 5 gallons per person per day in a previous meeting based upon CDPHE regulation 43, Table 6-2. The staff memo provided five options for gallons per person per day.

Option 1 is Trail Ridge's proposal and each option increased the gallons per 1.00 EQR through how the plant is operating today, averaging 19,200 gallons across 153.5 EQR which gives you 125 gallons per EQR.

The staff suggested Option 3 or 4, Option 3 is based upon how the pool is operating today at 286 gallons per EQR and Option 4, 221 gallons per EQR was contemplated when the plant was being considered. It's generally thought, the ballroom will function much like the pool, people come to the ballroom for a few hours then leave. If Option 3 is considered, a 6.5 EQR with a credit of 1.25, the PIF is almost \$73,000. Once the MOU is drafted and signed, the EQR would be trued up after 12 months of data collection. Staff recommends collecting ½ of the PIF money and then placing ½ of that money in an escrow account to be used if a refund is necessary.

Jeff spoke about his proposal, Option 2, which estimated 412 gallons of discharge per 1.00 EQR after some calculations, but after speaking with Kevin, is now leaning towards Option 3. Kevin felt 412 was too high for gallons of discharge per 1.00 EQR.

Cathy agreed that the committee has settled the gallons per person number to be 5 as per CDPHE regulation 43. She is looking at Option 4 or 5 because she feels Options 1-3 are based upon limited data. The committee proceeded to discuss determining a gallons per EQR number and finding an actual basis for it. Option 4, 221 gallons was calculated based upon the history of the plant and how it was designed. ( $32,000/145 \text{ EQR} = 221 \text{ gallons per EQR}$ ) Option 5 was calculated using current operating numbers. ( $17,000-20,000/153.5 \text{ EQR} = 125$ ) Option 3 matches up with how the pool is operating today based upon the assessment at the time the plant was built. Mark reiterated metering is key to this decision and adjustment of the EQR number after 12 months. Cathy has concerns about the range of numbers presented for the gallons per EQR but is open to the idea of calculating an average between options. Ken, Jeff, Cathy and Doug all suggested Option 3 or 4. Cathy presented a motion to split Options 3 and 4.

**ACTION:** Cathy made a motion to split Options 3 & 4 and take the average of 221 and 286 to set the gallons per 1.0 EQR. ( $507/2 = 253.5 \text{ gallons per EQR}$ ) Ken and Jeff seconded the motion and it passed unanimously.

The committee then began consideration of an occupancy number to complete the formula in order to calculate an EQR for EAS since it has agreed upon 253.5 gallons per EQR and 5 gallons/person/day numbers. Cathy recommended something in the middle of the 789 total occupancy number for concentrated space, but Mark pointed out an event with tables, chairs and a dance floor was more common in that space with an unconcentrated occupancy number of 368. Cathy agreed this is a starting point for an EQR and metering is important, but she is not going to sign off on a blank check to allow unlimited usage and push the plant to the limit. She feels there needs to be an amount of capacity preserved so no one user pushes the plant over the threshold. Vija, Cathy and Ken all feel graduated rates may be the way to proceed.

The discussion moved on to tiered rate structures and keeping the plant's operation to 25,000

gallons. The committee discussed limiting EAS usage at 5,000 gallons and anything above this number would incur a large fee. Vija voiced concerns about how to limit max usage all the time. Doug will not give absolute assurance as to how he will use the facility all the time, but it is not his intention to have a significant amount of people in the ballroom every night. He does like the idea of a tiered rate structure and pay additional fees if usage goes over certain thresholds.

Cathy would like to know exactly what triggers expansion discussions with the state and what triggers a mandate to begin building the expansion. Once specific details about the process are provided, then a safety margin and severity of a rate structure could be determined to encourage all commercial property owners to be conservative. She does have some agreement with an occupancy number of 376 but won't vote on an EQR until a cap has been established. Ken feels this discussion must keep going until the next meeting to get Kevin's involvement and would like to table the rest of the agenda items until the April meeting. Mark will ask the LID attorney about whether an assessment can be added to properties in the district without a vote of the district and if there is a legal basis to set a hard cap to turn off sewer access if max use is reached.

#### *Boards & Commissions Update*

Due to the lengthy discussion about the Eldorado Artesian Springs Resort Project equivalency rating, a Boards and Commissions update was not given at this meeting. This discussion was tabled until the April meeting.

#### **Invoices and Budget Update:**

Due to the lengthy discussion about the Eldorado Artesian Springs Resort Project equivalency rating, invoice and budget updates were not given at this meeting. This discussion was tabled until the April meeting.

#### **Public Comment:**

There was no public comment and the meeting was adjourned at approximately 8:35 p.m.

#### **Post Meeting Clarification:**

Jeff Mason sent an email to staff on March 5, 2019, asking for clarification about whether a road improvement plan must be approved as a condition of the ballroom/snack bar renovation project permit approval. Staff reached out to Boulder County Land Use who stated the county must review and sign off on a plan before the building permit may be issued. This clarification was asked for after an initial discussion about whether road improvements had to be completed before the renovation project could begin created some confusion about the requirements of the permit approval. Before voting on approval of the March meeting minutes at the April ESLAC meeting, Cathy Proenza asked for this clarification to be included in the March meeting minutes.