

Eldorado Springs LID Advisory Committee Minutes

April 18, 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, Kevin Tone

Staff: Joan Barilla, Mark Ruzzin

Approval of Minutes:

The board considered the minutes of the March 21, 2019 meeting:

ACTION: Ken moved to approve the minutes of the March 21, 2019 meeting, with the following exceptions; a request from the committee to county staff asking for clarification/addendum to a portion of the minutes relating to the road plan approval condition for the EAS ballroom/snack bar renovation building permit and a vote on a standing motion about metering any and all E-one pumps at the EAS complex. With the agreement by staff to clarify the road plan approval information and agreement to vote on the standing motion after the meeting minutes discussion, the minutes passed.

Addendum to the March 21, 2019 Meeting Minutes requested at the April 18, 2019 Meeting:

Jeff Mason sent an email to staff on April 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.

Addendum to March 21, 2019 meeting ACTION ITEM at the April 18, 2019 Meeting:

March Meeting 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.

April Meeting ACTION: 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.

Plant Operations:

ORC provided the March plant operations report with February numbers; the committee commented that it would like to see the March numbers in the report. Staff will follow-up with ORC and request March and April numbers with the April plant operations report. While reviewing the operations report numbers, Kevin expressed his frustration with the priorities of the staff and committee, saying he feels the issues with CDPHE permit should be the top priority. In particular, he highlighted ORC's proposal to spend an additional \$5000 in chemicals per year to get in balance. A high TIN number is a biological issue, but the permit is forcing Gabby to do everything she can to get the TIN number down. The county should be meeting with the state to get the TIN number up. No movement has occurred, and staff needs to move forward with the protest of the permit because if not modified, there will be significant operating costs and all money collected through PIFs will be spent on operations.

Mark conveyed to the committee that staff time has been used in the last couple of months to address the ongoing EQR issue and subsequent questions because of discussions around the issue. A meeting is scheduled with Boulder County Public Health next week to develop a plan to meet with CDPHE and address the permit. Issues on the committee work plan also need to be addressed in the coming months as well.

Kevin has questions for ORC about the request to use methanol to address the TIN problem in order to get an additional carbon source. He would like to start a conversation with them to talk about programming of the SBR unit and timing by not aerating as long and extending the antitoxic cycles. Kevin feels chemicals don't necessarily need to be used, the timing and sequencing could possibly be changed in order to meet permit requirements. Staff needs to have a discussion with Tod Smith about base flows in the creek and what needs to be done to prove there are flows. One thought is to spend money on installing a gauging station in the creek at a location to be determined. If the permit is modified, ORC and the LID committees' concerns will be alleviated so county officials need to take a stronger stance against the state to modify the permit. Ken requested that county staff follow-up with the committee by email about the results of the meeting with Boulder County Public Health before the next monthly meeting. The plan of action should be to take the T. Smith memo and exhibits to CDPHE, add additional information to the record if available, and lodge an official complaint that the county does not agree with the permit and that the South Boulder Creek flow data utilized by CDPHE in evaluating the permit are not accurate. Vija would like Boulder County Public Health to be involved because they mandated that the community go with this system. Kevin feels public health should be involved because without their involvement it will cost the county and community a significant amount of money.

The staff plan at this point is to meet with Public Health and get them up to speed on the current situation and draft a letter, under the signature of the director of Boulder County Public Health, and include the Tod Smith memo. Vija would like to have Jeff Zayach, Boulder County Public Health, involved in the discussion due to his institutional knowledge about the project. Staff did locate a Fact Sheet issued by CDPHE that will need to be reviewed. The committee then discussed the ramifications of and penalties for not meeting the permit requirements. Kevin would like to know what ORC has been reporting to the state for the last couple of months, specifically in regard to how the TIN numbers are being reported.

Kevin feels ORC could proceed with purchasing a small amount of chemicals to test the process proposed by ORC, but should not authorize a \$5000 chemical purchase. Cathy would like to request ORC to attend the next meeting; questions she would like to ask include: Is there an

alternative to using methanol? Are there operational changes that can be made to address the TIN limit?

Next, the committee discussed the jump in BOD numbers, which typically fall under 300. Of concern is the BOD number of 789 and 127% of capacity for December; the committee would like to know if this number was reported to the state. Cathy feels a very relevant question is how much loading capacity does the plant have when thinking about increased flow capacity and what happens when you get to 127% of loading capacity. The committee also has questions for ORC around the blank fields in the operations report but is pleased to see removal of BOD and TSS.

Cathy asked, in respect to December, with 127% plant loading capacity and 100% removal, how come the TIN number is so high? Kevin stated this is a separate test and that ORC might not be testing for other numbers such as average effluent BOD and average effluent TSS. The question about blanks in the report came up again and it was explained that the blanks means that that particular test was not required that month. Another question the committee would like to ask ORC is, does the 100% removal of BOD and TSS raise red flags with the state and exactly how do you remove 100% of the pollutant? The committee would like to know why, with such a high amount of effluent BOD with a lot of carbon coming in, why is ORC's opinion they are carbon starved and adding carbon? In Kevin's opinion, the plant should not be running out of carbon. He is fine with experimenting and trying new things, such as methanol, but this should not become the standard operating procedure. Jeff had a question as to whether the conditions report form was signed and sent into the state. Staff will look into whether this form was submitted to the state.

The committee and staff continued the discussion around meeting BOD options and how to address this issue so as not to violate the permit. Loading gets diluted by water and it's helped by run-off in the Spring and Summer months. The committee definitely needs to keep an eye on the BOD concentration, which has been in the high 300's-400's for the last few months. Concentrations are up and when concentrations are up, load goes up. The discussion with EAS could be impacted because this is not just a usage issue, this could be a load issue as well. Kevin wants to continue this conversation by testing and monitoring. If the LID finds EAS is using more or dumping more load than expected, the LID must have the ability to adjust the PIF. He is supportive of an extra charge for extra treatment. In order to monitor load an auto-sampler would need to be set-up by ORC to sample and test.

Cathy commented on the collection system update regarding 194 Artesian and the car parked on top of the pit. She would like to see additional owner/tenant education and ensure that ORC can contact the owners of the apartment building. Staff can send the owner an email about educating the tenants with the dos and don'ts. The committee would like to discuss the recommendation to place a riser lid on that pit and how this is going to fix the problem since it would impact parking; e.g., how is water seeping into the pit if the parts below the pit are sealed? Is the seal or other pieces in that pit faulty? The committee would also like to know why no company will excavate 277, 267 and 261 Eldorado and would it be possible to dig a trench to re-route water rather excavate. In addition to these questions, they would also like to find out how ORC knows that the pit is leaking rather than the old piping from the house. In the past, there have been problems with lines from houses to the E-ones, but it's difficult to determine where the problem is. The committee would like to continue the discussion about infiltration because it's not fair to the community to incur costs if there are problems with house lines. Ken would like to ask Gabby the if the tank/pit has failed or if it's before that point; how do they know?

Invoices and Budget Update:

The committee noted the new auto-sampler purchase and would like an invoice from ORC for the purchase of this piece of equipment. Joan will reach out for a copy of this invoice and the cost will be tracked under infrastructure and maintenance.

Committee Updates:

Eldorado Artesian Springs Resort

Mark let the committee know there has been an update to the March 18 memo to answer additional questions asked by the committee. He began the conversation by discussing the items relating to the items to include in an MOU with EAS. Cathy asked about the surcharge memo and doesn't agree with proposal to charge \$12.00 per 1000 gallons as it doesn't disincentivize over usage and protect the homeowners from incurring huge charges to rebuild a plant. This is not what the committee wanted for a usage fee/surcharge as the intention is to protect the community from any single user exceeding total capacity. Mark noted the surcharge idea presented is based upon information received from the county LID attorney about what authority currently exists to add usage fees to customers who sending more wastewater to the facility than what their EQR entitles them to use. The fee needs to be tied to the operating costs of the plant. The discussion then turned to a tiered rate structure and how there must be a nexus between the fee and what the costs to process the extra water. Cathy feels building a new plant would add a significant operating cost and pointed out adding chemicals could change the operating costs as a result of excess capacity.

Staff explained that these proposals outlined in the memos were created to work with the statutory authority that the LID has as a local improvement district and within the constraints it operates under with what fees and taxes you can or cannot charge. The committee then discussed whether it has authority to prevent a single user from taking up and exceeding the facility's entire reserve capacity. Some felt the committee doesn't have the authority to do so, but there must be a process developed to protect the community. It was discussed that an equivalent PIF will be charged and higher quarterly operating fees collected.

Vija feels a cap is the only way to disincentivize over usage and EAS was treated separately within the rules and regulations as a special user. Staff can go back to the LID attorney and talk about setting a max flow per user and a cap. Ken would like to see this issue discussed because he doesn't feel it's fair that one user could push the plant to operating over capacity and thus force the community to consider a plant upgrade. Discussion continued about the current reserve of approximately 13,000 gallons and that the committee feels there should be a certain amount reserved for growth in the community and buffer so as not to trigger plant expansion. Members of the committee feel a cap is needed to have a reserve for growth and for events like the 2013 flood. Kevin walked the committee through the numbers relating to EAS' request of approximately an extra 2,000 gallons per day. 11,500 gallons is available to keep the plant under the 95% capacity. During the last meeting there was discussion about occupancy and Ken followed up with the fire department contact to confirm max occupancy is based upon safety and the department has not yet set the number. The committee then discussed the number of events the applicant will hold and concluded that this would impact how much solid and sludge needs to be removed. The removal charge should then be part of surcharge.

Kevin feels part of the PIF collected from EAS could be set aside to get a better solid handling system. Mark discussed other language to include in the MOU, e.g. addressing ordinary events and extra-ordinary events. When extra-ordinary events become ordinary, language can be

included in the MOU to renegotiate the deal because the operating parameters have changed. Staff will go back and ask about the cap issue and reserve allotment. Kevin feels one entity cannot take the entire capacity, all owners need to have the opportunity to expand as well. Staff would like to see the tiered rate model relating to the water delivery in the community and possibly set-up the MOU in a similar way.

The committee then discussed how flow metering would work and costs associated with this requirement. They want to require an automatic reporting system for the flow meter. A rough estimate of cost for the manhole would be about \$25,000 and include an auto-sampler, phone line, flume and commercial grade E-one pump. A commercial grade E-one pump should be required because it's more robust and can better handle the heavy usage. Cathy wanted to make sure it was clear the MOU spoke to on-going monitoring and that the EQR would be re-adjusted annually. She feels the bylaws need to be revised for commercial properties so that an EQR can go up or down and create a perpetual escrow account to be fair to the commercial users.

Mark brought to the attention of the committee two inquires he received from members of the community who were looking at the EAS permit information and noticed Ken's signature on the applications. They asked about whether it would be considered a conflict of interest for Ken to vote on an EQR decision for EAS. Ken stated he would abstain from any vote and his role at these meetings has been to facilitate conversations. He will do what the committee wants and is careful to separate discussions. Mark looked into this and as an advisory committee, members are one step removed from the actual decision-making for the LID, as the county commissioners serve as the formal governing body for the LID. However, the commissioners do lean heavily on the recommendations of the committee, which is a consideration. Technically, a conflict exists when a board member's vote would impact that individual financially; in the case of EAS, the committee is assigning an EQR to the project, not approving or rejecting the project. Vija feels Ken is part of the community and as a homeowner, does have an interest in what is being decided. Ken clarified his role in the project, that being to bring the team of engineers and architects to EAS and assisting in applying for the building permits. He may be the builder of this project but does not have a contract in place. Cathy thinks Ken can be fair in his decisions and Ken responded that he can be fair because he is a community member and would be impacted negatively just like others.

Public Comment:

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