

Eldorado Springs LID Advisory Committee Minutes

September 17th, 2020

Video Conference Meeting

The meeting was called to order at approximately 6:35pm by Jeff Mason.

Members Present: Jeff Mason, Vija Handley, Kevin Tone, Cathy Proenza, David Levin

Guests: Gabby Begeman (ORC), Janet Robinson, Doug Larson, Peter Spraitz, Janet Grey, Stephen Sangdahl, Ken Sheldon, Heidi Gerstein

County Staff: Mark Ruzzin, Jon Adam

New Board Member Introduction and Election of Chair and Vice Chair of the board

David Levin introduced himself as the new member to the board. David Levin nominated Jeff Mason to be the new board chairperson. Vija Handley seconded the motion, which passed unanimously among the board members. Vija Handley nominated Cathy Proenza as the vice chairperson, and David Levin seconded the nomination. The board unanimously accepted Cathy as the vice chairperson.

Approval of Minutes: Jeff Mason made a motion to accept last month's (August) meeting minutes. Kevin Tone seconded the motion to accept the minutes.

ORC Operations

Jeff and Kevin noted that the Monthly Total Inorganic Nitrogen (TIN analysis) number went up to 9.9 mg/L for the month of August but the rolling average went down. Gabby explained that the TIN is up this month because the ammonia level is up and is not being converted to nitrates as well as the plant can. Kevin noted that Total Kjeldahl Nitrogen (TKN-total organic nitrogen and ammonia analysis) was up last month as well. Gabby explained that high TIN and TKN levels often coincide. The TIN and TKN levels are still meeting the current permit requirements. Jeff mentioned that the current permit only recommends a TIN level. Gabby replied that the current permit TIN level is less than 10 mg/L every month, but in 2022 the TIN rolling average level will need to be below 1.5 mg/L. Kevin added that the rolling average is 15% of the TIN and is called the antidegradation number. Gabby added that no wastewater treatment facility can attain less than 1.5 mg/L rolling average for TIN from its discharge. Vija then asked if any of the other wastewater plants and communities are working with the state on this problem. Kevin replied that very few communities discharge into a stream considered to have zero background flow for part of the year and is the rationale for entering into the Alternatives Analysis. David asked if we are currently out of compliance and Kevin responded that the Eldorado WWTF is still in compliance with its TIN discharges until 2022.

Jeff asked that we move on with the agenda and we move on to invoices. Jeff mentioned the LID got billed \$1,196 and \$92 for the permit for the year. Mark Ruzzin added that when the state sends a bill we pay it. Jeff also mentioned that the LID was billed by Ambient for an E-One pump rebuild for \$482. Kevin

requested that instead of sending all the invoices separately that the invoices can be put into one document to make it easier to read the information. Jon Adam replied that was a great idea and that he will prepare such a document for the next meeting. Kevin asked about the Diversified Underground invoice, regarding locates performed on two properties. Jon responded that there are two properties owned by EASI that had called for locates. Diversified Underground is the locate company for the LID. Gabby replied that Title 9 of the Colorado state statute requires that utilities provide locates for their underground infrastructure when requested.

Jeff asked Gabby about the continued use of ammonium nitrate tests at the WWTF from the ORC Ops report. Gabby replied that it was a reagent field test to determine the TIN. Jeff asked how often the tests are done. Gabby replied that the tests are performed in the field monthly and the samples are also sent to the lab and that the ops report reflects both those costs. Kevin pointed out in the year to date budget actual that testing is a separate line item of the total ORC monthly charges. Cathy asked if the LID budgeted for testing, which was included in overall professional services. Mark said that in the future county staff will be separating all the ORC line items in the year to date budget actual report. Cathy added that we will need to adjust the budget line items from ORC to reflect the new UV system.

David Levin asked Gabby to clarify when specifically, the LID will have to meet the new TIN permit requirements in 2022. Kevin clarified that the LID currently will not be able to meet the new TIN requirements which is why we are beginning work with Wright Water Engineers to address the issue.

EAS MOU County Staff presentation, public comment and ESLAC board recommendation to the BOCC. Mark Ruzzin and Jon Adam gave a presentation of the MOU v5 to the ESLAC advisory committee and members of the public present.

During the presentation, Kevin asked to clarify Jon's point on Discharge Flow Monitoring that ORC will not be asking ORC to monitor EAS in real time, i.e. act as policemen and that the monitoring equipment will enable the LID to have a record of how much flow is coming from EAS and what the quarterly surcharges would be if EAS exceeds its allowable discharge from the MOU. Gabby indicated that the meters will log the flow from the EAS pool and ballroom every 15 minutes and there will be a set of alarms. Cathy asked what the alarms were for specifically, who gets notified and how will ORC be paid? Mark replied that it is anticipated that county staff will be tracking the data over time and the committee would have to determine how to respond to alarms. Mark referenced section 5 of the MOU that spells out if EAS is found to be discharging beyond its allowable limits to the WWTF per the MOU that there would be conversations with EAS on the issue. Data collection is about gathering enough information to understand the impact EAS has on the WWTF, that there aren't extraordinary impacts to the WWTF and if the LID is starting to see impacts to the facility that the LID can open up dialog with EAS.

Cathy asked to strike from section 5 of the MOU, "between the months of April through September" and have monitoring be year-round with the increase of the future unknown impact the ballroom will have on the facility at any time of the year. Doug mentioned that his increased quarterly fees could help

pay for any time needed to monitor the discharges. David Levin added that he didn't understand how the LID will be able to enforce this via the MOU. He asked to comment on whether the MOU is an informal document or a legally enforceable document. Jon added that the enforceability of the MOU will be addressed further down in the presentation.

Mark added that county staff will be looking for direction from the committee on Cathy's proposed change to section 5 of the MOU. Jeff brought up concern having to create a new version of the MOU and Cathy asked if that would be necessary. Mark replied that the committee could simply agree to make the proposed change to vs 5 of the MOU. Jeff, Vija and Kevin agreed with adding Cathy's proposed change to section 5 of the MOU. Mark and Jon agreed to make the change.

David Levin added during the Extraordinary Use slide that the amount to be collected from EAS for overages to the system may not be worth pursuing given the amount is so small. Mark pointed out the overage charges of .21 cents per gallon are what the LID would have to pay to treat that amount of wastewater and that the LID could recoup those costs. Jeff added that the LID is not collecting the overage charges to make money, but to demonstrate the LID will charge EAS for overages and will charge fairly. Vija also pointed out that if the LID wanted to apply overage charges to the rest of the community in the future that .21 cents per gallon of wastewater would be a fair charge for everyone. Jon also pointed out that none of the residents get charged an overage fee, only EAS will be charged an overage fee.

David again asked if the MOU is a legally enforceable document. Mark referenced the prior community question and answer meeting for the MOU where county attorney David Hughes explained extensively how the governments like Boulder County use the MOU as a legal document and the MOU as often used by the county does have legal enforceability. If the MOU were not to be followed by either party than district court action can be taken to enforce the MOU. The MOU will have the same enforcement capabilities as the LID Rules and Regulations. The county attorneys have confidence in the enforceability of the MOU as a legal document.

County staff ended their presentation and the meeting moved to questions and comments from the public.

Heidi Gerstein asked whether the overage fees that EAS will be paying include the time utilized for monitoring and following up on potential alerts. Mark replied, the surcharges were based only on the costs to process wastewater at the WWTF.

Stephen Sangdahl agreed with Cathy's recommendation that the LID monitor EAS year-round as there would be large parties over the holidays and without monitoring from October through March it would be a free for all for EAS. Jeff quickly replied that the committee already agreed to add Cathy's recommended change. Steve asked if we could get it in writing the county will monitor and enforce violations of EAS's discharges coming from the proposed ballroom and pool. Stephen also asked if EAS causes problems, will the rest of the District's rate payers have to absorb the costs, i.e. the cost of

aredesign of a larger plant and a new tax assessment. Lastly Stephen stated it wasn't clear on the agenda that public comment was specific to the MOU and that it be added to the MOU so the public was aware of the opportunity.

Heidi, asked as a follow up to her previous question why don't the fees for EAS overage charges include the costs of monitoring EAS? Kevin replied that EAS will be paying an additional monthly fee for 6 additional EQR's, which will go towards additional monitoring costs incurred by the LID.

Stephen added that he had one last question. Will the public be allowed to comment at the commissioner's hearing on the MOU? Both Jon and Mark replied, yes.

Mark concluded public comment by recapping the answers to the public's questions. In response to Heidi's previous questions, the surcharge is just for paying the treatment costs of additional discharges by EAS. The WWTF will be monitored year-round. Mark also stated that enforcement and data collection by the county is stated in the MOU. Mark concluded that as was discussed at the community meeting that data collection and EAS's impact to the plant will influence future treatment at the WWTF. Staff analysis suggests there is no reason to believe the EAS resort will suddenly use up the rest of the capacity of the WWTF, but if the data collected through monitoring does indicate EAS is exceeding its allowable discharge limits regularly, then the MOU spells action that will need to be taken by the district with EAS.

Jeff Mason made a motion that ESLAC recommends the Board of County Commissioners enter into the Memorandum of Understanding, version 5 with Cathy's proposed edits to section 5, with Eldorado Artesian Springs, Inc., as presented. Vija seconded the motion. Jeff asked a show of all members against the motion. David voted against the motion. Jeff, Cathy, Kevin and Vija voted in favor of the motion.

Mark thanked the ESLAC and the members of the public for their contributions to the discussion this evening. Doug Larson thanked everyone on the ESLAC for their hard work and diligence over the last two years. Janet Grey made the comment that she is satisfied with the MOU vs 5 and that it demonstrates capacity and metered assurances and she is looking forward to the data.

New/Old Business

Barber Lane EAS Quiet Claim

Jon began by stating county attorneys don't have a statement prepared for the EAS Quiet Claim lawsuit, but that he will send one to the committee as soon as we have one. Mark noted that the county attorneys have received the paperwork and are beginning discussions.

Kevin asked if we could ask Doug what the suit is all about. Doug responded that the suit is an attempt to clear the title to what EAS believes they purchased in 1983, which appeared to be usurped by a series of quit claim deeds from a local surveyor, Ray Melvin. Since no one objected when EAS sold Boulder

County the sewer line easement and no one came forward to stop EAS from putting the water utilities along Barber Lane it was apparent to EAS they owned that property. This issue arose during Eric Sween's subdivision exemption so he could increase his setback to create an addition to his house. Boulder County originally granted the subdivision exemption because their requirements don't include you have title to the property. EAS objected to this at the public hearing and moved forward with the claim in order to protect everyone's rights in the future. Doug added that EAS's Quiet Title claim is recognizing all the easements of the people who live on Barber Lane and recognize the easements of the LID. Hopefully this claim will clear up the confusion and provide clarity going forward.

Cathy asked Doug if he intends to use Barber Lane for event parking. Doug replied he has no intention to do so and his parking is limited to the existing limited impact special use review plan. Doug recalled that the City of Boulder, in the late 1990's, bought property at the end of Barber Lane to provide access to open space via a parking lot. Barber Lane residents objected to the parking lot and they came to Doug asking that he not let the city do that. Doug reiterated that EAS has no interest in providing parking along Barber Lane and EAS has a demonstrated history of not allowing an additional parking lot by the city. It's EAS's opinion that residents can continue to park along Barber Lane. Kevin thanked Doug for the information.

Alternatives Analysis

Mark stated that the LID has entered into a contract (because WWE is providing a service) with Wright Water Engineers to complete an Alternatives Analysis for the district lead by Wayne Lorenz and assisted by Jane Clarey. To date Wayne has been communicating with Gabby and ORC to obtain the DMR and other water quality data to determine the effluent quality from the existing WWTF. WWE has been going through their library of other Alternative Analysis reports in order to find a successful model for the LID's Alternative Analysis. WWE has also been looking at other possible processes to meet CDPHE's upcoming antidegradation limit to show there are other alternative processes but that they would be prohibitively expensive for the District and a community the size of Eldorado Springs. WWE has also begun discussions for identifying the location of a stream gauge and monitoring system, which is a high priority for the ESLAC. County staff is also collecting additional data such as ratepayers' fees, capital costs etc to make the comparison with similar sized districts along the front range to make an economic reasonableness argument for the District.

Mark reminded the committee that the scope of work with WWE has 6 proposed meetings with the committee and the possibility to have one with the community. The first meeting with the committee could be scheduled as early as two weeks to provide an update on the status of work so far. Mark asked the committee members about scheduling a meeting with WWE during the workday via Teams. Jeff had no problem. David Levin asked about the purpose of the meeting. Mark replied that the meeting would be to update the committee on the project to date and for the committee to provide guidance. WWE would also present other treatment options before a decision is made on how to move forward as was asked by the committee previously. Jeff updated David that the reason for the Alternatives Analysis is to help the district deal with the new TIN requirements in 2022.

Cathy asked if it would be helpful to know of other communities in the state that will also be affected by the new antidegradation limits, what those communities are doing about it and if it would be possible to make a joint effort that might be stronger than Eldorado Springs' efforts alone. Vija and Jeff both agreed with Cathy's point.

David commented that the district should be planning to upgrade the plant to meet other future requirements besides the TIN. Jon brought up that the committee has already discussed the future of the loan pay-off and what the district could do additionally after the loan is paid in order to continue funding for future projects like a plant upgrade.

Kevin asked county staff if Todd Smith's data regarding base flows in the South Boulder Creek was provided to WWE. Marked answered that yes, WWE was provided that data.

LID bylaws discussion

Cathy wanted to talk about the committee's process for making decisions and she is fine with leaving that discussion for the next meeting when we have the county attorney present and that we can include some guidance for the committee on appropriate communications pertaining to the tree trimming done over the summer. The reason Cathy brings this up is that she wants to ensure the committee makes better decisions in the future. Cathy wants to make sure the committee operates by the book and we are open and transparent about decision making.

Jon mentioned that the county attorney would like some guidance from the committee on ideas that they would like to be addressed in the future by-laws rewrite. Cathy agreed that she will look at the information already presented in an email previously sent by Jon and brainstorm some ideas. Mark brought up the idea that the committee could set up a way to make decisions in between meetings, as an example.

Jeff commented that he always thought the committee had by-laws. Jon replied that he had provided the existing by-laws to the county attorneys and that they agreed the by-laws should be revisited.

Tree Management

Jon shared the Urban Woods quote for tree management. He explained that the quote lists three areas from most important to least important for tree management on the LID property. The first part of the quote includes all of the area around the WWTF and was identified as an area where the elm trees could affect the integrity of the plant's subsurface infrastructure. Jeff, David and Cathy proposed that we continue this discussion at the next meeting.

Stephen Sangdahl asked Jon if the proposal for the tree trimming has gone out to bid. Jon replied that the committee will have to decide if we want to move forward on a tree management plan and that he is planning on having additional bids. Stephen replied that the county process requires that this would have to go out to bid. Mark replied that any project that costs less than \$10,000 could be done without a bid and that a project costing between \$10,000 and \$50,000 would require three bids from which the

committee could choose. Any bid beyond \$50,000 would require a formal bid process outlined by the county. Cathy said that members of the committee could request additional bids under \$10,000.

Public Comment

Ken Sheldon added that the community could save thousands of dollars by doing the tree management by themselves instead of hiring outside help.

Vija and the rest of the committee thanked Ken for his years of work on the committee.

The meeting was adjourned at 2 hours and 2 minutes by Jeff Mason.