

**City of Greeley
Water and Sewer Board
Minutes of October 19th, 2022
Regular Board Meeting**

Chairman Harold Evans called the Water and Sewer Board meeting to order at 1:59 p.m. on Wednesday, October 19, 2022.

1. Roll Call

The Clerk called the roll and those present included:

Board Members:

Chairman Harold Evans, Vice Chairman Mick Todd, Fred Otis, Cheri Witt-Brown, Tony Miller, Manuel Sisneros, Joseph Murphy, Deputy City Manager Don Tripp on behalf of City Manager Raymond Lee, and Finance Director John Karner

Water and Sewer Department staff:

Director Sean Chambers, Deputy Director Ty Bereskie, Utility Finance Manager Erik Dial, Deputy Director Operations Nina Cudahy, Chief Engineer Adam Prior, Water Resources Administrator II Alex Tennant, Water Resources Administrator III Cole Gustafson, Water Resource Administrator I Megan Kramer, Senior Administrative Assistant Crystal Sanchez, Interim Office Manager Gigi Allen, Water Resource Planning Manager Kelen Dowdy, Water Resource Operations Manager Leah Hubbard, and Rates and Budget Analyst Virgil Pierce

Legal Counsel:

Senior Environmental and Water Resources Attorney Jerrae Swanson, Environmental and Water Resources Attorney II Dan Biwer, Environmental and Water Resources Attorney I Arthur Sayre and Counsel to Water & Sewer Board Attorney Carolyn Burr

Guests:

Emeritus Robert Ruyle, Neil Stewart from Stantec, Brad Wind and Kyle Whitaker from Northern Water

2. Approval of Minutes

Ms. Witt-Brown made a motion, seconded by Mr. Miller, to approve the September 21, 2022 Water and Sewer Board meeting minutes. The motion carried 7-0.

3. Approval of the Agenda

Updated Agenda – the bullet point under Legal Report was moved under Executive Session as it was inadvertently placed under the wrong Agenda item.

4. Welcome New Employees and Promotions

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

5. Approve and Recommend to City Council the 2022 Water Efficiency Plan

Dena Egenhoff joined the meeting virtually at 2:05 p.m.

Dena Egenhoff presented on Greeley's Water Conservation Plan. The Water Conservation Act of 2004 requires all Colorado water providers who supply more than 2,000 acre-feet of water to submit or update water efficiency plans for approval by the Colorado Water Conservation Board (CWCB) every seven years. The plans contain key information about historical and projected water demands, water supply reliability, future needs, proposed demand management activities, and monitoring processes.

This is the third update to the original 2008 Water Conservation Plan. The City of Greeley's new draft Water Efficiency Plan (WEP) is a roadmap of strategic objectives and water conservation programs to ensure future water supplies. The WEP builds on the City's current properties and includes existing codes, criteria and strategic plans with a lens on water conservation.

The main objectives of the WEP are to maximize widespread efficiency in all indoor water use, set goals for more resilient landscapes, and educate customers on water use goals. It will provide direction on how to advance water conservation efforts and build City wide capacity to:

- Create efficiencies and consistencies among policies, plans, projects and programs;
- Maximize cost-saving opportunities;
- Create goals with clear measurements for success.

The Water and Sewer Department has worked diligently to coordinate with a 60-day public comment period from August 3, 2022, through October 3, 2022. These methods included online forms, social media campaigns, two online open houses (August 18th and September 15th), Water and Sewer's monthly newsletter, press release on August 9th, presentation and information sharing to commission/advisory boards and targeted outreach for local businesses and organizations.

Colorado Water Conservation Board (CWCB) also provides a review of the WEP to ensure compliance with the Water Conservation Act.

Vice Chairman Todd moved that the Board approve the 2022 Water Efficiency Plan as part of the City's long term water plans, delegate authority to the Director of Water and Sewer or his designee to make minor changes to the WEP consistent with any subsequent recommendations from the Colorado Water Conservation Board, and recommend same for adoption by the City Council, and incorporation within the City's Comprehensive Plan. Mr. Miller seconded the motion. The motion carried 7-0.

6. Approve Termination of GURA Augmentation Agreement

Mr. Otis recused himself from participating in Agenda item numbers 6 and 7 due to a potential conflict of interest and left the room at 2:18 p.m.

Sean Chambers discussed that the Greeley Urban Renewal Authority ("GURA") owns a parcel of real property located just east of Highway 85 and the Wastewater Treatment and Reclamation Facility that is commonly referred to as the 8th Street Pit property. GURA has leased the 8th Street Pit property since 1999 to various parties for mining operations.

The City of Greeley entered into a Perpetual Augmentation Water Agreement with GURA on October 4, 2012, which agreement set the terms by which the City would augment the out-of-priority depletions associated with the 8th Street Pit property after the mining operations and associated reclamation activities were completed.

GURA is now under contract to sell the 8th Street Pit property, and the parties have accordingly reached an agreement to formally memorialize their termination of the Perpetual Augmentation Water Agreement and clarify that the City will have no obligation to augment the depletions associated with the 8th Street Pit property after the transfer. Staff and legal counsel recommend approval of the agreement.

Mr. Miller moved that the Board approve the Termination of Augmentation Water Agreement with Greeley Urban Renewal Authority, and delegate authority to the Director of Water and Sewer to approve minor amendments before execution, provided that the material substance of the agreement remains unchanged. Vice Chairman Todd seconded the motion. The motion carried 6-0.

7. Approve and Recommend to City Council Leprino Development Agreement – 6th Amendment

Erik Dial introduced the background to the original development agreement with Leprino and how raw water dedication was a key component of the incentive

package to bring the dairy manufacturing facility to Greeley. The Development Agreement required the City to provide Leprino with treated water service for all three planned phases of its development, which was then estimated at 1,344 acre feet per year at buildout. To meet Greeley's raw water requirements for the facility, the Development Agreement granted Leprino raw water credits, including credit for "Produced Water" generated from milk, and allowed Leprino to pay cash-in-lieu of providing raw water at a favorable rate.

Mr. Dial explained that as Leprino began operations and was constructing the three phases of its facility, it was apparent that the facility's original estimated demand of 1,344 acre feet per year was low. In March 2017, after negotiations between Greeley staff and Leprino, Greeley's Water and Sewer Board and City Council approved the Fourth Amendment of the Development Agreement for Leprino. The Fourth Amendment made changes to the Development Agreement that made available to Leprino additional raw water at discounted cash-in-lieu rates, but also required Leprino to match each acre foot of discounted cash-in-lieu water with a dedication of Colorado-Big Thompson (C-BT) water. Mr. Dial indicated that since the adoption of the Fourth Amendment, Leprino had dedicated 247 units of C-BT water, reflecting 190 acre feet of water, but has not purchased any of the additional discounted cash-in-lieu water. After the dedication of 190 acre feet of C-BT, Leprino's total raw water allotment is 2,134 acre feet.

In 2020, Leprino used 2,306.53 acre feet of water, exceeding their allotment by 172.53 acre feet. At the 2020 raw water surcharge rate of \$10.05/kgal, this overage resulted in a total raw water surcharge of \$565,001.68 due to Greeley from Leprino. Mr. Dial said that he and other city staff engaged with Leprino staff earlier in 2022 to determine the best option for Leprino to pay its raw water surcharge. He explained that the Fourth Amendment to the Development Agreement defined the options for Greeley and Leprino if the decreed volume of Produced Water resulted in a volume less than or greater than 600 acre feet of water. Because the decreed volume resulted in a volume greater than 600 acre feet of Produced Water Greeley had the option to purchase any or all of the "Excess Decreed Amount" of Produced Water. The purchase price for Greeley for the Excess Decreed Amount would be at the New Leprino Water Bank Rate. The Produced Water volume during that 36-month period was approximately 840 acre feet of water, or 240 acre feet above the original 600 acre feet of raw water credit given to Leprino. Greeley's staff notified Leprino that the City would not purchase any of the Excess Decreed Amount but would be willing to let Leprino to pay for their 2020 raw water surcharge with a portion of the Excess Decreed Amount. The Sixth Amendment to the Development Agreement reflects Greeley purchasing 38.70 acre feet of Excess Decreed Amount water, which reflects the volume of water the raw water surcharge of \$565,001.68 can purchase using the 2022 New Leprino Water Bank Rate of \$14,599.83/acre foot.

Vice Chairman Todd moved that the Board approve the Sixth Amendment to the Leprino Development Agreement and recommended that City Council approve the same. Mr. Miller seconded the motion. The motion carried 6-0.

Mr. Otis returned to the meeting at 2:42 p.m.

Kyle Whitaker of Northern Water joined the meeting at 2:34 p.m.

Brad Wind of Northern Water joined the meeting at 2:45 p.m.

8. Integrated Water Resource Plan Project Update

Kelen Dowdy and Neil Stewart, consultant from Stantec went over how the current Greeley Water Supply Master Plan is more than 17 years old. Since the creation of the last master plan in 2003, Greeley's strategies to continue to provide a robust, resilient water supply have evolved and the water market has transformed. Likewise, widely accepted strategies used to plan for water development have progressed. Consequently, the Water Resources team has been developing a new water master plan, through a process termed Integrated Water Resource Planning (IWRP). The IWRP process will evaluate Greeley's long-term water supply sustainability, develop a road map to buildout and identify near-term CIP components. As part of the process, the IWRP evaluate a suit of future conditions to plan for called "planning scenarios". These scenarios define key components of future conditions such as the state of Greeley's water supply system, demands, climates and other system risks. In order to evaluate the timing of Terry Ranch and compare future conditions, a baseline analysis must be conducted. This presentation will outline the baseline evaluation process and define baseline conditions. Furthermore, the presentation will discuss planning level of service which establishes unacceptable future conditions that will catalyze the development of new projects. Importantly, this presentation will outline the integrated and adaptive approach that will monitor system conditions to trigger CIP projects.

John Karner left the meeting at 3:05 p.m.

Neil Stewart left the meeting at 3:16 p.m.

9. Sanitary Survey Response Update

Nina Cudahy reported on the Sanitary Survey Findings and Resolutions. The sanitary survey is performed every three years by the Colorado Department of Public Health and Environment to require continuous improvement for Public Water Systems. The survey entails an in-depth review of the water systems recordkeeping, sampling activities, distribution system operating procedures, and water treatment processes. The survey was completed in July of this year and resulted in seven deficiencies that were corrected and notification of a violation sent to the public. The notification was to inform residents that we did not certify 100% of the backflow assemblies and that we had three reservoirs in service that had the potential to introduce contaminants into the water system. W&S staff are currently addressing all of the findings from the survey: three reservoirs are no longer in use and customers are submitting the required backflow certifications. Another finding of the survey is that our certified

operators are doing an excellent job despite the deficiencies and violations and in CDPHE's words "Greeley runs a really tight ship".

10. Colorado River Imbalance Update

Brad Wind and Kyle Whitaker from Northern Water presented the Colorado River Imbalance Update and discussed that over the past 18 months, the Department of Interior declared a Tier 1 Water Shortage in August of 2021, followed by and a Tier 2 shortage declaration in August of 2022. Despite a strong Western drought, Colorado River water demands continued to significantly outpace supply, further drawing down Lakes Mead and Powel to critical levels that warrant a federal response and action by Colorado River water users across the West.

Greeley's municipal water portfolio and much of the Agricultural lands around Greeley in Weld County utilize significant Upper Colorado River water supplies to supplement water in storage and the water supplies from the Cache la Poudre, Big Thompson, and Laramie River Basins. Greeley Water tracks and engages in conservations on the Colorado River and Western drought because approximately 45% of the city's water resource portfolio is sourced from transbasin Colorado River sources.

Adam Prior left the meeting at 3:57 p.m.

Brad Wind and Kyle Whitaker left the meeting at 4:14 p.m.

11. Legal Report

Carolyn Burr of Welborn, Sullivan, Meck & Tooley recommended the Board file statements of opposition in the following cases:

- a. Case Number: **22CW3121**: The Groundwater Management Subdistrict of the Central Colorado Water Conservancy District application for diligence and to make a portion of the water right absolute for Jo Dee Reservoir. Central is claiming that 289 AF of the 1,600 AF storage right as absolute and 1.28 cfs of 5 cfs decreed to one point of diversion as absolute. Jo Dee Reservoir is located close to the Whitney and Eaton Ditch headgates.
- b. Case No. **22CW3107**: Buckhorn Highline Ditch Company has filed an application for a simple change in surface point of diversion for the Buckhorn Highline Ditch, which is located on Buckhorn Creek, a tributary to the Big Thompson River. It appears that the simple change being claimed does not meet the criteria for a simple change case, and there is the possibility that the change could result in an expansion of the historic right.

Vice Chairman Todd moved that the Board authorize the filing of statements of opposition in Case Nos. 22CW3121 and 22CW3107 and for staff and legal counsel to

seek resolution of issues raised by this case consistent with Water and Sewer Board Resolution No. 3, 2015. Mr. Murphy seconded the motion. The motion carried 7-0.

Tony Miller left the meeting at 4:18 p.m.

Dena Egenhoff, Virgil Pierce, Alex Tennant, Megan Kramer, Kelen Dowdy, Crystal Sanchez, Gigi Allen left the meeting at 4:19 p.m.

12. Executive Session

Chairman Evans moved that the Board hold an executive session to address the following matters as provided by C.R.S. §24-6-402(4)(a) and (e) and Greeley Municipal Code Sec. 2-151 (a) (1) and (5):

1. For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators in potential water acquisitions based the current water market.

Mr. Murphy seconded the motion. The motion carried 7-0.

Present during the Executive Session were:

Chairman Evans, Vice Chairman Todd, Manuel Sisneros, Joe Murphy, Cheri Witt-Brown, Fred Otis, Director Sean Chambers, Deputy Director Ty Bereskie, Deputy City Manager Don Tripp, Water Resources Administrator III Cole Gustafson, Utility Finance Manager Erik Dial, Senior Environmental Water Resources Attorney Jerrae Swanson, Environmental & Water Resources Attorney II Dan Biwer, Environmental and Water Resources Attorney I Arthur Sayre, Counsel to Water & Sewer Board Attorney Carolyn Burr

Guests: Emeritus Robert Ruyle

This executive session was authorized by Subsections (a) and (e) of Section 24-6-402(4) of the Colorado Revised Statutes, and Subsections (1) and (5) of Section 2-151 (a) of the Greeley Municipal Code.

Executive Session ended at 4:31 p.m.

Erik Dial left the meeting at 4:25 p.m.

Jerrae Swanson left the meeting at 4:31 p.m.

Gigi Allen rejoined the meeting at 4:31 p.m.

Erin Maestas joined the meeting at 4:31 p.m.

13. Director's Report

Mr. Chambers provided a summary overview of several items of Board interest:

1. NCWCD Fall Symposium – November 15th
2. NGWA Award for Terry Ranch diligence and engineering
3. Colorado Water Plan '23 summary information
4. Terry Ranch ASR project planning update
 - a. Pipeline easements and RoW
 - b. Project design and engineering
 - c. Well field planning and water resources
 - d. IWRP planning for long-term project integration with other water supplies

14. Such Other Business That May Be Brought Before the Board Added to This Agenda by Motion of the Board

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

15. Adjournment

Chairman Evans adjourned the meeting at 4:40 p.m.

Harold Evans, Chairman

Raymond Lee, Board Secretary