

**Regular meeting
September 26, 2006**

**APPROVED MINUTES OF REGULAR MEETING OF THE BOARD OF
DIRECTORS
Of
EL PASO WATER COMPANY, INC.**

SEPTEMBER 26, 2006

The regular meeting of the Board of Directors of El Paso Water Company, Inc. convened in the City Council Chamber, 611 Mulberry, Derby, Kansas at 10:08 p.m. following adjournment of the City Council meeting.

The following Directors were present and constituted a quorum:

Dion Avello
Lori Payne
Cheryl Bannon
Charlie Schwarz
Chuck Warren
Loren Johnson
Jim Meidinger
Jim Craig

Others in attendance:

Kathy Sexton, Chief Executive Officer
Pat Swaney, President
Phil Alexander, Vice President
Jean Epperson, Secretary-Treasurer

Mr. Avello called the meeting to order.

APPROVAL OF MINUTES

MOTION: Bannon moved to approve the minutes of the August 22, 2006 board meeting. Craig seconded.

VOTE: Craig yea, Meidinger yea, Johnson abstain, Warren Yea, Schwarz yea, Bannon yea, Mulanax absent, Payne yea; 6 yea, 0 nay, 1 abstain, 1 absent, motion carried.

DECLARATION OF DIVIDEND

MOTION: Warren moved to adopt a resolution declaring and directing payment of a dividend for the month of August in the amount of \$117,678.40 to the City of Derby, Kansas, as the sole stockholder of the Company. Meidinger seconded.

VOTE: Craig yea, Meidinger yea, Johnson yea, Warren Yea, Schwarz yea, Bannon yea, Mulanax absent, Payne yea; 7 yea, 0 nay, 1 absent, motion carried.

Mr. Craig asked where we are in payment servicing the debt in regard to dividends, are we ahead or are we behind.

Mrs. Epperson advised we are right on track with the amount that was in the budget for the water revenue bond fund.

Mr. Craig clarified that our dividends equal what we have had to pay in for the service to debt.

Mrs. Epperson explained they equal what we projected in the budget. So far we are on track with the budget as far as what we had scheduled.

PROPOSED LEASE OF SPACE ON BUCKNER STREET WATER TOWER FOR CELLULAR ANTENNAE

Mr. Alexander presented the staff report and explained the terms of the agreement.

Mr. Craig pointed out this agreement would stretch out for 25 years, with a 3% increase per year. We at some point had cause for concern with a previous renter of space on a tower and asked if they had to reapply. He questioned if the \$2,100 was market value.

Ms. Sexton advised that it is. She had done some checking with other local providers of tower space and we are getting a pretty good rate.

Mr. Craig stated the last time we dealt with someone who had an antennae on our tower we ended up giving them a much better deal when they came back to us.

Mr. Alexander explained that what he believes Mr. Craig is referring to is a situation where one of the leases predated acquisition of the company by the city and did not provide for the tenant to absorb the cost of removing and re-installing the equipment when the maintenance was

done, so the company had to absorb that cost. We have addressed that in this agreement.

Ms. Bannon asked if the city owns the water towers.

Mr. Alexander stated that they do not after the last meeting.

Ms. Bannon questioned if that was why this money was going into the water department's general fund.

Mr. Alexander responded that it will make a short stop with the water company before it comes to the city in the form of a dividend.

Ms. Sexton explained for clarification that this water tower, on Buckner Street, is owned by the company. Two towers (on Buckner Street and south Rock Road) were installed prior to the city purchasing the water company.

MOTION: Bannon moved to approve and authorize the chief executive officer to execute the lease agreement in substantially the form presented. Warren seconded.

VOTE: Craig yea, Meidinger yea, Johnson yea, Warren Yea, Schwarz yea, Bannon yea, Mulanax absent, Payne yea; 7 yea, 0 nay, 1 absent, motion carried.

REVISION OF OPERATING POLICIES AND PROCEDURES

Ms. Sexton presented the revised document and explained the changes made.

Mr. Warren asked if all connection fees are included in the price shown.

Mr. Swaney advised that was the entire cost, the labor is included in that cost.

Mr. Warren suggested that for the $\frac{3}{4}$ inch meter, we drop the fee from \$800 to \$750, with the idea that if costs continue to escalate and that doesn't cover the cost, we could always go up at that point. He asked how the service initiation fees would affect landlords. If they have a property and the tenant moves out, will there be a service fee every time they put the service back in the landlords name.

Mr. Swaney explained it was his understanding the fee was only for new customers and once you have been here you are not a new customer, you are an old customer. The tenant that moves in is the new customer.

Ms. Sexton stated that if you are a homeowner in Derby and you sell your house and move to a different home in town, you are not a new customer to the water company. If you are moving here from outside the community you would be subject to the new account fee. She pointed out page 10 of the document where they did insert a new section regarding a policy change. Under the section “adjustment of fees and charges”, for the board’s consideration, that the chief executive officer of the company may from time to time adjust any fee or charge established hereby for specific services or tasks so as to reflect changes in the cost of such service or task. The idea being the board approves the fees, but if we see costs escalating tremendously that we are not covering our costs anymore then passing this would authorize me to make adjustments in those fees to make sure we are covering the costs. You are not authorizing me to make fee changes whenever I want to, I have to be able to document proof that the costs have risen and the fees no longer keep up. I have seen it done both ways, some elected bodies prefer to change fees as an elected body, others say if there are parameters for the CEO, just go ahead and do it yourself.

Mr. Craig pointed out on page 1, that “water service will be restored after normal business hours only between 5:00 p.m. and 8:00 p.m. Monday-Friday”, he questioned if that was hard and fast.

Mr. Swaney responded that he can get called out at 11:00 p.m. too.

Mr. Craig responded that there is no choice if there is an emergency.

Mr. Swaney explained those hours are for disconnects for non-payment of bill, which would typically be for a bill that is two months overdue.

Mr. Craig pointed out the comment regarding the liability for leakage and damage and compliance with multiple rate schedules and questioned if we have multiple rate schedules.

Mr. Swaney advised we do not, but that is in there if the company so deemed to have a multiple rate schedule and has been there since the beginning.

Mr. Craig clarified that at this time we have no optional rates, so that is not applicable at this time.

Mr. Swaney advised that was correct.

Mr. Craig pointed out at the bottom of page 5 it states that the customer may establish an AWC by presenting proof of a previously established

AWC based on actual uses of the premises being serviced. He thinks that is confusing and leads one to believe that if someone lived at that residence before, all the new occupant has to do is prove what the previous occupant used. What we want to do is allow people that move from out of town to bring their bills in so it goes to the people that move in and not the premises, the wording needs to be changed.

Ms. Sexton agreed and requested Mr. Alexander reword that section.

Mr. Craig pointed out a section stating that “charges for work done on consumer’s premises, such charges shall be based upon rates established by the company”, he questioned if we have a rate schedule. (Schedule L, p.6)

Mr. Swaney stated it is just our hourly cost.

Mr. Craig requested that be clarified. In the section referring to defective equipment and interrupted service, he questioned if that referred to company or customer equipment, section K on page 6.

Mr. Swaney advised it could be either.

Mr. Craig, stated that on page 7, regarding billing rates, it should read that the rate schedule is subject to change with approval of the city council, not just the city. In reference to page 8, item C, #3, he questioned what the procedure is for the adjustment and advised we should have a written procedure for that to indicate how things will be adjusted.

Mr. Swaney explained that you have the option for a credit or a refund. Usually when we take those in if the meter is off 3%, we adjust it 3%.

Mr. Craig stated we should have some procedures that says what that is.

Mr. Meidinger asked if the Lindsey apartments are just one meter, or does each apartment have its own meter.

Mr. Swaney advised each apartment has its own meter.

Mr. Meidinger stated the service fee is really important in that case, if they leave and don’t pay their bills.

Ms. Sexton agreed, we have an increasingly transient population when you open hundreds of new apartments.

Mr. Johnson asked if the apartments are $\frac{3}{4}$ inch.

Mr. Swaney advised that was correct.

Mr. Johnson asked if the prices increased from \$628.98 to \$672.00 from June 1, 2006 to August 1, 2006.

Mr. Swaney stated that was correct.

Mr. Johnson commented that is a 6.9% increase for two months and he is floored at that increase.

Ms. Sexton advised that after taking a sample of three months of price increases at a time when petroleum prices are what they are, she does not want anyone to think that is going to be a norm. Who knows what is going to happen with petroleum prices, but once suppliers build in increased shipping costs like they have done maybe we won't see that continue to raise at that rate, it is too soon to know.

Mr. Johnson stated that citizens will be thrilled to know that we might increase their water rates again. We have to get our arms around this water problem. People come in and look at our beautiful city and see a bunch of burned up yards like there are right now.

Mr. Avello suggested this be an item that could be reviewed periodically to check our costs versus what we would be charging. He stated his costs are going up every month 5-6% and he wonders when that will stop.

Ms. Sexton explained the whole idea here is to act like a utility in that if there are costs incurred for specific customers for specific services you charge a fee to cover that cost so you don't have the rates that everyone pays making up for that. This attempt is to enhance and make our fees the right amount so we can deal with the water rate study with appropriate information as a base.

Mr. Johnson stated the point is, if we are charging \$500 we have a deficit right now, that is not paid by the people that are instructing us to set the meter, that comes out of our operating costs.

Ms. Sexton agreed that we have a problem to fix.

Mr. Avello asked Ms. Sexton if we could look at the cost of installation every three months to make sure we are not getting short changed here.

Ms. Sexton stated we can do that. The board has the opportunity tonight to either pass this policy and procedure that does include the ability for the CEO to keep monitoring costs and if the new rates we set tonight no longer cover the costs then we can increase the costs to cover them. That

is the policy you are setting forth, however, if the board is not comfortable with that we can bring them back every time we see it's a problem.

Mrs. Bannon stated she understands the need for the old language in the conservation plan, but she is very uncomfortable with no more language than what we have regarding the Wichita contract. If someone were to pick this up and look at it, unless you read the one little sentence, you don't understand that what will trigger this first is Wichita going to a conservation issue. She would like to see more language in this document alluding to that. We still have 16-17 years to go on that contract before it changes. Under the warning, it says you can't top off a pool; she questioned what we would do about Rock River Rapids. In an emergency situation she understands no water for anyone, but at a warning level we have a pool with no income and we have not allowed for us to top it off.

Ms. Sexton explained that could be changed as a policy matter if the board wants to.

Mrs. Bannon asked for clarification that if we are under a water warning, that we are not going to top off Rock River Rapids and basically it will be shut down.

Ms. Sexton said it will be at lower levels, but not necessarily closed.

Mrs. Bannon responded that it would be closed, if you talk to anyone with a pool, if you can't top it off with as much water as we lose out of it all the time.

Ms. Sexton explained that most of what is in this water conservation document is the way it was before, with a few adjustments. It was approved by the state in 1992 or 1993. The board can change it and submit it to the state for approval if they wish.

Mrs. Bannon stated that we did not have a \$7 million facility with a debt service on it at that time.

Ms. Sexton advised that is an issue specific to Derby, but what we have learned in our research the last few months is that these requirements and the different areas (watch, warning and emergency) are very standard among other cities that all have pools. We did not want to change this very much because the state might look at that and say they want to keep their pool going. If water is a problem we don't think we should be spending valuable water on recreation if it is an emergency type situation.

Mrs. Bannon stated that most houses in town put in one-inch meters. The builders actually contact the city and the city puts in the meter, then

the builder pays to run the water service line to the house. We are looking at a 50% increase. If we were doing that to our homeowners this room would be packed full and we would not do that to our homeowners. She is not saying the city should not recoup its costs, but she does not think a change from \$700 to \$1,100 is called for. She would rather see the $\frac{3}{4}$ inch go to \$750, the 1-inch increased to \$950. We don't have a 1 $\frac{1}{2}$ inch on here but she assumes you would increase it to about \$1,900 and increase the 2-inch to \$2,000. We have to stay ahead of the game, but we don't have to try and make extra money up front. As far as giving the CEO the authority to change it, as long as Ms. Sexton is the CEO she has no problem with that, but she is smart enough to know Ms. Sexton will not always be our CEO. There will come a time when she is not and she is very leery of having that authority in there for an unknown CEO.

Mr. Craig advised he was not ready to pass this tonight. Regarding fees, he stated he can see us going up but there is not an instrument that allows us to come down. He suggested there be language written that states we will recover the cost of installation. Therefore it makes it fair, if the cost goes up, so does the fee, if the cost goes down, the fee goes down. We are at a level here where we are not out to make money because it will just be passed on to other people. On page 13 it states that all meters are replaced every 25 years, does that mean that every household, at the age of 25 gets a new meter?

Mr. Swaney explained the recommendation is that they are replaced every 25 years.

Mr. Craig advised the statement indicates the meters are replaced every 25 years, which means his meter should be replaced next year, is that a true statement?

Ms. Sexton responded that that is what the water company does. The water company replaces meters every 25 years, if not sooner.

Mr. Avello asked if that meant every individual house or every meter in the city.

Mr. Swaney explained that meters that are 25 years old will not measure 100% on the flow test.

Mr. Craig asked who paid for that.

Mr. Swaney advised the company pays for that, that is how we make our revenue, by making sure that meter is running properly. The meter will be replaced if it is 25 years old or older.

Mr. Craig advised that is his point, his meter will be 25 years old in two years, so he should get a new meter if that is a true statement.

Ms. Sexton stated that really is what it means, unless there has been a problem detected earlier and it is done sooner than that.

Mr. Craig restated that until this is worked into a more final form he does not feel comfortable passing it. The only thing he is willing to pass is the item that will recoup the expenses paid by the city to put in water meters.

Mr. Warren stated that while he appreciates Mr. Craig's goal, it would be difficult for the city and the builder or homeowner to not know in advance what a figure is. Let's pick a figure that is close and errs on the side of the city so that we are not subsidizing it. Then if we need to adjust it more often because of costs then let's do that. People need to know on the front end what the fee is going to be so let's pick a figure that we can live with that covers the cost rather than making it on a case by case basis.

Mr. Schwarz stated that his water meter is 28 years old.

Mr. Swaney responded that they have probably changed 4,000 registers in the last four years going to the touch read system, so when they get there it will get changed.

Ms. Bannon stated she would like the board to consider the following items: 1) more language needs to be in the document as far as Wichita and what triggers our actual water conservation. 2) We do need to make an increase, but we need to pick a dollar figure and stick with it even though we may need to adjust that. She would like to see an increase, but not the increase suggested because it is a 50% increase. 3) While she trusts the current CEO to make changes in prices she hates to give that authority to just anyone and would not like to see that policy changed. She would like to see it reviewed and it sounds like Ms. Sexton is going to have Mr. Swaney stay on top of the costs to install water meters. She does not want to give the full authority to the CEO; she would like to see it continue to come to the board.

Mr. Craig commented that he is comfortable with putting a figure that can be moved up, but he stated that if it appears we can ever move it down let's don't hesitate to do that, there is no reason to build a profit in it. There is some work that needs to be done on the document and it needs to be reworked.

MOTION: Craig moved to table this item for more information with a revision of suggested fees as recommended by Warren. Johnson seconded.

FUTHER DISCUSSION:

Ms. Bannon commented she would like to table the item as well, except she does not want to see the city continue to lose money on the installation fees. She would like to pick dollar fees on those so we are not losing those funds.

Mr. Johnson pointed out he did not believe there is debate on a motion to table.

Mr. Alexander advised that was correct, it is not a debatable motion.

Mr. Craig withdrew the motion.

MOTION: Craig moved to table the approval of the policy and procedures of the El Paso Water Company. Bannon seconded.

VOTE: Craig yea, Meidinger yea, Johnson yea, Warren Yea, Schwarz yea, Bannon yea, Mulanax absent, Payne yea; 7 yea, 0 nay, 1 absent, motion carried.

MOTION: Warren moved to approve a revised water connection fee with the following numbers: $\frac{3}{4}$ inch meters to be set at \$750, 1 inch meters be \$950, 1 $\frac{1}{2}$ inch meters be \$2,000 and 2 inch meters \$2,200. Bannon seconded,

VOTE: Craig yea, Meidinger yea, Johnson yea, Warren Yea, Schwarz yea, Bannon yea, Mulanax absent, Payne yea; 7 yea, 0 nay, 1 absent, motion carried.

Mr. Avello commented that he disagrees with the board and that we should be making some money on meter installation.

Mr. Swaney pointed out that we need to set a date those changes will be enforced and we need to give the builders at least 60 days notice on the new charges.

Ms. Sexton advised that will be part of the document, which is tabled so we will plan on giving 60 days notice on those increases.

ADJOURNMENT

MOTION: Craig moved to adjourn at 11:03 p.m. Meidinger seconded.

VOTE: Craig yea, Meidinger yea, Johnson yea, Warren Yea, Schwarz yea, Bannon yea, Mulanax absent, Payne yea; 7 yea, 0 nay, 1 absent, motion carried.

Jean Epperson, Secretary