

**TOWN OF LIMON  
BOARD OF TRUSTEES  
Special Meeting  
December 15, 2009  
6:00 P.M.**

Notice of this meeting was posted on December 14, 2009.

**ROLL**

Town Clerk Snyder called roll. Members of the Board present: Mayor Beattie, Trustees: Coonts, Hawthorne, Hendricks, King, Metcalf, and Williams.

**STAFF**

Staff present: Town Manager Stone, Assistant Manager Kiely, Attorney Kimble and Town Clerk Snyder.

**GUESTS**

Kay Christie, Tom Ingve, Mike Kelly, Cheryl Clanin, and Cindy & Steve Ferree.

**PLEDGE OF ALLEGIANCE**

**RESOLUTION NO. 12-09-33; DOLA CONTRACT**

Town Manager Stone introduced and there was read in full the title of the following proposed resolution and the entire text of said resolution was submitted in writing to each member of the Board of Trustees and the Mayor.

Resolution No. 12-09-33; A Resolution Approving Contract EIAF #6861, Between the Colorado Department of Local Affairs (DOLA) and the Town of Limon for Participation in the DOLA Intern Project and Authorizing the Execution of Said Grant Agreement.

Trustee Williams moved to approve Resolution 12-09-33; seconded by Trustee Coonts. Motion carried unanimously.

**RESOLUTION NO. 12-09-34; INTERN JOB DESCRIPTION**

Town Manager Stone introduced and there was read in full the title of the following proposed resolution and the entire text of said resolution was submitted in writing to each member of the Board of Trustees and the Mayor.

Resolution No. 12-09-34; A Resolution Approving the Administrative Intern Job Description.

Trustee King moved to approve Resolution 12-09-34; seconded by Trustee Hawthorne. Motion carried unanimously.

**PUBLIC HEARING**

Mayor Beattie opened the public hearing at 7:05 p.m.

Town Manager Stone gave a brief history of the Town of Limon water, mentioning the water restrictions in 1954 and in the mid 1970's. He talked about water well purchases and additional new appropriations that were made to increase water availability. Currently the Town has municipal water rights in the excess of 2600 acre feet and have never used more than 947 acre feet and have never used more than 33% of the water that is currently available in rights. There are improvements to the system that have been done, such as the water treatment plant, storage and line replacements. Replacements and maintenance are an ongoing activity for the water system and funding is always a crucial part of that need. He stressed that the loss of

potential grant funding as a result of the State's budget balancing makes additional sales even more critical to the survival of the enterprise fund without massive fee increases to the community.

In 1994, Limon successfully passed a ballot to enable Limon and a small portion of surrounding Lincoln County to join the Upper Big Sandy District. That was most likely one of the most beneficial actions the Town has taken throughout history to protect its rights and to provide affordable water for its customers.

He reviewed the water rights, wells and wastewater treatment plant decrees and stressed the importance to perfect decreed rights and show due diligence. He explained how the process works and the reporting requirements. The rights granted by the Groundwater Commission for municipal use is deemed to be used to extinction, meaning that even without the surface water rights from the wastewater decree we would not have to release any of the water that goes through the wastewater treatment plant, but instead could use it to extinction. The sale to Cedar Point would perfect the amount they'd use, which is estimated to be between 30 and 50 acre feet.

The Uppers Big Sandy Board filed a request with the Groundwater Commission to vacate the court decree giving the Town conditional rights to the wastewater treatment plant discharge. The Upper Big Sandy felt the water was originally groundwater so the discharge should remain groundwater, thus being under the jurisdiction of the Groundwater Commission rather than the Water Court as surface water. The Commission denied the request and confirmed it was appropriate that the Water Court made the determination. Since the water had been put to beneficial use and released to the stream the water then is surface water.

He reviewed historical pumping records. Usage this year will be more than 140 acre feet less than last year and more than 240 acre feet less than the peak year of 2000. Factors mentioned were the economy, loss of a significant user, and more rainfall this year. We have never used more than 33% of the rights we currently have. We return about 55% of the amount we pump back to the aquifer as discharge from the wastewater treatment plant, and our impact is fairly insignificant and is actually less than what is appropriated for use on 150 acres of irrigated alfalfa.

Stone referred to information in the Martin and Wood Water Balance Study which said there is between 385,000 and 454,000 acre feet of saturated alluvium or storage in the Big Sandy Basin of which 50% to 70% is recoverable.

He spoke about aquifer characteristics, storage, monitoring of well levels and the precipitation history.

Stone commented the storage capacity of the alluvium and the minimal use give us a certain amount of assurance the water supply will sustain our needs for many generations to come. If no recharge was to occur the water supply would be in jeopardy of being exhausted and our options in Limon are very limited, since there is no water from any of the Denver Basins beneath Limon, as there is in Matheson, Simla and Calhan. We need to use the resource wisely, but use it to the extent it's available.

The agreement with Cedar Point Wind to provide wastewater effluent would generate \$15,000 to \$30,000 in revenue that we could use for operations rather than having to obtain it from residents. If we were able to sell treated water to them that amount would grow to between \$60,000 and \$70,000. We are expected to plan for growth and develop plans to provide for the needs that growth would require. We are on paper in very good condition to provide an adequate supply. Hopefully with vigilance and good management the aquifer can sustain the potential growth without resulting in a situation where the water levels are being mined forcing a

call on the junior water rights, which may include some of the rights Limon holds. The older the water right the more senior the right.

Should the town be approached with a proposal to furnish a significant amount of water for a long period of time we would need to consider the impacts very closely. He reminded the Board that the Town did object to 14 well applications filed by Buick Power in the River Bend area in 2006. A project of that magnitude would jeopardize our ability to sustain the water supply. A project that uses a minor amount of water for a short period of time, such as Cedar Point, is of virtually no concern and makes tremendous fiscal sense.

Trustee Williams questioned Stone about historical water use.

Tom Ingve asked what would happen if we left the Big Sandy District.

Assistant Manager Kiely questioned when there is an injury on a well permit. Extinction and injury don't correlate.

Stone reported that the Upper Big Sandy District wants to close the basin to future large capacity appropriations without having an augmentation plan. The Town should support this plan and it will provide more assurance that the Town will have physical access to the water rights owned by the Town.

Steve Ferree asked the question if the City of Colorado Springs would want to pull water at the end of the basin would it affect us and was told by Town Manager Stone that it would. Steve expressed the concern that it could happen and set a precedent if we allow exporting out of the basin.

Town Manager Stone stated that each case is decided on its own merit.

Assistant Manager Kiely gave the example of a fire truck taking water out of the district responding to a fire outside the district boundary.

Attorney Kimble stated that state law gives municipalities the right to sell water out of its boundaries.

Tom Ingve asked if water could be sold for highway construction if the project was more than three miles away and was told no. Stone told of a rancher who wanted to make a one-time purchase of water because his windmill was done and that we were not able to help.

Stone explained the moratorium and why water cannot be exported and that the Big Sandy Water Board won't even hear applications.

Town Manager Stone read big Sandy Rule 3 and the rule was discussed. The Big Sandy board is looking at rule revision and the Town would like to develop a resolution to submit to them with suggestions.

Attorney Kimble said state statute says the water board of the district has the right to promulgate reasonable rules. He said the rule could be written more closely to reflect state statute. He does not see where it says it has to be a unanimous vote. There can be a super majority of 2/3 or more but nowhere do you find it has to be a unanimous vote. We could request that Rule 3 be amended to follow state statute

It was discussed that there could be a different set of rules for municipalities and that public benefit needs to be considered.

A paragraph from a letter from the RES attorney concerning his opinion on rule 3 was read and Attorney Kimble stated there needs to be some middle ground.

The District Court indicated because the case involves water the issue had to be taken to the Water Board to exhaust all our remedies available before approaching District Court. If we do not reach an acceptable agreement we can then take it back to Water Court.

Assistant Manager Kiely passed out a draft resolution that had some suggestions and said it would be amended based on the decisions that were made tonight. He asked for input from the Board.

Mayor Beattie stated that RES was a one-time obligation and he would like the Town to be in a position to help local farmers and ranchers. We need to take procedures to get the situation righted.

Trustee King spoke in favor of revising the rules and asked if it would be in a public hearing and by a vote of the directors. He was told it would be and that the Big Sandy has a committee working on rules revision right now. He questioned how a board could function with a super majority.

Trustee Hawthorne asked if now would be a good time to review all the rules.

Trustee Hendricks asked if the resolution for change is not accepted would it go in front of a judge?

Attorney Kimble answered that whatever is in the hearing becomes part of the record.

Trustee Hendricks said it is imperative that we do this and the language needs to be correct.

Assistant Manager Kiely asked for direction on how to proceed.

After discussion the Board instructed staff to proceed with a resolution to the Big Sandy Water Board and will be brought to the Town Board for approval next month.

Steve Ferree commented that if you change Rule 3 be mindful that if it doesn't work against you in the future.

The public hearing was closed at 8:46 p.m.

## **ADJOURNMENT**

At 8:49 p.m. Trustee Hawthorne moved to adjourn; seconded by Trustee Coonts. Motion carried unanimously.

TOWN CLERK \_\_\_\_\_ MAYOR \_\_\_\_\_