

**MINUTES**  
**Colorado Springs Utilities Board Meeting**  
**Wednesday, Sept. 28, 2022**

**Utilities Board members present via Microsoft Teams or Blue River Conference Room:**  
Chair Wayne Williams, Vice Chair Mike O'Malley, Dave Donelson, Randy Helms, Bill Murray, Nancy Henjum, Tom Strand and Yolanda Avila

**Utilities Board members excused:** Stephannie Fortune

**Staff members present via Microsoft Teams or Blue River Conference Room:** Aram Benyamin, Tristan Gearhart, Lisa Barbato, Travas Deal, Mike Francolino, Renee Adams, Jamie Fabos, Abigail Ortega, Joe Awad, Scott Shirola, Natalie Watts, Kandy Drake, Sean Evans, Al Wells, Andie Buhl, Monica Indrebo, Jason Rigler and Noemi Martinez

**City of Colorado Springs staff members present via Microsoft Teams or Blue River Conference Room:** Bethany Burgess, Bob Cope, Tracy Lessig, Jackie Rowland, Renee Congdon, David Beckett, Michael Gustafson, Alex Ryden, Chris Bidlack and Ben Bolinger

**Citizens present via Microsoft Teams or Blue River Conference Room:** Bill Long, Gary Burghart, Larry Barrett, and Julie Adams and family

**1. Call to Order**

Chair Wayne Williams called the Utilities Board meeting to order at 1:00 p.m. and Ms. Andie Buhl, Utilities Board Administrator, called the roll.

**2. Invocation and Pledge of Allegiance**

Ms. Noemi Martinez, Springs Utilities Executive Assistant to the CEO, delivered the invocation and Chair Williams led the Pledge of Allegiance.

**3. Consent Calendar**

**3a. Approval of Minutes: August 12, 2022 Workshop**

**3b. Approval of Minutes: August 17, 2022 Utilities Board Meeting**

**3c. Re-Appointment of Hilary Dussing to the Utilities Policy Advisory Committee (UPAC)**

Board Member Henjum moved approval of the Consent Calendar and Board Member Strand seconded the motion. The Consent Calendar was unanimously approved.

**4. Recognition**

**2022 Whack Dam It Golf Tournament in Support of Project COPE**

Ms. Kandy Drake, Public Affairs Specialist, explained what Project COPE is and Mr. Sean Evans, Water Construction Maintenance Operations Superintendent I, provided background information about the golf tournament. They presented a check of \$19,000 to Project COPE, which is a record-breaking amount. Mr. Evans said Springs Utilities will match this donation dollar for dollar, effectively doubling the impact of this donation.

Chair Williams and the Utilities Board congratulated the tournament committee members for the success of this event.

#### **A Resolution of Appreciation for the Martin Drake Power Plant Employees**

Mr. Aram Benyamin, Chief Executive Officer, recognized the hard work and commitments of Martin Drake Power Plant employees. He said the future is bright, but the dedication of these employees is constant that will propel the organization forward.

Chair Williams read the Resolution of Appreciation for the Martin Drake Power Plant Employees. Board Member Strand moved approval and Board Member Avila seconded the motion. The resolution was unanimously approved.

Board Member Avila and Chair Williams also thanked these employees who took care of the community and applauded Mr. Benyamin for his leadership with the closure of Martin Drake Power Plant.

#### **A Resolution Honoring the Memory of Utilities Policy Advisory Committee (UPAC) Member Rex Adams**

Board Member Strand recognized Ms. Julie Adams, widow of Mr. Rex Adams, and her family, Mr. Larry Barrett, UPAC Vice Chair, and Mr. Gary Burghart, UPAC Chair. Board Member Strand expressed appreciation and recognition for Mr. Adams and his long service to the community as a member of UPAC. He read the resolution honoring the memory of Mr. Adams, and it was unanimously approved.

### **5. Customer Comments**

Chair Williams also acknowledged the passing of Mr. Sam Masias, a citizen who often provided comment at Utilities Board meetings.

Ms. Deborah Stout-Meininger expressed frustrations about rates increasing, coal plants closing, and the unreliability of energy alternatives.

### **6. Compliance Reports**

- I-7 Water Supply Management
- I-9 Treatment of Customers and Customer Information
- ER:1-3 Utilities Board Expected Results – Mid-Year Scorecard and CEO Performance Results G-4
- E-2 CEO Responsibilities

- ECA/GCA Monitoring
- Water Outlook
- Preparation to Customers on Natural Gas Market Volatility

Chair Williams explained that compliance reports are on the agenda by exception and asked if there were any questions. There were none.

Chair Williams also said the second water tour for the Utilities Board is Monday, October 3, 2022.

## **7. Items Called Off Consent Calendar**

None

## **8. Electric and Gas Cost Adjustment Guideline Revisions**

Mr. Scott Shirola, Pricing and Rates Manager, explained how the collection of fuel costs impacts the ability to invest in infrastructure. He provided background information about the Excellence in Governance Policy – Instructions and Guidelines, specifically Instruction Pricing of Services (I-1) and Electric and Gas Cost Adjustment Guideline (G-6). He said cost adjustments are made up of two parts, which he referred to as a two-part cost adjustment composition:

- Part one: Recovery of forecasted quarterly expense
- Part two: True-up of over/under collected fuel cost over defined period

Mr. Shirola said Springs Utilities recommends and Finance Committee supports revisions to the collection balance refunding/recovery guideline. He reviewed the current and revised guidelines:

### Current Guideline

- Balances refunded/recovered over 12 months when balances are within +/- \$5.0 million
- Accelerated refunding/recovery when balances exceed +/- \$5.0 million (multiplier)

### Revised Guideline

- Balances refunded/recovered over 24 months when balances are within +\$10.0 to -\$5.0 million
- Balances refunded/recovered over 12 months when balances exceed +\$10.0 to -\$5.0 million

Mr. Shirola concluded with an overview of draft/redline revisions to (I-1) and (G-6). Board Member Henjum moved approval of the revisions and Board Member Murray seconded the motion. It was unanimously approved.

## **9. Utilities Policy Advisory Committee (UPAC) Cost Recovery Mechanisms Assignment Draft Scope**

Mr. Tristan Gearhart, Chief Planning & Finance Officer, said the draft scope for UPAC's next assignment is cost recovery mechanisms. He said public feedback will be incorporated into any recommendation. He explained the purpose and need of this assignment, which is to review continued changes within and outside City limits that will require investment in new Springs Utilities resources and infrastructure. Mr. Gearhart said during the assignment, UPAC will:

- Review current situation, cost recovery mechanisms and benchmark other utilities' resource and infrastructure cost recovery methodologies
- Review Springs Utilities' Integrated Resource Plans and new considerations related to changes in our community
- Evaluate potential cost recovery mechanisms to accommodate these changes
- Request input from the City of Colorado Springs and other stakeholders
- Oversee public outreach related to the assignment

Mr. Gearhart also reviewed the objectives for cost recovery mechanisms:

- Maintain fiscal stability of the enterprise
- Maintain targeted financial metrics
- Base recovery mechanisms on the cost of service
- Remain competitive
- Maintain financial viability of each separate regulated service
- Minimize risks
- Align with the City's and the Enterprise's strategic goals
- Align with Utilities Integrated Resource plans
- Support resource and economic efficiency
- Allocate costs to appropriate parties

Mr. Gearhart concluded with a preliminary timeline for this assignment. Board Member Henjum moved approval of the UPAC draft scope and Board Member Helms seconded the motion. It was unanimously approved.

#### **10. Bent County Intergovernmental Agreement (IGA)**

Ms. Lisa Barbato, Chief Systems Planning and Projects Officer, listed all internal and external partners who have been involved in this process and introduced Ms. Abigail Ortega, General Manager of Planning. Ms. Ortega said in 2018, Springs Utilities and Bent County began discussions on how future water projects could be developed to preserve and enhance the local economy. She reviewed the goals of this agreement, which are to:

- Meet the requirements for Bent County 1041 permits
- Provide Bent County appropriate mitigation as Springs Utilities develops additional water supply within the County
- Provide Springs Utilities an identified path and process to receive Bent County approval of future water supply projects
- Protect, preserve, and enhance the Bent County economy
- Do the above while respecting the private property rights of farmers

Ms. Ortega listed and explained each key term for this agreement:

- Apply to 15,000-acre feet of new water supply, delivered to Colorado Springs system in either Colorado Canal or Pueblo Reservoir
- Parcels enrolled in Water Sharing Program will not participate in more than two consecutive years
- Limited amount of acreage may be removed from irrigation permanently
- Bent County will have the opportunity to participate in water storage and water supply projects that Springs Utilities develops within the County
- Bent County will become signatories to the Arkansas Valley Preservation Principles
- Monetary mitigation
  - Springs Utilities will reimburse Bent County for its expenses incurred in negotiating the IGA
  - Springs Utilities will make an upfront payment of \$2,500,000
  - Springs Utilities will make two payments to Bent County as it develops new projects
    - For economic mitigation
    - The funds will be released to the County when water is successfully delivered into Colorado Springs system
  - Springs Utilities will pay Bent County a perpetual per acre-foot payment for water developed and delivered under the IGA

Ms. Ortega concluded with next steps for the IGA. Mr. Bill Long, Bent County Consultant, thanked the many efforts made by Springs Utilities over the last four years during this process. Chair Williams explained how local and federal officials expressed thanks for this partnership and said this is all very critical work.

The Utilities Board agreed to put this item on Regular Utilities Business instead of Consent at City Council.

## **11. Resolutions Approving Water Rights Acquisitions**

Ms. Ortega reviewed a vicinity map for water rights acquisitions and gave an overview for each transaction:

### Transaction One

- Purchase 80 Fort Lyon Canal Company shares
  - Convert property from flood irrigation to sprinkler pivot irrigation
  - Purchase 80 shares from corner parcels
- Purchase right to use 105 shares
  - Ability to use additional shares in three out of every 10 years
- Acquire Easement to deliver water
- Total cost is \$724,750 plus additional mitigation

### Transaction Two

- Purchase 2,919 Fort Lyon water shares

- Purchase 644.67 Acres of farmland in Bent County
- Acquire easements to 16 water augmentation stations
- Total cost is \$27,085,175 plus additional mitigation

Ms. Ortega explained a map of purchase properties, and Mr. Michael Gustafson, City Senior Attorney - Utilities Division, explained pending and completed due diligence for both transactions.

Ms. Ortega and Mr. Gustafson explained the benefits of this project and concluded with next steps. The Utilities Board agreed to put this item on Regular Utilities Business instead of Consent at City Council.

The Utilities Board took a break at 3:43 p.m. and returned at 3:53 p.m.

## **12. Fountain Valley Authority (FVA) Agreement for Short Term Water Service**

Ms. Barbato provided background information explaining that Springs Utilities is one of five participants in the Fountain Valley Authority (FVA) and FVA treats and delivers Frying-Pan Arkansas Project water to participants. She said FVA also owns a water treatment plant that Springs Utilities manages and operates on behalf of FVA under a 1980s agreement.

Ms. Barbato said the reasoning for this short-term water service request is because a water tank upgrade is needed at the FVA treatment plant with an anticipated 9-month outage. She said Springs Utilities will deliver FVA partner water via reverse flow into the FVA system. Ms. Barbato said FVA will pay costs of service and make like amount of FVA member water available for Springs Utilities storage and use. She said the agreement is short term and necessary for Springs Utilities to meet contractual obligations and avoid an emergency outage.

Ms. Barbato concluded with recommendations for the Utilities Board to authorize Springs Utilities CEO signature of approval for the agreement. Board Member Strand moved approval of the agreement and Board Member Avila seconded the motion. It was unanimously approved.

## **13. Proposed Annexation-Related City Code Changes**

Ms. Renee Congdon, Corporate Division Chief – Office of the City Attorney, explained how annexation is controlled by three sets of laws, and reviewed proposed changes to City Code regarding annexation so City Code is consistent with current practices and provides tools to adapting to changing legal landscape. She also said there are three sets of proposed changes, which are annexation considerations, exceptions to the exclusive provider provisions, and clarification outside City service.

### **1. Annexation Considerations**

- Reorganization

- Moving “criteria” that were really conditions of annexation to “conditions” section
- Moving sections on cost-benefit analysis from Outside City Service to Annexation
- Separating outside City water and wastewater service from annexation
- Moving the details of outside City water and wastewater service to Chapter 12 of City Code (Utilities)
- Clarification of what Springs Utilities analyzes when reviewing an annexation petition
- Expands conditions imposed on annexations

## 2. Exclusive Provider

Ms. Congdon said current City Code 12.1.11 states, “The Utilities shall, to the maximum extent of its capabilities and consistent with its purposes, be the sole and exclusive provider of electric, natural gas, water and wastewater utility services within the corporate limits of the City.” She said this interprets Springs Utilities as the exclusive provider of all four utility services within City boundaries. Ms. Congdon reviewed the proposed exceptions:

- Strategic - may be granted if:
  - In the best interest of Colorado Springs Utilities not to serve a property and
  - Supports current Utilities Board directives or instructions
- Legal – may be granted if:
  - Serving the property would create legal problem for Colorado Springs Utilities (violation of or inconsistent with law or legal obligation under contract)

Ms. Congdon reviewed the new process, which includes:

- Utilities Board granting exception based on a recommendation of Springs Utilities’ CEO
- Notice recorded against property
- Agreement between property owner and Colorado Springs Utilities

## 3. Outside City Service

- Special contract service
  - Only for service to other entities, such as special districts, municipalities, etc.
  - Entities then sell service to customers at retail
- Agreement to annex
  - Service to individual properties at retail outside of City limits

Ms. Congdon concluded with next steps.

## **14. Board Member Updates**

Board Member Helms advocated for Springs Utilities to invest in nuclear energy.

Board Member Henjum expressed excitement for the upcoming water tour on October 3, 2022.

Board Member Avila thanked Springs Utilities' Delta Team for participating at the Fiestas Patrias event on Saturday, September 17, 2022.

Board Member Strand said he is looking into the possibility of Springs Utilities being governed by a separate body other than City Council. He also said the budget needs to be better communicated to the community, as there are a lot of concerns from constituents about the overall 26% budget increase.

Board Member Donelson highlighted that City Council voted to lower electric rates, and that natural gas customers will pay a lower rate now than this time last year.

Vice Chair O'Malley also advocated for nuclear energy and natural gas.

Chair Williams explained the current volatility of natural gas. He also thanked staff who attended the Chamber and EDC D.C. Fly-In with him earlier this month.

## **15. Executive Session**

Ms. Bethany Burgess, Office of the City Attorney – Utilities Division Chief, read the following language to enter Executive Session:

*In accordance with City Charter art. III, § 3-60(d) and its incorporated Colorado Open Meetings Act, C.R.S. § 24-6-402(4)(f) and Utilities Board Bylaw Rules 10(c)(6), the Utilities Board, in Open Session, is to determine whether it will hold a Closed Executive Session. The issue to be discussed is the 2022 mid-year performance review of the Chief Executive Officer.*

*The City Attorney's Office, on behalf of the Chair of the Utilities Board, shall poll the Utilities Board members, and, upon consent of two-thirds of the members present, may conduct a Closed Executive Session. In the event any Utilities Board member is participating electronically or telephonically in the Closed Executive Session, each Utilities Board member participating electronically or telephonically in the Closed Executive Session shall affirmatively state for the record that no other member of the public not authorized to participate in the electronic Closed Executive Session is present or able to hear the matters discussed as part of the Closed Executive Session. If consent to the Closed Executive Session is not given, the item may be discussed in Open Session or withdrawn from consideration.*

Ms. Burgess polled the Utilities Board and they voted unanimously to enter Executive Session.



The Utilities Board took a break at 4:07 p.m. and entered Executive Session at 4:12 p.m.

The Utilities Board ended Executive Session at 5:30 p.m.

**16. Adjournment**

The meeting adjourned at 5:36 p.m.