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Sent: Monday, January 09, 2012 9:37 AM
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Minutes - June 13, 2011

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MINUTES

BLUE RIBBON WATER COMMITTEE

June 13, 2011

The meeting of the Apple Valley Blue Water Committee was called to order at 6:05 p.m. by Chairman Coleman at 14975 Dale Evans Parkway, Apple Valley, CA.

The following members were present:

Chairman Carl Coleman; Committee Members Ronald Barbieri; John Bernier; Jim Chandler; David Christman; Lawrence McCarthy; Bernadette McNulty; Wilson So; Robert Lee Sturges; Joseph Tartaglini; Rob Turner; Jack Collingsworth. Absent: Vice-Chairman Rick Piercy; Committee Members Bill McDaniel; Pat Orr

PUBLIC COMMENTS

Reggie Lamson, Apple Valley Ranchos, distributed a handout to the Blue Ribbon Water Committee of a rate comparison and graph of the water bills for various water providers. Mr. Lamson commented on the average monthly water bill for homes with traditional landscaping and those with water smart landscaping.

BUSINESS ITEMS

- a. **Presentation – Brief presentation by Bartle Wells to update the Committee on the Progress of the Feasibility Study for the Water System Acquisition.**

Chairman Coleman provided the Committee with packets of the presentation by Bartle Wells. He noted that the packets include the transcript of the testimonies taken at the Blue Ribbon Water Committee Meeting attended by the Public Utility Commission for the rate hearings.

Mr. Reed Schmidt, Principal, Bartle Wells Associates, provided the Committee with an update of the Feasibility Study. He reviewed the key areas of focus by Bartle Wells to determine the feasibility of the Town acquiring the water system. He also commented on recommendation by the Divisional Rate Advocates regarding rate increases.

- b. **Discuss Other Matters Within the Committee's Jurisdiction.**

Chairman Coleman asked a series of questions regarding what the State Law requires with respect to alternate energy needed to pump water and how it will affect the cost of water.

Mr. Reed Schmidt, Principal, Bartle Wells Associates, stated that there are multiple issues surrounding the movement of water from Northern California to Southern California. He explained that if the Town were to acquire the water system, it would be

their responsibility to collect revenues to pay those costs. He also stated that the same would apply if the water system were privately owned.

Chairman Coleman asked a series of questions regarding the use of eminent domain for the purchase of utilities.

John Brown, Town Attorney, stated that it is the Town's desire to avoid litigation and achieve the acquisition through negotiations. He responded to questions by the Committee regarding eminent domain.

Mr. Schmidt, Principal, Bartle Wells Associates, commented on his experience with other water systems of acquisitions by public entities, that have used their right of eminent domain.

John Brown, Town Attorney, stated that the Town Council would be looking to the Blue Ribbon Water Committee to address whether public policy supports a recommendation to utilize the power of eminent domain.

Committee Member McNulty expressed concern regarding municipal water companies that are being sold due to aging infrastructure.

Committee Member So felt that the Committee should look at the merits of the Town purchasing the water system and address any concerns surrounding the aging condition of the system at a later time.

Mr. Schmidt, Principal, Bartle Wells Associates, explained the steps that would be taken if the Town were to go through with the purchase of the system. These steps would include engaging with an Engineer who would respond to the aging conditions of the system and obtaining an appraisal. He answered questions from the Committee regarding the affects that the proposed merger would have on the Town's acquisition.

Committee Member Turner questioned the bonding capacity for the Town of Apple Valley.

Discussion ensued regarding the Town's ability to create a sinking fund for the purpose of purchasing the company at a future date based on negotiations with the Carlyle Group.

Committee Member Tartaglini asked a series of questions regarding the bond rating and what the capacity is to borrow.

Committee Member McNulty stated that the bond rating has dropped significantly to all municipalities as a result of decreased property values in California.

Committee Member Christman requested to know what would happen if the bond failed.

John Brown, Town Attorney, stated that the Town Council has expressed no position with respect to the exercise of power of eminent domain. He stated that as Town Attorney, he would ask for the Council's consideration of eminent domain after the Blue Ribbon Water Committee has had an opportunity to review all of the risks and rewards of ensuring the source of supply for funding the eminent domain. He also responded to

concerns by the Blue Ribbon Water Committee regarding the possibility of the Town facing liability.

Committee Member Barbieri requested to know, for the purpose of the Regional Protection Policy Report, when the value of the water rights will be added to the report.

Mr. Schmidt, Principal, Bartle Wells Associates, explained that the water rights are attached to the water utility; if you buy the water system you get access to the water rights. He stated that Bartle Wells is currently looking into this as part of the next step to make sure that assumption is correct.

John Brown, Town Attorney, explained that the value of the water rights would have to be analyzed as part of the feasibility analysis. He also explained that because the water rights held by Apple Valley Ranchos Water Company have been generally represented to Public Utility Commission as being dedicated to a public use, they are not readily transferrable or in any way marketable.

John Brown, Town Attorney, stated that the Town Council is appreciative for the time and effort by the Blue Ribbon Water Committee. He explained that the Town Council would like an opportunity to meet with Mr. Schmidt to determine a schedule of finalization of the study prior to the Committee receiving a draft. Mr. Brown reassured the Committee that the study will be finalized in the near future.

Discussion ensued.

John Brown, Town Attorney, suggested to the Blue Ribbon Water Committee to refer to the upcoming hearings in front of the CPUC for information regarding the financial profile of Apple Valley Ranchos Water Company.

Committee Member McNulty, commented on her attendance at the PUC Hearing. She expressed concern regarding a letter she received from the PUC stating that the rate case has been transferred to a new judge.

John Brown, Town Attorney, stated that BB&K is currently working on a time and responsibility chart to provide to the Blue Ribbon Water Committee.

Committee Member Barbieri requested that the Committee receive a copy of the estimated cash flow.

David Mueller, Hi Desert Politics.org, commented on his attendance at the Mojave Water Agency Urban Water Plan Meeting. He expressed concern regarding the reasons why he felt the Carlyle Group is interested in the water rights. He recommended that the Committee look into the Monterey amendment to better understand what happens when a public entity is turned into a private agency.

Committee Member McNulty commented on the request that she made to the Mojave Water Agency for information regarding who owns all the water rights in the Town of Apple Valley.

Committee Member So encourages that the Blue Ribbon Water Committee meetings be attended by all its members.

Chairman Coleman explained that because Committee Member Bill Mc Daniel has undergone surgery, he has changed the Chairmanship of the Mojave Water Agency Committee to Bernadette Mc Nulty.

Committee Member Mc Nulty requested assistance from any of the members who has water rights experience. Committee Member So gladly accepted.

c. Approval of Minutes from May 26, 2011

Chairman Coleman announced the need to move the approval of the Minutes from May 26, 2011 to the next Blue Ribbon Water Committee meeting to be held on June 29, 2011.

COMMITTEE MEMBER REPORTS:

SCHEDULING OF FUTURE MEETINGS:

Chairman Coleman announced the next Blue Ribbon Water Committee is scheduled for June 29, 2011.

ADJOURNMENT:

Motion by Interim Chairman Coleman, seconded by Committee Member McNulty, and unanimously carried to adjourn the Blue Ribbon Water Committee at 7:24 p.m.