

MINUTES**NFRWQPA****June 30, 2005** (as amended Nov 3, 2005)**1. Roll Call**

The meeting was called to order at 3:00 p.m. by Chair Gale McGaha Miller at the offices of the Northern Colorado Conservancy District. Roll was called and the following members were in attendance:

Jim White – Berthoud	Cindy Titus – Lochbuie
Tony Huerta – Berthoud	Rod Hamilton – Loveland
Gary Behlen – Erie	Richard Kraemer – Mead
Earl Smith – Evans	Michael Friesen – Mead
Gale McGaha Miller – Ft. Collins	Bill Haas – Northglenn
Harleigh Peppler – Johnstown	Bob Alberts – Pierce
Roy Lauricello – Johnstown	Terry Farrill – South Ft. Collins S.D.
Trudy Peterson – Kersey	Tim Gaines – Timnath
Ed Schemm – Larimer County	Dennis Wagner – Windsor

Also present were Connie O’Neill, John Burgeson, Gary Woods, R. Russell Anson, Brian Zick, Mike Wailes, R. Savage, Steve Martinez, Wayne Reed, Troy McWhinney, R.B. Fickel, Jim Wright, Brad Simons, and Bob Acher.

2. Minutes

Minutes of the May 26, 2005 meeting were considered. Mr. White indicated that the second sentence of the last paragraph on the first page should read “an activity”. He also indicated that the third sentence of the fourth paragraph on the second page should read “was a simple agreement” and the following sentence should read “that we simply state”. Mr. Kraemer made a motion to approve the minutes as revised. Mr. Peppler seconded the motion and it passed.

3. Financial Report for May

The financial reports for May were reviewed. Ms. O’Neill summarized the reports and indicated that expenses were within the normal expected monthly range. Mr. White made a motion to approve the financial reports, Mr. Schemm seconded the motion and it passed.

4. Associations’ Policy on IGAs

The Town of Berthoud had requested that the Association consider its policy regarding the requirement for IGAs. Mr. White presented on behalf of the Town of Berthoud and brought up questions about whether requiring an IGA was a direction that the association wants to take and whether the Association has the legal authority to do so. Ms. Miller indicated that she did not feel the legal opinions sought by the Town of Berthoud were different from those of the Association. She stated that the Association does not make requirements; we seek information in order to make recommendations to the state. There have been many instances in the past where conditions have been placed on those recommendations. In this case, the Association agreed with Johnstown who suggested an IGA. If the applicant does not agree with the

conditions that the Association places on their recommendation they have the ability to appeal to the state. Mr. Kraemer stated that the conditions in the past had been technical. Ms. Miller stated that many have been technical but not all. Mr. Behlen commented that this group is more technical and it appeared that we may have over stepped our boundaries by requiring an IGA. He suggested that those issues should be left to the Towns to deal with. Ms. Miller stated that this condition was set in order to assure that treatment could be provided. Mr. Farrill indicated that Section 22.4 (1)(b)(xi) of the Guidance Document for Regulation 22 states “In those circumstances where capacity in treatment works is shared between two or more entities, it is appropriate that formal agreements exist with respect to the sharing of capacity and the timing and terms for initiating expansion of capacity.” He indicated that we are conducting a pre-process review and that by requesting this information be in place we are assuring that two treatment plants are not built across the street from each other which is contradictory to our mission.

Mr. Pepler suggested that it be a policy that the IGA be in place prior to coming to this board for all regional plants. Mr. White gave additional information on the Berthoud situation. Ms. Miller asked to review the plan amendment approval and the site application recommendation. Mr. McWhinney asked how the Association would handle unrealistic demands by one party. Mr. Farrill stated that if the parties can't come together that is a decision for the state. Ms. Miller stated that if we have proposals to consider we need some demonstration that there is an ability to serve that area. Mr. Kraemer stated that Berthoud has demonstrated that. Mr. Anson stated that the two towns are very close to having an agreement that addresses Johnstown's issues with capacity and return flows. Mr. Alberts brought up the issue of gravity flow for the area. Ms. Miller stated that consolidation would have still been an issue. Mr. Schemm commented that the Association has the responsibility of developing an areawide plan. The plan that we have calls for a regional plant in that area to serve both communities. The IGA is necessary in order to provide long range assurance of that service. Mr. Fickle questioned whether an IGA would be required with all site applications. Ms. Miller indicated that the areawide plan would govern that. She stated that this is a unique situation however, that is not to say we would not make this type of request again in the future.

Mr. White stated that Berthoud committed to working on an IGA but not as a part of, or a requirement of the site approval. Mr. Hamilton raised the question of what the alternative would be. He stated that the Association could choose not to make a recommendation of approve for an application without an agreement. Ms. Miller summarized by stating this is one of many tools that the Association may need to use in order to make recommendations.

5. Berthoud / Johnstown IGA

Mr. Kraemer made a motion to continue this item for 30 days in order to give the two communities a chance to work out the agreement. Mr. Kraemer then changed the motion to substitute the original condition requiring the IGA with a requirement that Berthoud and Johnstown work in good faith toward an IGA and that Berthoud's site plan approval is contingent upon Berthoud's continued operation of this wastewater treatment facility as a regional facility as set forth in Resolution No. 6-05 dated May 17, 2005 and distributed to the Association. Mr. Behlen seconded the motion. Mr. Pepler stated that a resolution by one town carries no weight with the other town and that an IGA is the only way to ensure that this is a regional plant. He also stated that he felt they are very close to having this resolved. Mr. Anson stated that they are very close to an agreement with a couple of minor changes. Ms. Miller asked Mr. White if he felt Berthoud was close to approving the agreement. Mr. White

stated that he could not predict what his board would approve but they do not want the IGA to be a requirement. Mr. Fickle stated that staff has felt that they were close to an agreement before and Berthoud is requesting that they be allowed to work in good faith toward an IGA without it being required. Ms. Miller indicated that she was not sure we could substitute a requirement that was previously approved. Mr. Kraemer changed his motion to state a change instead of a substitution. Mr. Anson suggested that if Johnstown approves the IGA and Berthoud doesn't that the condition stays however, if Berthoud approves the agreement and Johnstown doesn't, the condition is dropped. Mr. Fickle felt this would not address the issue. Mr. Behlen called the question. Ms. Miller called for a vote by a show of hands. The motion failed by a vote of 8 to 5. Mr. Kraemer suggested continuing the item to next month. Mr. Schemm made a motion that should an agreement be reached prior to the next meeting, Berthoud could forward that to the state prior to the meeting. Mr. Peppler seconded the motion and it passed unanimously.

6. Proposed East I-25 Sanitation District

Ms. O'Neill reviewed the request that the Association has received for a plan amendment for the proposed East I-25 Sanitation District. The proposed language for this amendment has been e-mailed to the Association and placed on the website. She requested that comments be submitted as soon as possible. Mr. Schemm pointed out that this request appears to have conflicting boundaries and in the past the Association has advised that the parties attempt to resolve those issues prior to presenting to this board. Mr. Woods stated that he was not sure that was possible. Ms. Miller stated that we would be looking for assurance of service. Mr. Schemm pointed out that the court decree will resolve the boundary issue for us and that maybe the Association should not consider the request until the court has made a decision. Mr. Wood explained where the district is with its formation. Mr. Kraemer stated that the representatives of the district have never asked to meet with the Town of Mead and they should not be placed on the agenda until the district is formed. Ms. Miller stated that the Association would not take action on a non-existing entity.

7. Other Business

- A. Water Quality Control Commission Report: Ms. O'Neill summarized the Basic Standards hearing held on June 13, 14, and 15.
- B. Other Reports: The Water Quality Forum held its retreat on June 27 and 28. Ms. O'Neill gave a summary of the work groups that will be in place this year for the Forum.
- C. 2006 Dues: Ms. O'Neill stated that the Executive Committee had made a preliminary decision to base the 2006 dues on the same per capita figure as 2003-2005 and using the State's population estimates for 2004 when they become available. A notice with the preliminary amounts will be sent out to all members. These preliminary amounts will be based on the 2003 figures therefore; actual 2006 dues may be slightly higher.

8. Adjournment

There being no further business, the meeting was adjourned at 4:40 p.m.