

RECORD OF PROCEEDING

**SOUTHEASTERN COLORADO WATER
CONSERVANCY DISTRICT**

MINUTES

September 19, 2019

A regular meeting of the Board of Directors of the Southeastern Colorado Water Conservancy District (District) was held on Thursday, September 19, 2019 at 9:30 a.m. at the District office, 31717 United Avenue, Pueblo, Colorado.

President Long announced a quorum was present.

DIRECTORS PRESENT:

Bill Long

Seth Clayton

Alan Hamel

Patrick Garcia

Patrick Edelmann

Curtis Mitchell

Kevin Karney

Mark Pifher

Dallas May

Ann Nichols

Tom Goodwin

Carl McClure

Greg Felt

DIRECTOR(S) ABSENT AND EXCUSED:

Andy Colosimo and Howard "Bub" Miller

DISTRICT OFFICIALS PRESENT:

Executive Director James Broderick; General Counsel Lee Miller; Administrative Manager Toni Gonzales; Senior Policy and Issues Manager Chris Woodka; Principal Engineer Kevin Meador; Water Resource Engineer Garrett Markus; Finance Manager Leann Noga; Accountant Stephanie Shipley; and Special Water Counsel Stephen Leonhardt.

VISITORS PRESENT:

Jenny Bishop, Colorado Springs Utilities; Curt Thompson, AECOM; George Hanzas, Catlin Canal; and Ryan Bouton, PhD Student

INTRODUCTION OF VISITORS:

President Long welcomed the visitors to the meeting, and asked them to introduce themselves and identify the organization they represented.

APPROVAL OF MINUTES:

President Long said the minutes of the August 15, 2019 Board meeting were posted to the Board website for review, and asked if there were any corrections or additions. Hearing none, Mr. Karney moved, seconded by Mr. Mitchell, to approve the minutes. Motion unanimously carried.

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FINANCE COMMITTEE REPORT:

Treasurer Nichols reported the financial statements for August 2019 were posted to the Board website for review. Treasurer Nichols moved, seconded by Mr. Clayton, for acceptance of the August 2019 financial statements and payment of the September 2019 bills. Motion unanimously carried.

CONSENT ITEMS:

None

ACTION ITEMS:

The Enterprise meeting was called to order in conjunction with the District meeting to take action on the Appointment of Budget Officer and set the Public Hearing for 2020 Proposed Budget.

APPOINTMENT OF BUDGET OFFICER

Appointment of a Budget Officer is an annual occurrence to be in compliance with Colorado State Budget Law. The first action the governing board must take under the Budget Law is to designate or appoint a Budget Officer to prepare and submit a proposed budget (Section 29-1-104, C.R.S.).

Mr. Goodwin moved, seconded by Mr. Clayton, to have the Board of Directors appoint the Finance Manager Leann Noga, as the Budget Officer for the 2020 District budget preparation. Motion unanimously carried.

SET PUBLIC HEARING FOR 2020 PROPOSED BUDGET

The Board of Directors conducts a Public Hearing each year prior to adopting the annual budget to be in compliance with Colorado State Law C.R. S. 29-1-108(1). The published notice of the Public Hearing is required for District policy and compliance to Colorado State Law C.R. S. 29-1-106(1).

Mr. Hamel moved, seconded by Mr. Goodwin, the Board of Directors set November 21, 2019 at 9:45 a.m. at the office of the Southeastern Colorado Water Conservancy District for a Public Hearing of the 2020 Proposed Budget of the District. Motion unanimously carried.

DISTRICT POSITION ON PROPOSITION DD

Lee Miller reported during the recent Colorado Water Congress summer meeting, proponents of Proposition DD requested the District to publicly support enactment of Proposition DD. During the past session of the Colorado General Assembly, the General Assembly passed H.B. 19-1327 submitting to the registered electors of the state of Colorado a ballot measure authorizing the collection of a tax on the net proceeds of sports betting through licensed casinos, directing the revenues generated through collection of the sports betting tax to specified public purposes, including the state water plan through creation of the water plan implementation cash fund. This referred measure will appear as Proposition DD on the November 2019 ballot.

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In 2018, the United States supreme court held in *Murphy v. National Collegiate Athletic Association* , 138 S. Ct. 1461, that a federal law prohibiting states from authorizing sports betting violated the tenth amendment of the United States constitution. States may now authorize sports betting.

The referred measure decriminalizes sports betting in Colorado, effective May 1, 2020, under the following conditions:

- The collection of a tax on the net proceeds of sports betting must be approved by the registered electors of Colorado at the November 2019 general election;
- Sports betting will be regulated by the department of revenue, subject to supervision by the existing limited gaming control commission;
- A limited number of licenses will be issued. Persons or entities currently licensed to conduct limited gaming (i.e., the owners of casinos in Central City, Black Hawk, and Cripple Creek) are the only persons or entities eligible to hold a "master license" to conduct sports betting upon paying a license fee and submitting to background checks. A master license entitles the licensee to contract with a licensed "sports betting operator" or a licensed "internet sports betting operator", or both, for the operation of sports betting.
- The conduct of sports betting in Central City, Black Hawk, and Cripple Creek is further conditioned on approval by the voters of the respective city in a local election to be held concurrently with the statewide election in November 2019; and
- The state will collect a tax of 10 percent on the net proceeds of sports betting activity to fund implementation of the state water plan and other public purposes. Of the total amount of tax collected, after first repaying the general fund appropriation for startup and initial operating costs, 6 percent is set aside annually to compensate the beneficiaries of revenues generated by limited gaming and other wagering activities for any losses attributable to competition from sports betting.

Mr. Hamel moved, seconded by Mr. Felt, to support Proposition DD. The vote passed with Mr. Goodwin, Mr. McClure, and Mr. Garcia voting no.

Lee Miller said the District will put out a press release supporting Proposition DD.

EXECUTIVE SESSION:

TABOR ANALYSIS OF MILL LEVY FOR OPERATIONS RELATED FOR OPERATION, MAINTENANCE, AND REPLACEMENT (OM&R) COSTS OF THE FRYINGPAN-ARKANSAS PROJECT

Lee Miller said a request has been made for the Southeastern Colorado Water Conservancy District to enter Executive Session for the purpose of:

Discussion with legal counsel on the following matter:

TABOR Analysis Related for Operation, Maintenance, and Replacement ("OM&R) Costs of the Fryingpan-Arkansas Project

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Pursuant to:

C.R.S. §24-6-402(4)(b): (Conferences with an attorney for the local public body for the purposes of receiving legal advice on specific legal questions)

The presence of the following persons is requested at this Executive Session for the TABOR Analysis Related for Operation, Maintenance, and Replacement (“OM&R) Costs of the Fryingpan-Arkansas Project:

1. Non-Excused Board Members (state for the record any who are excused)
2. Executive Director
3. General Counsel
4. Special Counsel
5. Finance Manager
6. Senior Policy and Issues Manager
7. Water Resources Engineer

Minutes will be electronically recorded as required by the Colorado Open Meeting Act.

Mr. Hamel moved, seconded by Mr. Clayton, to enter into Executive Session. Motion unanimously carried

At this time the Water Conservancy District Board will enter into Executive Session. The District meeting was recessed at and reconvened at 9:59 and reconvened at 10:12.

REPORT OUT OF EXECUTIVE SESSION:

Lee Miller reported the Board received legal advice on the TABOR Analysis Related for Operation, Maintenance, and Replacement (“OM&R) Costs of the Fryingpan-Arkansas Project. There was no action taken on this matter at this time, but may require action in the future when policies are written.

PRESENTATIONS:

DISCUSSION ON POLICIES

Chris Woodka reported JACOBS was hired in 2019 to perform a Financial Strategy and Sustainability Study for the District. One task in the study was to provide recommendations for Policies and Guidelines to the District. Many of the recommendations were incorporated into the four Workshops with the Executive Committee that were held in April, June, and July of 2019.

JACOBS has recommended four policies to the Board:

- Debt Management Policy
- Unrestricted Reserves Policy
- Capital Planning Policy
- Rate Setting Policy

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Mr. Woodka provided a PowerPoint, titled *Discussion on Financial Policies*, reviewing the following:

- Existing Financial Policies and Guidelines
- Need for Long-Range Financial Planning Identified
- 4 Financial Policies Recommended by JACOBS
- Debt Management Policy Purpose
- Debt Management Policy Objectives
- Examples of Debt Management
- Unrestricted Reserves Policy Purpose
- Unrestricted Reserves Policy Objectives
- Categories of Unrestricted Reserves
- Capital Planning Policy Purpose
- Capital Improvement Policy Objectives
- Capital Planning Policy Procedures
- Rate Setting Policy Purpose
- Rate Setting Policy Objectives
- Rate Setting Studies, Process, and Guidance

The Board was provided suggested policies for review for the following:

- Capital Planning Policy
- Debt Management Policy
- Rate Setting Policy
- Unrestricted Reserves Policy

Leann Noga reviewed each policy in detail, and the Board was given the opportunity to ask questions and comment on each.

FINANCIAL STUDY WORKSHOP QUESTIONS AND ANSWERS

This item was tabled to give the Board members an opportunity to review the workshop questions and answers provided to them. This item will be presented at the October 17, 2019 meeting.

MONTHLY/QUARTERLY REPORTS:

U.S. BUREAU OF RECLAMATION REPORT

Roy Vaughan provided a written report reviewing the following:

- As of September 2019 there were 201,330 acre-feet stored in Pueblo Reservoir; 152,726 acre-feet of Project water; 42,912 acre-feet of Excess Capacity water; 16,364 acre-feet of Winter water
- There is currently 92,647 acre-feet of Project space in Pueblo Reservoir and 2,880 acre-feet of space in Turquoise and Twin Lakes Reservoirs
- Project Reservoirs: Turquoise 113%; Twin Lakes 110%; Pueblo 125%
- Total M&I Project water in the System
- Boustead Stored Cumulative Imports 2019

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DIVISION ENGINEER'S REPORT

Bill Tyner provide a written report as follows:

The Arkansas Basin once again demonstrated the ability to change hydrology and climate conditions in short order. The conditions report for the August meeting showed river flows above and through Pueblo Reservoir still strong from our great winter snowpack. The Arkansas River flows at both the Portland and Above Pueblo Gage showed 2,600 cfs in August near the time of the Board Meeting. The Board was provided a copy of a report that illustrates how the snowmelt runoff finally played out and shows how weak the monsoon season precipitation has been as flows at these two stream gages have fallen to 248 cfs at Portland and 293 cfs at the Above Pueblo gage.

The lower than expected monsoon precipitation conditions triggered the use of substantial reservoir water during the last month and created space available for Winter water storage that should be adequate to accommodate a normal storage season.

I want to express special thanks to Jim and Cindy Broderick, Toni Gonzales, Chris Woodka, Garrett Markus, Margie Medina, and Lee Miller for hosting a fantastic tour of key elements of the Fryingpan-Arkansas Project on September 9 and 10, 2019. Special thanks also goes out to Roy Vaughan, Terry Dawson, Mike Holmberg and several other Bureau of Reclamation employees at the Mount Elbert Hydropower Plant.

The tour included the State Engineer, Kevin Rein, along with fourteen other Colorado Division of Water Resources staff members from Denver, Pueblo and Glenwood Springs Offices.

Additionally, the tour included four staff members from the Colorado Water Conservation Board, the Division 2 Water Court Referee (Kate Brewer) and Water Court Clerk (Michele Santistevan), Amy Moyer, the Deputy Director for Water from the Executive Director's Office of Department of Natural Resources, Nate Pearson, Senior Policy and Budget Analyst from the Governor's Office, Paul Bennington and Chris Stork from the Colorado Attorney General's Office and Peter Van Dusen from Wilson Water Group.

U.S. GEOLOGICAL SURVEY REPORT

Krystal Brown submitted a written report reviewing the following:

- Current Arkansas River Conditions (Leadville, CO to Collidge, KS)
 - Arkansas River near Leadville, CO
 - Arkansas River at Parkdale, CO
 - Arkansas River near Avondale, CO
 - Arkansas River at Las Animas, CO

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- Arkansas River near Coolidge, KS

INFORMATIONAL ITEMS:

The Board was provided written material on the following topics, which were posted to the Board website:

- Water Court Resume
- 2020 Budget Calendar
- Special Water Counsel Legal Report
- Special Board Meeting
- Human Resources Committee Meeting
- Winter Water Annual Meeting
- NWRA 88th Annual Conference
- 2019 CRWUA Annual Conference

Chris Woodka presented a PowerPoint that showed the highlights of the dedication ceremony of the James W. Broderick Hydropower Plant, held on September 16, 2019.

President Long asked if there were any other matters to come before the meeting, and hearing none, adjourned the meeting at 12:08 p.m.

Respectfully submitted,

Toni Gonzales
Administrative Manager

Secretary
