

HUERFANO COUNTY WATER CONSERVANCY DISTRICT

Minutes of Board Meeting January 28, 2013

CALL TO ORDER

The monthly meeting of the Huerfano County Water Conservancy District was called to order by Interim President Dawson Jordan on Monday, January 28, 2013 at 6:08 pm.

ATTENDANCE

Directors present: Dawson Jordan, Kent Mace, Lewis "Beaver" Edmundson, Michael "Sandy" White, Scott King.

Secretary: Carol Dunn

Consultant: Ted M. Zorich, Jr.

Attorneys: Steve Monson, Jim Culichia

Guests: Gail Terry, Rick Loeffler, Ray Garcia, Kathy Edmundson, Dennis Hoyt, John Manos (press), Jack Myers, Walt Myers, Paul Denney, Amos Mace, David Johnson, Al Tucker, Mayor Larry Patrick, David Harriman.

King moved and White seconded to approve the agenda, adding County Commissioner Ray Garcia under New Business. Board approved.

MINUTES

There was a motion by Edmundson, seconded by Mace, to approve the November 26, 2012 Minutes as read. Board approved. There was a motion by King, seconded by Edmundson, to approve the December 11, 2012 Minutes as read. Board approved.

TREASURER'S REPORT

The total of both CDs is \$44,206.35; total in the First National Bank in Trinidad/Walsenburg checking account is \$2,482.44; for a grand total of \$46,688.79 in all accounts. White moved and Mace seconded to accept the January Treasurer's Report as presented. Board approved.

ATTORNEY REPORT

Regarding procedures between the District and the Enterprise, Monson said the District would purchase water and build storage structure(s), then turn these over to the Enterprise to manage.

Steve Monson reported that the Rule 14 Plan (for Gardner Water & Sanitation and Paradise Acres Homeowners) is coming up for renewal. The District needs to be moving toward a permanent blanket augmentation plan. The Martin Ditch water right and TZA Engineering will be used and the renewal will basically roll over from last year. The Substitute Water Supply Plan (SWSP) renewal (for Huerfano County, CO61 and Malachite Spring) will also use the Martin Ditch water, and that renewal was submitted in December 2012. Monson cautioned that there is a five-year limit on the plans, and the depletions can't stretch past five years, which affects the CO61 well and the lag time on return flows. The SWSP was established in 2010, so the permanent plan needs to be filed this year. Although there is not a permanent water right, Monson recommended starting

on the plan even if the District needs to go back to court to amend it with a permanent water right at a later date.

Monson reported that TZA Water Engineers has examined the exchange potential from the Martin Ditch #4 headgate upstream to a storage pond. This study has come back positively.

Two Rivers Pro-se objectors on 11CW94 – These objectors will be able to join in on the District's comments on the case.

Shell SWSP Renewal for 2013 – The Board will not file formal comments. Monson said this is an administrative finding of whether the well meets the criteria of non-tributary. Shell is asking for temporary approval for a change of water rights. If Shell goes to court for a permanent change, the administrative findings are not binding on the future case.

OLD BUSINESS

Zorich reported on water case 12CW111 – The Chandler Ponds are south of Chama on Martin Creek at 9,000 to 10,000 ft. The applicants are asking for the right to fill the ponds with a 2010 appropriation date, a very junior right. They did not request domestic or livestock use. County Commissioner Ray Garcia (previous water commissioner) said the ponds were built in the 1960s and had been silted in until they were rebuilt by the applicant. Martin Creek goes into a futile call each year, so the applicant just wants to make sure he can get some water during periods of futile call. Mace moved and White seconded to let the State take the lead on this case. Board approved.

NEW BUSINESS:

Arkansas Valley Roundtable – Kent Mace reported that the increased mill levy will give the District more clout for funding. The Roundtable suggested the District submit a plan so it can be moved through the funding process. Mace said the Roundtable would front money for a grant writer for the District.

Special Districts Association – King moved and White seconded to not join the Special Districts Association. Board approved.

Culichia outlined an example for how the Enterprise might operate its blanket augmentation plan. There could be a two-phase plan, one phase for each river. The ownership of the water would stay with the District. Augmentation water buyers would get a non-transferrable share certificate. The features of the plan should be adjudicated in court, ie: streams, evaporation rates and depletion rates. When someone is added to the plan in the future, the District would only need to file a notice to the opposers of the Plan. If there is no further opposition, the State Engineer would approve the change and the participant would be added.

Culichia gave examples of fees that might be used in the plan: application fee, annual administrative fee. There should be a buy-back option in case the participant defaults or goes bankrupt. The share certificates should not be valid for trade on the open market. Culichia estimated that plan oversight could be contracted out for about ten hours per month at the beginning. The Board needs to rank in priority where/to whom augmentation water will be furnished.

CONSULTANT REPORT

Zorich reported that he met with a representative of TZA Water Engineers on the Mace property to see the site of the proposed augmentation storage pond.

OLD BUSINESS

TZA completed its analysis of the travel time of recharge from the CO61 well to the Huerfano River.

TZA furnished a report on the feasibility of a storage pond at the Mace property in Redwing. TZA cautioned that mixing water rights might be a problem and suggested a pipeline from the river to storage and back to river. Culichia guessed that storage construction could cost around \$8,000 per acre-foot. White moved, seconded by King, to have the attorney ask Tom Dea at TZA for estimates on building the storage pond, with a cost limit of \$3,000. Board approved. White moved, seconded by King, to have the attorney provide an estimate of legal costs for putting together the augmentation/exchange application and to request an estimate from TZA for the engineering to do the same. Board approved.

NEW BUSINESS

Al Tucker and Jack Myers spoke with the Board about the planned repair of Walsenburg's five water storage reservoirs. Walsenburg is looking for a letter of support that can be used when searching for funding for the projects; there are significant deficiencies in all five dams. Culichia suggested, if Walsenburg has excess storage in its reservoirs, there may be a synergy with the District's augmentation plan, which possibly could use that storage.

White moved and Mace seconded to have the City of Walsenburg provide a breakdown of the owners and minority interests and percentage of ownership in the storage and bring a draft of a resolution of support to the District's February meeting. Board approved.

Election of Officers: White moved and King seconded to nominate Kent Mace for president of the Board. Board approved. Edmundson moved and King seconded to cease nominations and cast a unanimous ballot for Mace. Board approved. White moved and Mace seconded to nominate Dawson Jordan for vice-president of the Board. Board approved. White moved and Mace seconded to cease nominations and cast a unanimous ballot for Jordan. Board approved.

White moved and Edmundson seconded to provide an increase of \$150 per month in Dunn's contract payment as secretary for the District and a \$100 monthly increase in the contract payment as secretary of the Enterprise. Board approved.

DIRECTOR AND GUEST COMMENTS

County Commissioner Ray Garcia told the board that the County roads need moisture and Huerfano County may need to purchase more augmentation water. Garcia's brother has #3 Apache Creek water and a headwater pond he would like to allow the County to use (1/4 to 1/2 ac-ft) on a temporary basis, but he will need to have a change of use filed. Garcia will get more particulars for the board.

BILLS TO PAY

White moved, King seconded, and Board approved payment of the following bills, total \$1,253.19:

Carol Dunn, clerical, postage, mileage, ink, file folders – \$343.69

Ted M. Zorich, Jr. – \$849.50

Spanish Peaks Library, 2 meetings – \$60.00

OTHER

White moved and King seconded approval of the 2013 schedule of meetings, attached. Board approved.

The next regular meeting will be February 25, 2013 at 6:00 pm at the Spanish Peaks Library, Walsenburg.

King moved, Mace seconded and board approved to go into executive session to discuss: the purchase, acquisition or lease of real, personal or other property interest under CRS 24-6-402(4)(a); confer with the District's attorney representing the District for purposes of receiving legal advice on specific legal questions under CRS 24-6-402(4)(b); and for determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators under CRS 24-6-402(4)(e).

At the end of the executive session, White moved, Mace seconded and board approved to return to regular session, which was called back to order at 9:01 pm.

Jordan appointed Mace and King to look into water rights available on the Huerfano River.

White moved and King seconded to authorize the attorneys to bring the board a plan for the timing and costs for developing the permanent blanket augmentation plan. Board approved.

ADJOURNMENT

There being no further business, White moved and King seconded to adjourn. Board approved. Meeting adjourned at 9:06 pm.

Dawson Jordan, Vice-president
and acting Chairman

Carol Dunn, Secretary