

March 18, 2009
Minutes-Board Meeting

The regular monthly meeting of the Lower Arkansas Valley Water Conservancy District Board of Directors was held on Wednesday, March 18, 2009 at 10:10 A.M., at 801 Swink Avenue, Rocky Ford, CO 81067.

Chairman Moore announced a quorum was present with all Directors' present.

DIRECTORS PRESENT:

Pete Moore –Chairman
Lynden Gill-Vice Chairman
Melissa Esquibel-Secretary
Wayne Whittaker -Treasurer
John Singletary
Leroy Mauch
Anthony Nunez

DISTRICT STAFF PRESENT:

Jay Winner-Executive Director
Bill Hancock-Conservation Program Manager
Kim Chavez-Financial Officer
Carla Aragon-Quezada-Administrative Assistant
Bart Mendenhall-Attorney
Peter Nichols-Attorney

MOTION TO ENTER INTO WATER ACTIVITY ENTERPRISE:

Director Mauch moved that the Board recess the regular Board Meeting and open the Water Activity Enterprise meeting, seconded by Director Esquibel. Motion unanimously carried.

At the conclusion of the Water Activity Enterprise meeting Director Nunez moved to adjourn the Water Activity Enterprise meeting and reconvene the District Meeting at 10:12 A.M., seconded by Director Whittaker. Motion unanimously carried.

INTRODUCTION OF VISITORS:

Chairman Moore welcomed each of the visitors to the meeting, asked them to introduce themselves and identify the organization which they represent.

VISITORS PRESENT:

Loretta Kennedy, Congressman Salazar's Office; Alan Ward, Pueblo Board of Water Works; Ken Weber, Pueblo Co; Del Nimmo, CSU-Pueblo; Fred Heckman, FLCC; Henry Schnabel, Bristol County Commissioner; Chris Woodka, Pueblo Chieftain; Pat Edelmann, USGS; Jim

Valliant, CSU-CAES; Kelly Roesch, Pure Cycle; Rick Kienitz, Aurora Water; Penny Pfeiff, Aurora Water; David Vickers, La Junta Tribune Democrat; Dwight Gardner, Senator Bennet's Office; Scott Lorenz, AGUA; John Sliman, AGUA; Frank Milenski, Catlin, Super Ditch Company; John Schweizer, Catlin, Super Ditch Company; Perry Cabot, CSU; Roy Vaughn, USBR-Pueblo; Don McBee, Lamar; .

APPROVAL OF MINUTES:

- ❖ *February 18, 2009 Monthly Board Meeting Minutes*- Chairman Moore asked if the Board members had reviewed the minutes for the January 21, 2009 Board meeting and whether there were any corrections or additions. Director Mauch stated he had one correction on page 3; Don McBee is from Lamar not McClave. Director Esquibel moved to approve the minutes as corrected for February 18, 2009, seconded by Director Gill. Motion unanimously carried.
- ❖ *February 18, 2009 Work Session Meeting Minutes*- Chairman Moore asked if the Board members had reviewed the minutes for the February 18, 2009 Work Session meeting and whether there were any corrections or additions. Director Esquibel moved to approve the minutes for February 18, 2009, seconded by Director Nunez. Motion unanimously carried.

TREASURER'S REPORT:

Chairman Moore reported that the financial report for the month of February was included in the Board's Monthly Meeting Packet. Treasurer Whittaker reported February total revenues \$115,091.47 and total expenditures \$90,484.46 with total net 24,607.01. Director Whittaker moved to accept the February Financial Statement, seconded by Director Gill. Motion unanimously carried.

GM REPORT:

General Manager Winner reported that Lake County was looking into joining the Upper District. The Lower Arkansas Valley Water Conservancy District's best interest would be to hold off on Lake County. Director's agreed.

General Manager Winner stated Director Mauch and I met with a couple of farmers in Lamar, Colorado. The meeting went well. On March 31, 2009 there will be a meeting in Lamar at the Community State Bank. On the agenda will be an update on seep ditches. Farmers and irrigators will get a better knowledge on understanding seep rights. Also another meeting will be held in mid-April in Lamar where the State and Division Engineers will come to Prowers County to explain the Colorado/Kansas compact and also the operation of John Martin Reservoir.

General Manager Winner introduced Water Counsel Peter Nichols.

Mr. Nichols stated I will be going out of order. The last meeting the Colorado Water Conservation Board (CWCB) released the money for the Super Ditch Company. The Super Ditch Company received a series of proposals from different engineer consulting firms and approved most of them. One of the consulting firms AQUA Engineering was asked to resubmit their proposal. Aqua Engineering will assist service in sculpting ditch operation. The board needs to approve this contract. Director Esquibel moved to accept contract with AQUA Engineering, second by Director Whittaker. Motion unanimously carried.

PRESENTATIONS: Mr. Nichols presented to the Board a copy of the Stipulation and Settlement with Aurora and Bureau of Reclamation (BOR) which is attached to the minutes as **Exhibit A; B; B-1; B-2; D; F.**

Director Mauch moved to authorize District's Special Water Counsel, Peter Nichols, to execute the Stipulation and Settlement on behalf of the District, and to dismiss the District's claim under the Water Supply Act of 1958 without prejudice effective following entry of Stipulation and Settlement and stay pursuant to a joint motion filed by the United State of America, Aurora, and Lower Arkansas Valley Water Conservancy District, second by Director Whittaker. Motion unanimously carried.

Chairman Moore asked if there were any questions.

Director Singletary stated I would just like to make a comment. Mr. Nichols and General Manager Winner I want to compliment you both. Because one of the things that always trouble me was how were we going to get the Conduit? I couldn't see the reality. The agreement you came up 35% local participation and ties in with Southeast District, I think it puts it in a position in legislation. What Winner said, I have no doubt with the next phase we don't need the 66%. So I think it's going to pass and I feel good about it. Even what I said before we pass a piece of legislation if it's not fundable or feasible I don't see how it's going to be a reality. I think this puts it in position.

Director Mauch stated I think this valley wants to be alive and well in 50 years. We have to have the Super Ditch and Conduit on board and going. I'm pleased with the agreement they've come up with.

Director Esquibel stated the reality of this is between the stipulation of Aurora and the District. It's not a stipulation between the Bureau of Reclamation (BOR). We have to authorize Peter Nichols whatever steps that are necessary to be able to accomplish this stipulation to be accepted by BOR. Director Mauch's motion specifically indicates that it would dismiss without prejudice that portion of our lawsuit pertaining to 1958 Water Supply Act. If that requires that we dismiss that without prejudice which we can put that back in and reinstate that claim, but I think we're willing to do that in form. I think the opinion of the board to do that to reach the stipulation outback that provision, amendment to Director Leroy's motion to be that direction.

Chris Woodka reporter from Pueblo Chieftain asked where the reduction 50% to 35% is. Where is the 50%?

Attorney Nichols stated 50% is the standard.

General Manager stated, "I believe in the existing legislation the participant's portion would be 100%."

Director Singletary replied what we heard from the BOR. BOR would like to have 65%. The District kind of got them to 50% and this document takes it down to 35%.

Attorney Nichols stated "I would take it down from whatever existing law is to 35%."

Director Singletary replied what we (District) heard from the BOR. BOR would like to have 65%. The District kind of got them to 50% and this document takes it down to 35%.

Chris Woodka replied I just wanted to make sure I wasn't missing anything.

Attorney Nichols stated legislation is very clear taking it to 35% wherever it is now. That's been introduced by Senator Udall and Congressman Salazar. That legislation is part of the extension to the stipulation.

General Manager Winner introduced Bill Hancock, Conservation Program Manager of Lower Arkansas Valley Water Conservancy District. Mr. Hancock presented a power point on a conservation easement on Marcy Ann Kelley's Ranch; which is attached to the minutes as Exhibit C.

LEGISLATIVE REPORT: None

DIRECTORS' DISCUSSION:

- Lake County:
Directors came up with a conclusion that in the best interest of the Lower Arkansas Valley Water Conservancy District. The District would wait until they heard from Lake County and go from there.

COMMITTEE REPORTS:

Personnel: None.

Acquisition: None.

LEGAL REPORT:

Melissa Esquibel: None

Attorney Bart Mendenhall: None

Trout, Raley, Montano, Witwer & Freeman, PC

Attorney Peter Nichols: Attorney Peter Nichols discussed his legal report, a copy of which is attached to the minutes as **Exhibit G**.

BOARD ACTION:

Resolution 09-04

The Lower Arkansas Valley Water Conservancy District holds a conservation easement donated by Marcy Ann Kelley owner of the Kelley Ranch has respectively proposed a conservation easement to be donated to the District in 2009, consisting of 539 acres of mountain property with considerable riparian area along Eight Mile Creek with potential irrigation of 15 acres and 1 cfs irrigation water from the Burnett Ditch which flows out of Eight Mile Creek, used as part of a family cattle ranch in Fremont Count, Colorado. Motion was made by Director Esquibel, seconded by Director Nunez, to adopt Resolution 09-04, motion unanimously carried.

Director Gill stated the District should continue with conservation easements.

General Manager Winner stated the District is ahead of the curve on the accreditations.

Director Mauch asked if the credits have been sold.

General Manager Winner replied the District has sold all the credits. Bill Hancock has done an excellent job this last year.

General Manager Winner directed the board to Tab one (1); Chairman and Board last board meeting rather or not we accept the By-laws that we rewrote last year. The District needs to accept the By-laws.

Motion was made by Director Esquibel, second by Director Whittaker to adopt the By-laws for Lower Arkansas Valley Water Conservancy District. Motion unanimously carried.

PUBLIC COMMENT:

Fred Heckman asked where the meeting will be held in Lamar with Division Engineer Steve Witte in Lamar on March 31, 2009.

Director Mauch replied at the Community State Bank in there board room.

General Manager Winner stated, please ask questions.

Perry Cabot from CSU-Pueblo invited the public to the Arkansas River Basin Water Forum March 31st and April 1st, 2009 at CSU Pueblo, Occhiato University Center, 2200 Bonforte Blvd., Pueblo Co.

