

CARSON WATER SUBCONSERVANCY DISTRICT
BOARD OF DIRECTORS MEETING
April 19, 2017, 6:30 P.M.
Minutes

Directors present:

Karen Abowd, Chairman
Brad Bonkowski
Carl Erquiaga, Vice Chairman
David Griffith
Doug Johnson
Barry Penzel
Chuck Roberts
Ernie Schank
Fred Stodieck
Steve Thaler

Directors not present:

Don Frensdorff
Ken Gray
Don Jardine, Treasurer
Austin Osborne, Storey County representative

Staff present:

George Benesch, Legal Counsel
Shane Fryer, Watershed Program Specialist
Brenda Hunt, Watershed Program Manager
Edwin James, General Manager
Toni Leffler, Administrative Assistant/Secretary to the Board
Debbie Neddenriep, Water Resource Specialist II

Also present: None.

Please note: This meeting was not recorded due to technical difficulties.

Chairman Abowd called the meeting to order at 6:30 p.m. in the Churchill County Commission Chambers, 155 N. Taylor St., Fallon, NV. The CWSD/Alpine County Joint Powers Board was convened. Roll call was taken and a quorum was determined to be present. The Pledge of Allegiance was led by Director Johnson.

Item #5 - Approval of Agenda. *Director Penzel made the motion to approve the agenda. The motion was seconded by Director Bonkowski and unanimously approved by the Board.*

Item #6 - Approval of the Board Meeting Minutes from March 15, 2017. *Director Bonkowski made the motion to approve the Minutes of the Board Meeting on March 15, 2017. The motion*

was seconded by Director Stodieck and unanimously approved by the Board, with Director Griffith abstaining for not having been at that meeting.

Item #7 - Public Comment – None.

CONSENT AGENDA

Item #8 - Approval of Treasurer's Report for March 2017. -

Item #9 - Payment of Bills for March 2017.

Director Erquiaga made the motion to approve the consent agenda, including items #8-9. The motion was seconded by Director Griffith and unanimously approved by the Board.

****END OF CONSENT AGENDA****

Item #10 – Discussion for possible action to award the contract to JE Fuller to conduct the Johnson Lane Area Drainage Master Plan. Ed James explained that out of the four consultants who sent in proposals JE Fuller was selected to do the Drainage Master Plan. This will be a template for future projects. Development of a Drainage Master Plan for the Johnson Lane area was requested by Douglas County. Director Griffith asked about the insurance requirements. George Benesch noted that time is of the essence, there is a timetable in the contract spelling out what needs to be done. Having a clause in the contract doesn't add anything. Regarding insurance, there is not of liability exposure for what is being done under this contract. Director Griffith asked if water goes somewhere other than where it's supposed to, who would the residents sue? Mr. Benesch commented that he didn't feel it is particularly necessary to have additional insurance since CWSD has errors and omissions insurance. Director Penzel noted that the Douglas County Engineer and District Attorney have reviewed the contract.

Director Schank made the motion to authorize the Chairperson to sign the contract with JE Fuller to conduct the Johnson Lane Area Drainage Master Plan. The motion was seconded by Director Stodieck and approved by the Board, with Director Griffith opposing.

Item #11 – Discussion for possible action regarding approval of an Interlocal Contract for Douglas County to provide funding assistance to develop the Johnson Lane Area Drainage Master Plan. Mr. James explained that this contract provides additional funding from Douglas County for development of the Johnson Lane Area Drainage Master Plan so we can pay the contractor. Director Penzel noted that Douglas County Board of Commissioners had a full discussion of this and recommended approval of the contract not to exceed \$95,000.

Director Griffith made the motion to authorize the Chairperson to sign the Interlocal Contract with Douglas County to provide funding assistance to develop the Johnson Lane Area Drainage Master Plan. The motion was seconded by Director Thaler and unanimously approved by the Board.

Item #12 – Discussion for possible action regarding the January and February flooding damage and CWSD’s assistance for repairs along the Carson River. Mr. James explained that when he was first hired in 1998 one of his first projects was to deal with the flood damages. At that time CWSD took the lead. In 1997, FEMA provided the funding upfront for the repairs. FEMA covered 75% of the costs, the State covered 12.5%, the county 6.25%, and CWSD 6.25%. After the 2006 flood, CWSD again took the lead regarding repair of the grade control structures. FEMA can only repair public facilities, not private facilities. FEMA covered 75% of the costs and CWSD covered 12.5%-25% of the costs. Ranchers repaired damage on their property. The rules have changed with FEMA, and they asked if CWSD owns the facilities. State Lands claimed ownership of the river bottom in 1972. The ranchers maintained the grade control structures. State Lands didn’t want to touch the grade controls. If CWSD would take over legal responsibility of the grade control structures, the repairs would be funded by FEMA. There must be an agreement with landowners for maintenance of the structures. The FEMA and Emergency Management staffs are new since the last flood.

For the Board’s information, Mr. Benesch prepared a draft agreement with the ranchers and a draft permit with State Lands. Before we spend any more staff time, staff needs Board direction as to whether CWSD wants to take legal responsibility of the grade control structures so that FEMA can help fund the repairs.

Director Schank said an emphatic yes because they are important facilities for ecosystem and the health of the ranchers. He asked how many grade control structures are involved. Mr. James responded that not all the grade control structures were damaged. They are being evaluated now. Some damage won’t be determined until the river goes down in August. We will submit project worksheets and estimate the dollar amount for repairs. We will enter into agreements to repair those which are identified as damaged now, which include six or seven structures in Douglas County, four to six in Lyon County, and Mexican Dam in Carson City. We will have the full list next week after a review with the conservation districts and FEMA. Director Schank asked if the Army Corps of Engineers is involved above Lahontan. Mr. James responded that they are involved for permitting, and we will also have to go through State Historic Preservation Organization (SHPO) and environmental evaluation. Taking legal responsibility for the structures is a different kind of exposure, but if we don’t do it, it will not happen by anyone else. The ranchers would have to pay for it themselves.

In the past, a structure could only be rebuilt to its pre-flood condition, but the Mitigation 406 Program will consider a better design option if it will hold up better in future events. Most of these structures don’t pass sediment or recreationalists. If the Board agrees for CWSD to participate, staff will look at design modifications if necessary. Things are happening quickly and staff has been scrambling.

Mr. Benesch noted that he doesn’t believe we have any liability. Director Bonkowski asked if we can use these funds to fix Tom Minor’s problem. Mr. James responded that we cannot use this FEMA funding for river restoration projects but funding from CWSD or Q1 can be used for those kinds of repairs. Only grade control structures are eligible for FEMA funding.

Director Penzel asked if each project areas will be listed and whether it include structures above and below Lahontan. Mr. James responded that structures below Lahontan are done differently. We will focus on grade control structures above Lahontan.

Director Penzel asked about whether the \$1 million liability policy mentioned in Item #10 applies to ranchers too. Mr. Benesch responded that the State claims ownership of the riverbed but not the structures. Mr. James noted that a government agency's liability is up to \$100,000, so that would be our maximum liability. Mr. James mentioned that staff has questions about the permit language and needs to have further discussion with State Lands. Director Schank noted that the \$1 million liability to ranchers isn't unrealistic and shouldn't be a problem. That requirement should be included it in the maintenance agreement too.

Director Abowd asked if there is going to be a priority list. Mr. James responded that everything in Douglas County is going through the Carson Valley Conservation District (CVCD) and in Lyon County through Dayton Valley Conservation District (DVCD). CWSD staff will set up Project Worksheets (PWs). Director Stodieck pointed out that V-weirs are also grade control structures and asked if they will be included. Mr. James noted that the Natural Resource Conservation Service (NRCS) did the initial work on those structures, and CWSD staff will have to research this with NRCS. Mr. James will get the full list and a list of those which will be eligible for FEMA funding.

Director Griffith noted that in Alpine County FEMA is giving time to identify projects where damage can't be assessed until the snow melts. Mr. James responded that these are called PW Zeros because they don't know a dollar amount for funding. CWSD will put in a funding request to the State to pick up 12.5% of the costs.

Director Roberts agreed with the benefit of these structures. He asked what the rule change is that makes it necessary for us to jump through all the hoops that we didn't have to in the past. Mr. James responded that the issue is the oversight FEMA has with the Office of Management Budget who audited FEMA's response to the Sandy Hook disaster. The rule is that you must show ownership now. If, in 1972, the State of Nevada took ownership of the riverbed, Director Roberts expressed concern that we will find ourselves in a Sandy Hook situation. The status of all structures remains the same so they should all be in or out. Ranchers should not have option to opt out. He is concerned that we are stepping into quick sand and not looking at the nuts and bolts. Mr. James clarified that CWSD does not have to be the owner of the structures but take responsibility for the repairs. Director Roberts suggested that this a matter that would be decided by the Legislature, contract, or Court action. It only takes one grade control perceived owner to start a conflict. How can we be responsible for a structure owned by the State who denies ownership of the structure? If we step into this, we are doing something that the State should be doing. Mr. James noted that if CWSD doesn't step up, nothing is going to happen. with FEMA funding.

Director Roberts is not comfortable being in this position. He doesn't have a problem with meeting the rancher's needs, but we have a responsibility to look down the road at what we are building a foundation for here today. If that is included in the planning process, then move ahead. Director Schank asked if we could enter into a dialog with the Attorney General's office

over whether State Lands could eventually take it over. Director Abowd noted that this is another pass-down from the State where we are taking responsibility for what they should be doing.

Director Roberts asked why the State won't coordinate the repairs. Mr. James responded that they haven't dealt with this in the past and don't have the experience or staff to coordinate this. He suggested that the State could be the responsible agency and CWSD could perform the duties they don't have the staff for.

Director Stodieck noted that Director Roberts made good points about looking further down the road. This has happened since the State claimed ownership of the river bottom. The landowners must get water delivery; their contribution to the county's economy needs to be considered.

Director Penzel suggested sending this issue to the Attorney General's office for the State to be the responsible party and CWSD can manage the funding. Mr. James noted that when the State takes over other properties, they take into their database any structure on that property, but they didn't list these structures when they took over ownership of the river.

Mr. James asked for suggestions for how to help achieve the repairs today but push the Legislature to act in the future. Director Schank suggested that CWSD needs to help on an emergency basis. It follows the practices of this Board to keep the river sound and healthy. Director Roberts agreed but doesn't want to put CWSD in quicksand in doing so. He noted this Board's responsibility to not put us in a position of liability.

Director Roberts made the motion to authorize the General Manager and staff to pursue discussion and execute his best judgement to bring answers back to this Board before the next Board meeting. The motion was seconded by Director Bonkowski and unanimously approved by the Board.

Item #13 - Discussion for possible action regarding approval of Interlocal Contract #2017-3 with Carson Valley Conservation District to assist in the flood disaster assessment. Mr. James explained that this and the next items are to help the conservation districts with up to \$1,500 of their staff time to help gather information about the status of flood control structures in their counties. The money would come out of our Floodplain Management Fund.

Director Roberts made the motion to authorize the Chairman to sign Interlocal Contract #2017-3 with Carson Valley Conservation District to assist in the flood disaster assessment. The motion was seconded by Director Griffith and unanimously approved by the Board.

Item #14 – Discussion for possible action regarding approval of Interlocal Contract #2017-4 with Dayton Valley Conservation District to assist in the flood disaster assessment. Mr. James explained the need for this contract in Item #13.

Director Thaler made the motion to authorize the Chairman to sign Interlocal Contract #2017-4 with Dayton Valley Conservation District to assist in the flood disaster assessment. The motion

was seconded by Director Roberts and approved by the Board, with Director Roberts disclosing that he is Chairman of the DVCD Board.

Item #15 - Discussion for possible action regarding various bills that CWSD may want to support, oppose, or monitor during the 2017 Legislative Committee. Mr. James reported that a lot of the bills we were watching died.

Mr. James testified before the Senate Finance Committee on SB503 to have \$250,000 included in the State budget for the Clearing and Snagging Fund. The Fund can be replenished whenever it falls low. This is not much money for clearing and snagging throughout the state. The State has a process in place to review the projects instead of first come, first served.

Most of the remaining water bills don't effect CWSD, only the counties.

No action was required on this item; receive and file.

Item #16 – Discussion for possible action regarding a funding request from TCID for the emergency spillway on the V-Line. Mr. James explained the tour of the V-Line before this Board meeting. TCID has requested \$50,000 from CWSD to help with the costs of the spillway.

Director Roberts made the motion to approve TCID's funding request of \$50,000 from CWSD's Floodplain Management Account. The motion was seconded by Director Bonkowski and approved by the Board with Director Schank abstaining because his agency requested the money.

Item #17 – Discussion for possible action regarding Part 1 of CWSD's Strategic Planning Session. Mr. James went over the outline of the proposed three-part Strategic Planning. Part One, Orientation/Review, will be covered at tonight's meeting. Part Two, establishing short- and long-term goals, will be facilitated by Steve Lewis at the May Board meeting. Part Three, to review five- and ten-year budgets developed by staff to achieve the list of priorities developed by the Board in Part Two, will be included in June's meeting.

As part of the history of CWSD, Mr. James explained that CWSD was established by the Legislature under Nevada Revised Statutes (NRS) in 1989 to help with regional planning of the Carson River. The focus was water supply. In 1999, Churchill County joined CWSD and in 2001, Alpine County joined by Joint Powers Agreement. CWSD was funded by ad valorem tax of \$0.03/\$100 for CWSD administration and \$0.07/\$100 for projects, but CWSD's ability to utilize the \$0.07/\$100 is now limited by the 3% tax cap.

CWSD administers several grants and associated administrative costs are covered by the grants. CWSD is an independent third party with no regulatory authority. In 2004, CWSD became the Clean Water Act Section 208 Planning Entity for the Carson River. CWSD promotes regional water systems and provides funding. We paid for upsizing the pipelines for future use at no cost by government entity or for a charge by a private entity.

Brenda Hunt explained the Integrated Watershed Management Process that CWSD is involved with and the work she and Shane Fryer do to manage the Watershed Program. The Carson River

Watershed includes Alpine County, CA, and Douglas County, Carson City, Lyon County, and Churchill County, NV, through which the river runs, and Storey County which is part of the watershed. The watershed encompasses nearly 4,400 square miles and ranges in elevation from 3,000' to 11,000'. The Carson River is 184 miles in length with little upstream storage.

The Watershed Program brings together public and private partners. The integrated approach looks at the watershed as a whole, including natural resources, physical landscape, and people. The Carson River Coalition (CRC) is steering committee for the Integrated Watershed Planning Process. It was formed in 1998, following the 1997 flooding which brought people together. Funding for coordination comes from CWSD and a grant from NDEP as part of the EPA 319 Program. There are three CRC working groups: the Education Working Group, the River Corridor Working Group (to be renamed the Floodplain and River Management Working Group), and the Invasive Species Working Group. CWSD published a quarterly newsletter named "Watershed Connections." CWSD strives to involve all counties and communities within the watershed to meet the various future water needs and to enhance health and water quality.

Challenges facing watershed include invasive species, erosion, water supply and quality, urban runoff, and two EPA Superfund sites. As part of effective planning on a watershed level CWSD completed the 2007 Carson River Watershed Stewardship Plan which meets EPA criteria for 319 grant funding and was updated in mid-March 2017. We want to have it adopted by all the counties in the watershed. The Fallon Paiute Shoshone Tribe and the Washoe Tribe want to use this Plan for obtaining 319 funding. CWSD also created the Carson River Regional Floodplain Management Plan in 2005 and will need to update it. In April of 2015, CWSD adopted the Carson River Watershed Literacy Action Plan and has received funding to move forward to create a literacy campaign. The State of Nevada has designated CWSD as the Clean Water Act Section 208 Planning Agency for the Carson River Watershed. We receive \$40,000 in NDEP funds every three years for water quality planning projects.

Categories of work we do include regional planning, coordination and project funding for floodplain management, river restoration/rehabilitation, water quality, water supply, invasive species, outreach and education, and recreation. Federal funds can't match federal funds, but most of CWSD's funding qualifies as match. Floodplain management is to create a long-term vision and strategies to reduce flood damage impacts. The River Corridor Working Group acts as steering committee for this part of the plan. A list of suggested actions came out of Floodplain Management Plan including protecting the floodplain's natural functions and values; higher regulatory standards; flood data information and management; channel migration and bank erosion monitoring; floodplain and flood hazard outreach and education; and reduction of infrastructure impacts. It is important to maintain the Carson River as a living river and not within a concrete flood channel like the Los Angeles River.

Invasive species management includes \$15,000/yr. from CWSD to each Cooperative Weed Management Area (CWMA), coordination of the Invasive Species Working Group, actively participating in watershed CWMA's and aquatic invasive species proactive action.

CWSD's Clean Water Act responsibilities including working with 303(d) list of impaired waters which don't meet water quality standards for beneficial uses; several Total Maximum Daily

Loads (TMDLs), 208 planning; and 319(h) programs. Non-point source pollution or polluted runoff comes from an undetermined specific source. Historical human impacts on water quality include historic mining impacts, EPA Superfund sites at Leviathan Mine and the Carson River Mercury Site, channelization, and levees. Current human impacts include storm water, septic tank, contaminant plumes, and waste water treatment facilities.

CWSD works with conservation district on river stabilization and rehabilitation projects.

Environmental education and outreach includes the watershed map and website, the baseline watershed literacy survey, the watershed literacy campaign, the watershed school programs, the Children's Museum interactive exhibit, Carson River Work Days, the annual Snapshot Day, the watershed education roundtable, water festivals, and other community events.

Water quality is addressed as it relates to irrigation, drinking water (ground water), recreation, and fish and wildlife habitat.

CWSD funded recreational projects including the Hope Valley river restoration, the Carson City Aquatic Trail, Baily Fishing Pond in Carson City, the Sheckler Cut-Off River Park design study for Churchill County, and the US Forest Service's East Fork Strategy Plan.

We help with administration of grant funding for the entities that receive it. Director Griffith commented that forest and watershed health go together in the upper watershed. Improved forest health improves water quantity as well as quality. Ms. Hunt mentioned that CWSD helps fund the Alpine Watershed Group (AWG) and mentioned several projects they have done. Director Griffith would like to see more about forest health in the presentation.

Mr. James explained about CWSD funding accounts. He showed income and expense graphs of changes since FY 2000. CWSD committed \$250,000 per year for 20 years to pay for the Douglas County/Carson City regional pipeline. He went over a project list including commitment amounts versus income, resulting in a negative which has been covered from the preliminary planning account as CWSD's reserves. Mr. James noted that a lot of administrative costs cover match for grants. He reviewed an expense allocation by percentage list. He explained that funds which were previously transferred to the Acquisition/Construction and Floodplain Management Funds have gone toward our regional pipeline debt commitment in recent years. Mr. James went over the Acquisition/Construction Fund potential projects list, as well as proposed past and future projects identified for funding from the Floodplain Management Fund. He noted that the Acquisition/Construction and Floodplain Management Funds need to be replenished to accomplish the planned projects.

No action was required on this item; receive and file.

Item #18 – Discussion for possible action regarding the runoff prediction for 2017. Mr. James reported that recent storms have been the wettest of record. The snow water equivalent index is at 250% of normal, a record high. Runoff flows this year at the Carson City gage exceeds 1982-83, the highest seen in over 100 years.

No action was required on this item; receive and file.

Item #19 - Staff Reports

General Manager - Mr. James had nothing specific to report.

Brenda Hunt reported:

- The “Get on the Bus” Watershed Tour will be on June 6-7, 2017. Everyone is invited to register to learn more about the watershed.
- Staff is planning several rafting trips. The dates can’t be determined too far in advance but staff is hoping to run the East Fork during the third week in June and the Carson Canyon at some point this summer. She instructed the Board to send an email to Shane if interested in participating.

Legal –Mr. Benesch did not have anything specific to report.

Correspondence – As handed out at the meeting.

Item #20 - Directors’ Reports

Director Schank thanked everyone for coming to Fallon/Churchill County. Next month when Steve Lewis comes to help the Board determine priorities, he wants to campaign for weed treatment in the riverbeds which should be the State’s responsibility. Problems include fences, cross fences, clearing, structures, weed control, SHPO, and streamlining the process to get permits to work on State lands. We need to solicit legislators to help draft legislation to deal with this issue. Director Schank also noted that the Churchill County Administration Building where this meeting is being held has historical significance since it used to be the Churchill County Hospital, and the Commission Chambers was the Operating Room where he and several members of his family were born.

There were no other Directors’ reports.

Item #21 - Public Comment. None.

There being no further business to come before the Board, Director Schank made the motion to adjourn. The meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Toni Leffler
Secretary