

CARSON WATER SUBCONSERVANCY DISTRICT  
BOARD OF DIRECTORS AND  
CARSON RIVER/ALPINE COUNTY WATER SUBCONSERVANCY  
JOINT POWERS AUTHORITY BOARD MEETING

August 16, 2017, 6:30 P.M.

Minutes

Chairman Abowd called the meeting of the Carson Water Subconservancy District (CWSD) to order at 6:30 p.m. in the Conference Room of NAI Alliance, 1000 N. Division St., #202, Carson City, NV. Roll call of the CWSD Board was taken and a quorum was determined to be present.

CWSD Directors present:

Karen Abowd, Chairman  
Brad Bonkowski  
Carl Erquiaga, Vice Chairman  
Don Frensdorff  
Barry Penzel  
Chuck Roberts  
Ernie Schank  
Fred Stodieck  
Steve Thaler

Directors not present:

Ken Gray  
Doug Johnson

Staff present:

George Benesch, Legal Counsel  
Edwin James, General Manager  
Brenda Hunt, Watershed Program Manager  
Toni Leffler, Administrative Assistant/Secretary to the Board

Also present:

David Griffith, Alpine County  
Don Jardine, Alpine County  
Austin Osborne, Storey County

The Pledge of Allegiance was led by Director Abowd.

Item #4 – Discussion Only: Public Comment – None.

Item #5 – For Discussion and Possible Action: Approval of Agenda. Due to some questions about meeting protocol at the July 19 meeting, the Agenda for this meeting has been divided between actionable items for the CWSD Board and for the Carson River/Alpine County Water Subconservancy Joint Powers Authority (JPA) Board. *Director Schank made the motion to approve the agenda. The motion was seconded by Director Stodieck and unanimously approved by the CWSD Board.*

Item #6 – For Discussion and Possible Action: Approval of the Board Meeting Minutes from June 21, 2017, and July 19, 2017. Director Abowd corrected the July 19 minutes to reflect that on Item #11 the donated Alpine Aspen Festival auction item raised \$1,200 for the Greenhouse Project in Carson City instead of \$12,000. Mr. Griffith noted that in the July 19 minutes on Item #13 he was the director who talked about Muscle Powered Recreation instead of Director Jardine. *Director Abowd made the motion to approve the minutes of the June 21 and July 19, 2017, Board meetings as amended. The motion was seconded by Director Bonkowski and unanimously approved by the CWSD Board.*

### CONSENT AGENDA

Item #7 – For Discussion and Possible Action: Approval of Treasurer’s Report for June and July 2017.

Item #8 – For Discussion and Possible Action: Payment of Bills for June and July 2017.

Item #9 – For Discussion and Possible Action: Approval of expense items which are more than 5% over budget for FY 2016-17.

Item #10 – For Discussion and Possible Action: Review of CWSD’s Criteria for Budget Expenditures.

There was no public comment. *Director Schank made the motion to approve Items #7-10 of the Consent Agenda. The motion was seconded by Director Stodieck and unanimously approved by the CWSD Board.*

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

### RECESS TO CONVENE AS THE CARSON RIVER/ALPINE COUNTY WATER SUBCONSERVANCY JOINT POWERS AUTHORITY BOARD

Item #11 – Roll Call – Director Abowd convened the Carson River/Alpine County Water Subconservancy Joint Powers Authority (JPA) Board and a roll call was taken.

JPA Directors present:

- Karen Abowd, Chairman
- Brad Bonkowski
- Carl Erquiaga, Vice Chairman
- Don Frensdorff
- David Griffith
- Don Jardine, Treasurer
- Barry Penzel
- Chuck Roberts
- Ernie Schank
- Fred Stodieck
- Steve Thaler

Directors not present:  
 Ken Gray  
 Doug Johnson

Item #12 – Discussion Only: Public Comment – None.

Item #13 – For Discussion and Possible Action: Update from George Benesch regarding the Carson River/Alpine County Water Subconservancy Joint Powers Authority Board. Mr. Benesch explained that last meeting Director Roberts brought up some concerns about how the Joint Powers Authority (JPA) Board is included at Board meetings. Mr. Benesch talked with Caroline Bateman of the Attorney General's (AG) office and sent copies of the agenda and what he understood to be the concerns of Director Roberts, along with a copy of the August 6, 2001, letter from the AG approving the JPA. Mr. Benesch was supposed to meet with Ms. Bateman, but the meeting was cancelled because of a new protocol in the AG's office about meeting in the absence of a complaint. Her perusal of the proposed agenda presented no problem in her opinion with both meetings being on one agenda. In the absence of more discussion with the AG's office, Mr. James, Mr. Benesch, and Director Abowd worked together to come up with the current agenda format trying to address the Open Meeting Law concerns expressed by Director Robert.

Mr. James added that we need to update the Joint Powers Agreement (JPA) to remove some language which was needed in 2001 but is no longer necessary. Director Schank asked what needs to be changed in the JPA. Mr. James responded that on page 80 of the Board package, the last sentence of Article II Section 1 in brackets needs to be removed. Also, Exhibit A was to incorporate Alpine County's concerns but needs to be changed. There is also some concern about the statement that any expenditure of funds in Alpine County needs a unanimous vote.

Director Schank noted that the Administrative Committee looked at the policies regarding board officers and suggested that the requirement to be an elected official be removed. Mr. James mentioned that revisions to the officers policy will be presented to the Board in a future meeting.

Director Penzel noted that in Article IV Section 7, the last sentence should read "from" instead of "form." Also, he noted that in the letter from the AG dated August 6, 2001, the AG asked to be signatory as to "approval as to form and legal compatibility." Mr. Benesch explained that this was not done because that process would not have been timely for getting the JPA in place and the letter is the AG's confirmation that the agreement is in compliance with Nevada laws.

Director Roberts explained that amending the JPA is not a part of the Open Meeting Law issue. He cited the Sandoval vs. Board of Regents where the scope of the discussion violated the Open Meeting Law by going beyond what was on the agenda. Therefore, clarity of the agenda item must be specific to know clearly what you're talking about. Director Robert noted that the current agenda meets Open Meeting Law, but he still has some concerns about a co-mingling of funds between CWSD and the JPA. Motions were made by non-CWSD Board members about spending CWSD funds. Once an error is discovered, we are obligated to fix it.

Director Roberts noted that the trend in Open Meeting Law complaints is to use complaints as a tool for retaliation when someone is unhappy with the result of a meeting. He thinks our problem is a paperwork "ball point pen" issue.

Director Penzel clarified that the JPA is between the CWSD and Alpine County as political subdivisions. Mr. James emphasized that the ultimate goal is everyone working together legally. He noted that Director Roberts suggested a possible legislative action but that's two years away. In the meantime, CWSD policies may need to be changed to recognize Alpine County representatives.

Director Schank asked if we need to look at the CWSD office staff and change titles to reflect that they represent the JPA Board. Mr. James confirmed that the office staff are CWSD employees. Director Bonkowski suggested that the language could be changed in Article III, Section 1 which states: "Each party shall bear its own wages, disability payments, pension payments, and workers compensation costs for any personnel utilized for the provision of services under this agreement."

Director Roberts questioned the JPA Board reviewing the CWSD General Manager who is an employee of CWSD.

Director Abowd asked Mr. Benesch whether it is worthwhile for he and the Alpine County District Attorney to get together to revise the JPA. Mr. Benesch agreed that he and Mr. James should meet with the Alpine County DA. A Board action can create the audit trail for transactions. Revamping the JPA doesn't require the AG's office involvement. We are under an umbrella that protects everyone.

Director Schank suggested changing the agendas for committee meetings too and change the names from "committees" to "subcommittees." Mr. James noted that the JPA Board section is to give everyone the opportunity to express their ideas, with action reserved for the CWSD Board section.

Director Abowd summarized that Director Roberts, Mr. Benesch, and Mr. James will get together to review the issues and a name change for the JPA Board.

Public Comment: Austin Osborne suggested that whatever these matters are, a qualified, licensed attorney should make the determinations. CWSD and Storey County agree that Storey County should approach the Legislature in 2019 about joining the CWSD.

Director Erquiaga clarified that when the CWSD Board is convened, the Alpine County members of the JPA Board can only join the discussion as public comment.

Item #14 – For Discussion and Possible Action: Approval of the Agency Agreement with the NEON Agency to develop a Healthy Watershed Marketing Campaign for the Watershed Literacy Program. Mr. James explained that the Healthy Watershed Marketing Campaign is under the Watershed Literacy Program grant from NDEP. Director Griffith reviewed the contract and suggested changes and will be part of developing a standard agreement for CWSD. Mr. James went over some of the suggested changes.

There was no board or public comment. *Director Schank made the motion to recommend to the CWSD Board to approve the NEON agreement. The motion was seconded by Director Griffith and unanimously approved by the JPA Board.*

Item #15 – For Discussion and Possible Action: To review and evaluate the annual performance of the General Manager. Director Abowd explained that the Administration Committee reviewed Mr. James' performance evaluations. Mr. James noted that he meets with most Board members to discuss specifically any issues or concerns of that Board member.

Director Abowd asked if there were any Board comments about the General Manager's review and there were none.

Public Comment: Mr. Osborne commented that working with Mr. James is a pleasure, and Brenda Hunt commented as a staff member that Mr. James is also a pleasure to work with.

*Director Schank made the motion to recommend to the CWSD Board to give the General Manager an outstanding evaluation. The motion was seconded by Director Stodieck and unanimously approved by the JPA Board, with the abstention by Director Roberts because he felt this item is outside the purview of the JPA Board.*

Item #16 – Discussion Only: Public Comment. None.

ADJOURN TO RECONVENE AS THE  
CARSON WATER SUBCONSERVANCY DISTRICT BOARD OF DIRECTORS

Item #17 – For Discussion and Possible Action: Update from George Benesch regarding the Carson River/Alpine County Water Subconservancy Joint Powers Authority Board. Discussion about this item having taken place under Item #13, Director Schank asked whether the CWSD Board needs to make a motion. Mr. James clarified the new JPA review/CWSD action process.

There was no public comment. *Director Bonkowski made the motion to incorporate the comments from the JPA Board and staff to revise the Joint Powers Agreement with Alpine County. The motion was seconded by Director Thaler and unanimously approved by the CWSD Board.*

Item #18 – For Discussion and Possible Action: Approval of the Agency Agreement with the NEON Agency to develop a Healthy Watershed Marketing Campaign for the Watershed Literacy Program. Discussion about this item having taken place under Item #14, there was no additional comment at this point.

There was no public comment. *Director Schank made the motion to accept the recommendation from the JPA Board to approve entering into the Agency Agreement with NEON Agency to develop a Healthy Watershed Marketing Campaign for the Watershed Literacy Program and authorize the General Manager to sign the Agreement. The motion was seconded by Director Bonkowski and unanimously approved by the CWSD Board.*

Director Abowd requested that public comment be put after each item on future agendas.

Item #19 – For Discussion and Possible Action: To review and evaluate the annual performance of the General Manager and the possible annual longevity award of \$500. Discussion about this item having taken place under Item #15, Director Roberts commented that Mr. James is unique

in that he can reach varied entities and audiences better than most people he knows. He is genuinely concerned about including everyone.

Director Schank agreed with Director Roberts' remarks about Mr. James doing a remarkable job of bringing together a forum that reaches much farther than water issues. The networking that is achieved from being on this board is very valuable.

Director Bonkowski asked if the \$500 annual longevity award is cumulative. Mr. James clarified that the \$500 is a single payment given each year to an employee who has topped out in their salary range and receives a satisfactory or better review.

There was no public comment. *Director Bonkowski made the motion to give the General Manager an outstanding annual performance review and authorize the annual longevity award of \$500. The motion was seconded by Director Erquiaga and unanimously approved by the CWSD Board.*

Item #20 –Discussion Only: Staff Reports

General Manager - Mr. James reported:

- He had a meeting last week with the conservation districts and State Lands to talk about the damages to the river. He felt that it ended up being very positive. Everyone understands that we need to work together to deal with river repairs when there is more flooding. State Lands agreed to work with the counties, CWSD, the conservation districts, and ranchers. Director Penzel asked if the Clearing and Snagging funding have been awarded. Mr. James responded that the state has received applications and should soon be making the award. Director Penzel asked that this topic be placed on the next Board meeting agenda.
- Mr. James will be meeting with the Bureau of Reclamation to look at remapping the floodplains in Churchill County.
- It looks like CWSD will be receiving FEMA MAS #8 funding. This round will include Area Drainage Master Plan for the Dayton Area, updating flood ordinances, and the public flood awareness campaign. The funding will also cover all CWSD's staff time.
- The Discovery update meeting went well yesterday.
- Mr. James invited the Board to attend the Nevada Water Resources Association's 2017 Fall Water Event on September 27, 28, 2017.
- Mr. James was asked to give details about the public meeting on the Johnson Lane Area Drainage Plan. Mr. James reported that JE Fuller Engineering has been hired to develop the plan to deal with the funding issues in the Johnson Lane area. J.E. Fuller held an Open House meeting to let the public know about the project and to get their input, and 127 people showed up for public meeting.

Legal –Mr. Benesch had nothing additional to report.

Item #21 – Discussion Only: Update on activities in Storey County. Mr. Osborne reported that the weed management project is ending, Storey County Public Works did work on the Six Mile Canyon road repair, and the county is working on their sewer project.

Item #22- Discussion Only: Directors' Reports

Director Bonkowski thanked everyone who came to meet in his office's conference room.

Public Comment: Director Griffith reported that EPA, in conjunction with the Lahontan Water Quality Control Board, has created a program for the West Fork of the Carson River to be completed by 2020 to allow them to make recommendations on the Total Minimum Daily Load (TMDL).

There were no other Directors' reports.

Item #23 – Discussion Only: Public Comment. None.

*There being no further business to come before the Board, Director Schank made the motion, seconded by Director Stodieck, and Director Abowd adjourned the meeting at 8:07 p.m.*

Respectfully submitted,

Toni Leffler  
Secretary