

CARSON WATER SUBCONSERVANCY DISTRICT
BOARD OF DIRECTORS AND
CARSON RIVER WATERSHED COMMITTEE MEETING
September 19, 2018, 6:30 P.M.
Minutes

Chairman Abowd called the meeting of the Carson Water Subconservancy District (CWSD) to order at 6:35 p.m. in the NAI Alliance Conference Room, 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
Barry Penzel
Chuck Roberts
Ernie Schank
Fred Stodieck
Steve Thaler

Directors not present:

Don Frensdorff
Ken Gray
Doug Johnson

Staff present:

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

Also present:

Don Jardine, Alpine County
Austin Osborne, Storey County
Matthew Roberts, private citizen

The Pledge of Allegiance was led by Director Abowd.

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

Item #5 – For Possible Action: Approval of Agenda. *Director Roberts made the motion to approve the agenda. The motion was seconded by Director Bonkowski and unanimously approved by the CWSD Board.*

Item #6 – For Discussion and Possible Action: Approval of the Minutes from the Board Meeting of August 15, 2018. Austin Osborne noted that he was not shown as absent in the August 15, 2018 Minutes. *Director Bonkowski made the motion to approve the Minutes of the Board*

meeting on August 15, 2018, as amended. The motion was seconded by Director Erquiaga, and the CWSD Board unanimously approved the motion, with Directors Stodieck and Penzel abstaining for not having been at that meeting.

CONSENT AGENDA

Item #7 – For Possible Action: Approval of Treasurer’s Report for August 2018.

Item #8 – For Possible Action: Payment of Bills for August 2018.

Item #9 – For Possible Action: Approval of a contract with Kohn & Company to provide audit services for FY 2018-19, 2019-20, and 2020-21.

Item #10 – For Possible Action: Approval of a Change Order to the contract with Horizon Construction, Ltd. for additional work to install watershed signs as part of the Watershed Literacy Program in an amount not to exceed \$1,767.60.

Item #11 – For Possible Action: Approval to dispose of office equipment which no longer works.

Item #12 – For Possible Action: Approval to hire attorney David Duckworth to trademark the “I am 65% Carson River” logo in an amount not to exceed \$1,500.00.

Director Schank made the motion to approve Items #7-12 of the Consent Agenda. The motion was seconded by Director Erquiaga and unanimously approved by the CWSD Board.

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

RECESS TO CONVENE AS
THE CARSON RIVER WATERSHED COMMITTEE

Item #13 – Roll Call – Director Abowd convened the Carson River Watershed Committee and a roll call was taken.

Committee Members present:

- CWSD Directors as present in roll call above
- Don Jardine, Alpine County
- Austin Osborne

Committee Members not present:

- Don Frensdorff
- Ken Gray
- David Griffith
- Doug Johnson

Item #14 – Discussion Only: Public Comment – None

Director Thaler arrived at 6:38 p.m., followed by Directors Schank and Penzel at 6:40 p.m.

Item #15 – For Possible Recommendation: Authorize and compensate CWSD’s attorney to prepare and file an Amicus Brief opposing the use of the Public Trust Doctrine to be applied to water rights already adjudicated and settled under the Doctrine of Prior Appropriation in an amount not to exceed \$4,000.00. Mr. James reported that Mr. King estimates 16 hours for the preparation and filing of an Amicus Brief. Mr. James has been attending county commission/supervisor meetings to discuss the Public Trust Doctrine issues. Mr. James has also been in discussions with other entities and some counties may want to partner with CWSD on the amicus brief. Truckee Carson Irrigation District (TCID) will be filing one. Lyon County is already involved in the litigation. The Federal Water Master cannot take a stand since he is a representative of the Court. The State Engineer already considers public trust in his ruling so they may take a neutral position in this case. This issues also applies to groundwater rights. Mr. James explained the differences of water law in Colorado, specifically the designation of tributary and non-tributary groundwater rights, where tributary is impacted by the river but Nevada does not have such a designation.

Mr. King explained that the Supreme Court of Nevada has also accepted the question if the water right is taken for public trust, will it be considered a “taking” and would it require water right owner compensation?

Mr. Osborne asked how Marlette Lake might be impacted. Mr. James responded that the public trust has been applied because Marlette Lake cannot be drawn below a certain level. On the Walker River, water rights are being purchased to be dedicated to Walker Lake. Many rulings do not consider the public trust as a “takings.” The courts have ruled that the right still belongs to the owner; the government is just limiting what the owner can do with their property. In the lawsuit over Mono Lake, it was ruled that Los Angeles has another option for water. Users of Walker River water do not have another source of water. We need to emphasize that there is already a program in place to purchase water to go to Walker Lake. CWSD will work with Gordon DePaoli as lead attorney for the water users.

Committee Member Schank made the motion to recommend that the CWSD Board authorize and compensate CWSD’s attorney to prepare and file an Amicus Brief opposing the use of the Public Trust Doctrine to be applied to water rights already adjudicated and settled under the Doctrine of Prior Appropriation in an amount not to exceed \$4,000.00. The motion was seconded by Committee Member Roberts and unanimously approved by the Carson River Watershed Committee.

Item #16 – For Possible Recommendation: Approval of an Addendum to Agreement #2016-1 with Alpine County to extend the time for the Mesa Groundwater Elevation Monitoring Program to December 31, 2019. Mr. James explained that the current agreement ended with over \$2,200 remaining from Alpine County. By extending the agreement, Ms. Neddenriep can take three more well measurements and write up a report by December 31, 2019.

Ms. Neddenriep noted that the well level has pretty much followed a steady decline, but in 2017, many of the wells went up significantly with the wet season. Mr. Schank mentioned that the USGS was surprised that the basalt aquifer water levels have been coming up. Mr. Osborne noted that some wells in the Virginia Highlands area have also come up.

Committee Member Jardine made a motion to recommend that the CWSD Board approve an Addendum to Agreement #2016-1 with Alpine County to extend the time for the Mesa Groundwater Elevation Monitoring Program to December 31, 2019. The motion was seconded by Committee Member Stodieck and unanimously approved by the Carson River Watershed Committee.

Item #17 – Discussion Only: Public Comment. None.

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

Item #18 – For Possible Action: Authorize and compensate CWSD’s attorney to prepare and file an Amicus Brief opposing the use of the Public Trust Doctrine to be applied to water rights already adjudicated and settled under the Doctrine of Prior Appropriation in an amount not to exceed \$4,000.00. This item was discussed earlier in the Agenda as Item #15.

Item #19 – For Possible Action: Approval of an Addendum to Agreement #2016-1 with Alpine County to extend the time for the Mesa Groundwater Elevation Monitoring Program to December 31, 2019. This item was discussed earlier in the Agenda as Item #16.

Director Bonkowski made the motion approve Items #18 and #19. The motion was seconded by Director Roberts and unanimously approved by the Board.

Item #20– Discussion Only: Staff Reports

General Manager – Mr. James reported:

- Flooding in eastern U.S. has been in the news as a reminder that there is always the potential for flooding somewhere.
- There have been news articles on water supply impacts and the public trust.

Watershed Program Manager – Ms. Hunt reported:

- The annual Carson River Watershed bus tour will be on Oct. 11-12. If anyone on the Board is interested in going, Ms. Leffler can send out a registration form and it is also on the CWSD website.
- The watershed boundary signs are in the process of being installed. Horizon Construction is waiting for the concrete to cure around the bases, then they will install the signs.
- The Watershed Literacy Campaign is progressing and is expected to launch around March of 2019. Staff has been working with all the water purveyors to get stickers in the water bills.

Water Resource Specialist II – Ms. Neddenriep reported:

- Thank you for sending her to FEMA Training and the Floodplain Managers Association conference.
- The Alpine Watershed Group (AWG) helped weed the back side of the Lost Lakes dam so the job went faster than expected.

Item #21- Discussion Only: Directors’ Reports – Director Schank asked if there is any kind of contingency plan to deal with water quality related to wildlife fires. Mr. James responded that the U.S. Forest Service and counties do meet after a fire and discuss how to reduce sediment getting

into the river. CWSD has not been included in these discussions but tries to work with our partners regarding this concern.

Item #22 – Discussion Only: Update on activities in Alpine County.

Supervisor Jardine reported:

- Director Schank asked if the fires in Alpine County are expected to affect the lower watershed. Supervisor Jardine responded that he hopes not.
- This summer there was a hazmat spill in the Woodfords area. There was an initial clean up but CA Fish and Wildlife says it's not cleaned up enough so it will have to be repeated.
- Echo Summit is closed so commercial trucks are being re-routed over Hwy. 88. Because of lack of cell service Alpine County is asking for more commercial instructions on Hwy. 88. The Kirkwood Fire Dept. was unaware that trucks are going to be re-routed.
- Supervisor Jardine will be participating in the bus tour at Heenan Lake.
- The Lahontan Water Quality Control Board (LWQCB) took a Leviathan Mine tour. Director Penzel explained that it was a situation where ARCO has shown what they are doing but not where they are going. There is a disagreement between the EPA and ARCO about data. The LWQCB is trying to mediate. Two counties and the Washoe Tribe looking to get something done, but there is no sense of urgency. On the tour Supervisor Griffith commented that he has been watching the clean-up efforts since 1980 without a substantial of change. The comments were received by the EPA and ARCO, and it was good to see the smaller governments speak up. ARCO has invested \$176 million and LWQCB has put \$20 million into the Leviathan Mine clean-up effort.

Item #23 – Discussion Only: Update on activities in Storey County. Committee Member

Osborne reported:

- Kathy Canfield, Storey County Planner, became a Certified Floodplain Manager and Storey County anticipates receiving an “8” CRS rating. Mr. Osborne thanked Ms. Neddenriep and Ms. Hunt for helping.
- The Virginia City sewer project is substantially completed. They are working on the last segment which has been a bureaucratic challenge because it is an environmentally sensitive area.
- Ames Construction is working on the 2.5-mile portion from Five Mile Flat to the sewer plant in Virginia City which should be done by Christmas. Storey County's next big project is to replace the septic system for Gold Hill with a small wastewater treatment plant.

Item #24 – Discussion Only: Public Comment. None.

There being no further business to come before the Board, Director Schank made the motion to adjourn, and the meeting was adjourned at 7:07 p.m.

Respectfully submitted,

Toni Leffler
Secretary