

CARSON WATER SUBCONSERVANCY DISTRICT
BOARD OF DIRECTORS AND
CARSON RIVER WATERSHED COMMITTEE MEETING
January 16, 2019, 6:30 P.M.
Minutes

Vice Chairman Thaler called the meeting of the Carson Water Subconservancy District (CWSD) to order at 6:30 p.m. in the Bonanza Room of the Carson City Community Center, 851 E. William Street, Carson City, NV. Roll call of the CWSD Board was taken and a quorum was determined to be present.

CWSD Directors present:

Brad Bonkowski, Treasurer
Jack Jacobs
Barry Penzel
Ernie Schank
Fred Stodieck
Steve Thaler, Vice Chairman
Mike Workman

Directors not present:

Carl Erquiaga, Chairman
Don Frensdorff
Ken Gray

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:

Greg Berggren
Tom Gray, public
Donna Inversin, public
Mark Kimbrough, public
Austin Osborne, Storey County
Catrina Schambra, public
Bettina Scherer, NV Dept. of Conservation & Natural Resources
Bruce Scott, Resource Concepts, Inc.
Kevin Sullivan, public
Lynn Zonge, Resource Concepts, Inc.

The Pledge of Allegiance was led by Director Schank.

Item #4 – Discussion Only: Public Comment – Mr. James introduced the incoming Directors, Jack Jacobs from Douglas County and Mike Workman from Lyon County, and also noted that Director Stodieck was reappointed by Douglas County.

Mr. James introduced Catrina Schambra as the new Administrative Assistant/Secretary to the Board who will replace Toni Leffler upon retirement on February 14, 2019. Ms. Schambra will start on Tuesday, January 22, 2019, to allow for training time with Ms. Leffler.

Item #5 – For Possible Action: Approval of Agenda. Mr. James noted that Item #9 is pulled from the agenda to allow more time to revise the agreement with Resource Concepts Inc. *Director Schank made the motion to approve the agenda. The motion was seconded by Director Stodieck and unanimously approved by the CWSD Board.* Director Bonkowski noted that Building Association of Western Nevada which is mentioned as an entity to which a presentation will be delivered in Schedule A should be referred to as Nevada Building Association.

Item #6 – For Possible Action: Approval of the Board Meeting Minutes of December 19, 2018. *Director Bonkowski made the motion to approve the Board Meeting Minutes of December 19, 2018. The motion was seconded by Director Stodieck and unanimously approved by the Board, with Directors Jacobs and Workman abstaining as not being present at that meeting.*

CONSENT AGENDA

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

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

Item #9 – For Possible Action: Approval of an Agreement with Resource Concepts, Inc. to develop a “Geomorphology 101” presentation for county staff and public officials in an amount not to exceed \$10,000. Pulled; to be addressed at a future meeting.

Item #10 – For Possible Action: Approval to dispose of various pieces of outdated or non-functioning office equipment.

Director Bonkowski made the motion to approve Items #7, 8 and 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 WATERSHED COMMITTEE

Item #11 – Roll Call – Director Thaler convened the Carson River Watershed Committee and a roll call was taken.

Committee Members present:

CWSD Directors as present in roll call above
Austin Osborne, Storey County

Committee Members not present:

David Griffith, Alpine County

Don Jardine, Alpine County

Item #12 – Discussion Only: Public Comment – None**Item #13 – For Discussion Only: Presentation of the 2018 Andy Aldax Carson River**

Watershed Award to Lynn Zonge. Mr. James explained that he has known Ms. Zonge for many years on both a personal and professional level. He invited the audience to make comment. Mark Kimbrough explained that he is a past recipient of the award and has a special appreciation of its meaning. He worked with Ms. Zonge on the Carson River Trail and produced one of the best white-water segments on the river and a park for the landing. Ms. Zonge helped him write the Carson City Open Space Plan. She also worked on the trail up Kings Canyon to protect the water coming down there. She works on many things as a non-paid volunteer.

Bruce Scott noted that he proud of Ms. Zonge for her dedication to the watershed and resources of Carson City. No other watershed in Nevada has a resource like CWSD, and RCI is very proud of that.

Donna Inversin explained that Ms. Zonge has been very supportive of Muscle Powered and Carson Valley Trails Association, as well as the Sierra Sweethearts Band. She will be calling on Ms. Zonge to help work on the Virginia-Truckee Rail Trail. Debbie Neddenriep noted that Ms. Zonge's band played at the Carson River Coalition's (CRC) 20th anniversary celebration at River Fork Ranch.

Mr. James explained that the Andy Aldax Award was named after an original Board member who was on the CWSD Board for 53 years. The CWSD Board thought it was important to recognize people who have done a lot in the Carson River Watershed. On a personal note, Mr. James joked that Ms. Zonge was so polite on rafting trips that everyone wanted to be in her raft instead of his where he was nicknamed Captain Bligh.

Director Thaler read the list of past recipients of the Andy Aldax Award.

Ms. Zonge explained that when she started working at Resource Concepts Inc (RCI) she noted a great river run in Carson City to Mr. Scott who encouraged her to take groups down the river. He encouraged her to do presentations to the Parks Board and Carson City Supervisors and has always encouraged her to be involved in Carson River watershed projects.

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

Item #14 – For Possible Recommendation: Selection of CWSD committee members for 2019. Mr. James explained that he wants to go by county to ask for requests for committees:

Churchill County:

- Ernie Schank - Finance & Legislative Committees
- Carl Erquiaga – Administrative & Regional Water System Committees

Lyon County:

- Ken Gray – Administrative & Legislative Committees
- Mike Workman – Finance & Regional Water System Committees

Carson City:

- Brad Bonkowski – Finance & Regional Water System Committees
- Karen Abowd’s replacement (to be appointed tomorrow) – Administrative & Legislative Committees

Alpine County:

- David Griffith – Regional Water System Committee
- Don Jardine – to be determined

Douglas County:

- Barry Penzel – Legislative & Finance Committees
- Fred Stodieck – Regional Water System Committee
- Steve Thaler – Administrative Committee
- Don Frensdorff – Administrative Committee
- Jack Jacobs – Regional Water System & Legislative Committees

Storey County:

- Austin Osborne – Regional Water System Committee

Mr. James handed out a Request for Qualifications (RFQ) to the Regional Water System Committee members. The Legislative Committee meeting will be on January 28 at 2:00 p.m. for about an hour and a half. The agenda will be sent to the committee tomorrow. Director Schank suggested that legislators for the Carson River Watershed be invited to the meeting. Mr. James noted that they will be invited, along with lobbyists.

No action required; receive and file.

Item #15 – For Possible Recommendation: Submittal of the Amicus Brief regarding the Public Trust Doctrine as it relates to prior appropriation decreed water rights. Mr. King reported that the timing on the brief is not certain because it will depend on when other people file theirs. Mr. James recommended that a draft be available by the beginning of February so the Board can review it and make comment. Mr. King noted that CWSD is uniquely situated to comment so it is important to introduce CWSD and its role and position. In terms of “taking”, Mr. King found a recent Texas decision that a similar situation is a “taking.” It is a spurious argument that someone still owns water but can’t use it. With the Water Master already making determination on water rights, it seems that the side with the most money can just keep the litigation going.

Mr. James mentioned that he will be on a panel at the upcoming Nevada Water Resource Association conference that will discuss arguments on “taking.” The difference here is that there are federal funds to purchase water for Walker Lake. The AB380 Program that CWSD

administered in the Newlands Project, provides us with a different perspective. You have to look at the whole picture.

Director Schank commented that CWSD has the opportunity to create good will and promote things on the Carson River to enhance recreation, flood control, etc.

Mr. King explained the history of the public trust doctrine. The government owned water that the public could utilize but couldn't give it away because that would impact those who were already utilizing it. We are looking for the best use of the water. It's not a good idea to take a piecemeal approach. If the public trust doctrine is used as the basis of litigation, it could undo the entire Alpine Decree.

Director Jacobs asked who is going to pay for the amicus brief. Mr. King responded that Gordon Depaoli is the main attorney, with small innocent parties joining in our amicus brief, but they aren't writing it. Mr. King's approach is to promote CWSD's expertise and make the statement that this could have damaging results to all Nevada water rights. Mr. James added that CWSD's exposure is only as a friend of the Court offering the amicus brief but not a party to the litigation. The litigation is primarily funded by the Walker Irrigation District. Mr. King explained that a state agency can file an amicus brief while others can make comment. He is stressing the practical aspects of water issues in Nevada. People need to be educated that if you circumvent prior appropriation documents, how are we going to function?

Director Schank questioned what the impact would be to our economy. He believes the economy could destroy if the court rules in favor of the public trust taking water away from current water right owners.

Mr. King pointed out that various states have addressed aspects of the public trust doctrine. Many feel the same way. Most of the Nevada Supreme Court judges are local and can be convinced. If the Nevada Supreme Court gives an opinion, the Ninth Circuit Court will accept it.

Director Jacobs noted that in the Mono Lake case LA did a lot of work to make their proposal work but lost the water. He considers this case a "taking" with no recoupment for that.

Mr. King noted that the CWSD Board has the benefit of judges who are looking at the big picture, wanting to know what would happen to Nevada if they rule for the public trust doctrine. That's where CWSD's expertise will help.

Discussion only; receive and file.

Item #16 – For Possible Recommendation: Review of the various legislation CWSD staff is monitoring during the 2019 Nevada Legislation Session. Mr. James explained that there are over 974 BDRs now, most of which don't pertain to us. He and Brenda Hunt had meeting with Dominique Etchegoyhen and State Lands to discuss bills submitted by the State Engineer's Office.

SB 47 has to do with the Carson River, particularly conservation district representatives.

AB 84 is a conservation bond initiative, like Question 1 (Q1), for funding river restoration and maybe for conservation easements. They are looking for comments. We may want to ask for \$10 million for the Carson River Watershed.

Director Thaler is concerned that the Clearing and Snagging Account is back in the budget with the new governor. Mr. James confirmed that the budget contains \$250,000 for river restoration.

There are other water right bills being watched that will be discussed with the Legislative Committee. Mr. James will consolidate the thoughts of other interests to bring to the Legislative Committee and at the next Board meeting.

Mr. Schank noted that Brad Crowell, as Director of the Nevada Department of Conservation and Natural Resources, might get rid of the need for the State Engineer to be a Professional Engineer (PE).

Tim Wilson is acting State Engineer. The appointment is to try him out in that position, but if he isn't successful, it could impact his appointment. Director Penzel noted that Brad Crowell seemed reasonable about wanting to know about our position.

Director Jacobs asked if more detail will be given to the Legislative Committee, to which Mr. James responded that it would.

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

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

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

Item #18 – For Possible Action: Selection of CWSD committee members for 2019. This item was discussed earlier in the Agenda as Item #14.

Director Schank made the motion to for committee appointment be as requested under the discussion for Item #14. The motion was seconded by Director Stodieck and unanimously approved by the Board.

Item #19– Discussion Only: Staff Reports

General Manager – Mr. James reported:

- Noted that this will be Toni Leffler's last Board meeting after 20 years. There will be an appetizer pot luck to celebrate her retirement on February 1 from 4:00 – 6:00 p.m. The Board gave Ms. Leffler a standing ovation.
- Staff is planning a Strategic Planning Session in March with a day dedicated to the process instead of trying to have it after a Board meeting like last time.
- Mr. James received a letter from Eric Simmons of FEMA Region IX about an article in the CTP Collaboration Monthly. Region IX would like to nominate CWSD for national recognition for what we have done on a regional level.

- Ms. Neddenriep noted that FEMA has already earmarked funds for CWSD in the next round of Mapping Activity Statement (MAS) funding.
- Director Schank asked if Directors could go to the NWRA Conference. Mr. James responded that funds are available for Directors to go. Directors Schank and Thaler expressed their desire to go. Mr. James noted that several federal speakers will not be able to attend because of partial government shutdown. Ms. Neddenriep mentioned that a Water Rights class is offered at the conference for \$150 which is less than the \$700 cost for a private class. Director Jacobs is interested in the NWRA Conference and the Water Rights class.

Correspondence – As included in the Board package and handed out at the meeting.

Item #20- Discussion Only: Directors' Reports –

Director Thaler jokingly cautioned new members not to miss a meeting because they might be appointed to something.

Director Bonkowski reported:

- Carson City has approved money to complete the Douglas County/Carson City Water Line to the Quill Plant which will finish the Carson City system this year.
- Carson City initiated a study for stormwater rates and is looking at various rate systems and requested information from other counties that has worked well for them. Douglas County works on same basis. The people who would be the most impacted are the ones who generate the most income for the county, so you can't present them with a big bill. The county is considering residential vs. commercial rates. The water and sewer rates are completed. Director Stodieck noted that agriculture should get a credit for non-impervious surfaces. Douglas County funded stormwater out of the General Fund; it's a difficult issue to determine.

Item #21 – Discussion Only: Update on activities in Alpine County. No Alpine County Supervisors were present.

Item #22 – Discussion Only: Update on activities in Storey County. Committee Member Osborne nothing to report:

Item #23 – Discussion Only: Public Comment. Brenda Hunt asked Director Bonkowski if Carson City is going to consider Low Impact Development (LID) in incentives. Director Bonkowski responded that it is recommended in the municipal code and as a condition on new projects. A credit is offered for retrofitting projects. Ms. Hunt noted that Rob Loveberg is looking at LID ordinances and different types of incentives. The language needs to be stronger than just an encouragement. Director Jacobs asked if the language is addressing not only building but the maintenance of LID.

Bettina Scherer introduced herself as the State's Conservation Districts Program Manager. She is from Winnemucca where she worked in same position. She is at the meeting to stay aware of partnership opportunities. She mentioned that there is a Request for Proposals (RFP) where the Nevada Grants office hosted the first annual grants writing training and will announce grant opportunities. There will be different tracts for various experience levels of grant writing.

There being no further business to come before the Board, Director Thaler made a motion to adjourn the meeting and it was adjourned at 7:50 p.m.

Respectfully submitted,

Toni Leffler
Secretary