

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

September 20, 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 Room 1214 of the Nevada State Legislative Building, 401 S. Carson St., 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
Carl Erquiaga, Vice Chairman
Don Frensdorff
Ken Gray
Doug Johnson
Barry Penzel
Chuck Roberts
Ernie Schank
Fred Stodieck
Steve Thaler

Directors not present:

Brad Bonkowski

Staff present:

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

Also present:

David Griffith, Alpine County
Rob Holley, DVCD
Don Jardine, Alpine County
Rich Wilkinson, CVCD

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. Items #13, #19, and #20 were pulled from the agenda. *Director Schank made the motion to approve the agenda as*

modified. 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 August 16, 2017. *Director Erquiaga made the motion to approve the minutes of the August 16, 2017, Board meeting. The motion was seconded by Director Thaler and unanimously approved by the CWSD Board.*

CONSENT AGENDA

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

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

Item #9 – For Discussion and Possible Action: Approval of Debbie Neddenriep’s attendance at the Flood Managers Association Annual Conference in Long Beach, CA on September 5-8, 2017.

There was no public comment. *Director Schank made the motion to approve Items #7-9 of the Consent Agenda. The motion was seconded by Director Gray 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 #10 – 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
Carl Erquiaga, Vice Chairman
Don Frensdorff
Ken Gray
David Griffith
Don Jardine, Treasurer
Doug Johnson
Barry Penzel
Chuck Roberts
Ernie Schank
Fred Stodieck
Steve Thaler

Directors not present:

Brad Bonkowski

Item #11 – Discussion Only: Public Comment – None.

Item #12 – For Discussion and Recommendation: Discussion regarding possible changes to the Joint Powers Agreement between Alpine County and CWSD and/or consideration of an alternative structure to involve Alpine County and Storey County in the Carson River Watershed process with CWSD. Mr. James explained that this item was discussed at the Administrative Committee meeting on September 15, 2017. It was determined that the topic needs more research and discussion before a recommendation can be brought to the Board, so the item was tabled.

Mr. James further explained that it was suggested that he to talk with Carson City's District Attorney (DA) to see if they could assist with the Alpine County/CWSD structure. Mr. James did contact the Carson City DA's office but they indicated they do not have time in their schedule to help. An alternative would be to hire a special attorney to address this issue. This item will be taken back to Administrative Committee for further research and discussion. We want to make sure everything is legal and proper. There was no board or public comment.

Item #13 – For Discussion and Recommendation: Approval of Agreement #2017-14 addressing funding from Alpine County, California to Carson Water Subconservancy District and compensating Alpine County Representatives for participation in the Alpine County/Carson Water Subconservancy District Joint Powers Authority meetings. Mr. James explained that this item was tabled for more research and discussion by the Administrative Committee so no recommendation was forwarded. There was no board or public comment.

Item #14 – For Discussion and Recommendation: Discussion regarding Interlocal Contract #2017-15 with Carson Valley Conservation District for funding in an amount of \$135,000 to assist with permitting and overseeing flood repairs along the Carson River in Douglas County. Mr. James explained that the Regional Water System and Flood Committee met and addressed assistance to the conservation districts to help with the repairs along the Carson River due to the January and February floods. In the past the CWSD Board has approved similar requests. This amount is an estimate of the costs involved. This contract will end December 2018.

Director Abowd asked Rich Wilkinson how soon the work will commence. Mr. Wilkinson responded that Carson Valley Conservation District (CVCD) has applied for some of the permits needed: NDEP working waterways permit for five years and a right of entry permit through State Lands. CVCD will use the funds to assist ranchers and landowners along the river with repairs to their diversion structures and streambanks. Most of the rancher's funding is coming from Farm Services Agency (FSA) which will cover 75% of the repairs. The CVCD's time working on these projects can be applied to the rancher's 25% match.

Director Griffith expressed his concern with these contracts that CWSD doesn't have standard liability provisions made. He requested \$1 million in liability with CWSD listed as additional insured. CWSD's legal counsel, George Benesch mentioned that the language in the agreement does protect CWSD. Director Schank asked Director Griffith whether this needs to be re-agenized. Mr. James noted that when a conservation district goes out for contract, the contractor has \$1 million liability insurance and CWSD is named as an additional insured. Director Griffith asked if CWSD is accepting a no-risk design phase. Mr. Wilkinson explained that this would not need a design since this project is to put an area back as it was.

There was no public comment. *Director Jardine made the motion that the Joint Powers Authority Board recommend that the CWSD Board approve Interlocal Contract #2017-15 with Carson Valley Conservation District in the amount not to exceed \$135,000 to assist with permitting and overseeing flood repairs along the Carson River in Douglas County. The motion was seconded by Director Johnson and unanimously approved by the Joint Powers Authority Board, with Director Roberts abstaining.*

Item #15 – For Discussion and Recommendation: Discussion regarding Interlocal Contract #2017-16 with Dayton Valley Conservation District for funding in an amount of \$32,000 to assist with permitting and overseeing flood repairs along the Carson River in Lyon County. Mr. James explained that Lyon County's expenses will be less than Douglas County's. The \$32,000 cost is higher than that initially recommendation by the Administrative Committee because it includes permitting costs.

Director Abowd asked how soon Dayton Valley Conservation District (DVCD) can start. Rob Holley responded that he expects to start the repairs in the next two-to-three weeks; he is waiting for permitting. He plans to do the work as soon as possible. At some sites the water can be re-routed from river channel to do the work but this is time sensitive. Director Griffith mentioned that he had some concern regarding liability.

There was no public comment. *Director Gray made the motion that the Joint Powers Authority Board recommend to the CWSD Board to approve Interlocal Contract #2017-16 with Dayton Valley Conservation District in the amount not to exceed \$32,000 to assist with permitting and overseeing flood repairs along the Carson River in Lyon County. The motion was seconded by Director Stodieck and unanimously approved by the Joint Powers Authority Board, with Director Roberts abstaining.*

Item #16 – For Possible Recommendation: Discussion regarding ownership, operation, and maintenance of the Carson River. Mr. James explained that this item is on the agenda at the request of Director Penzel. The issues arose because of flooding along the Carson River. In the past, CWSD worked with ranchers to manage FEMA funding for the repairs to the grade control/diversion structures. This year CWSD wasn't eligible for FEMA funding because the State does not claim ownership of the diversion structures so they aren't considered public structures.

Several ranchers are talking about a class action lawsuit against the State about ownership. CWSD would not get involved. The Farm Service Agency (FSA) can provide funding and works with the private individuals.

Mr. James pointed out a memorandum from FEMA stating that it is freezing Disaster Relief Fund (DRF) resources to focus on the critical relief needed after of all the recent disasters. If your Project Work (PW) form has not yet been approved, there will be a delay until additional funding is available.

Mr. James outlined some of the funding opportunities to help with the river repairs. The \$250,000 from the State Clearing and Snagging Fund has all been awarded to the Carson River Watershed. The FSA funding just became available last week. The Douglas County area has requested \$841,000 from FSA; \$431,500 from Lyon County, and \$61,000 from Carson City.

Director Penzel asked about State ownership of the river from the center of river to the high-water mark. What is the background on that? He noted that the State doesn't own up to their responsibility for maintenance purposes. People are caught in the middle. Mr. James responded that the Nevada Supreme Court ruled that State has ownership of the river to the high-water mark in the early 1970s (State vs. Bunkowski). State Lands would need a larger budget to do maintenance. Perhaps maintenance could be provided through the conservation districts but they need funding. We need to know what the legislators, ranchers, and counties want to do. Director Penzel commented that there are so many agencies (like SHPO) who want to have authority over the river. He would like for CWSD to convene a conference and take a leadership role to get this resolved.

Director Schank noted that TCID sent letter to State for a performance permit so they can do maintenance below Lahontan Reservoir. The other problem is that in Churchill County there is no defined high-water mark and people can build closer to the river. The counties will have to be more vigilant in the permitting process to make sure people aren't building within in the high-water mark area and are raising their buildings high enough.

Director Stodieck commented that the State doesn't want to take responsibility for grade control structures, but who is responsible for the V-weirs that NRCS installed after the 1997 flood? Director Frensdorff asked if the users claim ownership. Mr. Benesch responded that the State claims ownership of the land under the structures but claims they did not build structures and have no responsibility for them.

Mr. James emphasized that we want to bring everyone together with possible solutions and find a better process for the future. Director Schank agreed with Director Penzel that CWSD should put together a working group, including State Lands.

Director Griffith suggested that the process should include politicians who can push the agencies toward motion. Director Schank suggested taking this task to the Administrative Committee to work this out. Mr. James mentioned that it may be more appropriate for the Legislative Committee. Director Roberts asked Director Stodieck what his wish list would be for fixing this problem. Director Stodieck responded that the ranchers had no problem before the State declared ownership. If the State didn't own river, landowners could keep the structures maintained. Director Roberts noted that if sections of the river were under private ownership, people may not be able to float the river. Director Schank continued that an easier permitting process would be on his wish list. CVCD has already spent three months on permitting. Director Roberts noted that maybe during the strategic planning process we need to revisit taking building codes back to the counties.

There was no public comment. Director Schank suggested the Legislative Committee meet to determine possible scenarios for forming a working group, including who would be on it, then report back to the Board.

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

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

Item #18 – For Possible Action: Amend the CWSD Policy for Short Term Loans to the Conservation Districts and Watershed Organizations by increasing the individual and total loan amounts. Mr. James explained that in the past conservation districts would get grants to do river projects but contractors had concerns about how long it took the conservation districts to get the grant funds to be able to pay them for work. CWSD created a policy to make short-term loans to the conservation districts so they could pay the contractors sooner; then the conservation district could repay the loan when their grant funding came in. The current loan limits are \$40,000/loan, not to exceed \$120,000 loaned at one time, but Mr. James noted that under the current circumstances with flood repairs some loan requests may be over \$40,000 and/or the sum of projects may be greater than \$120,000. The timing for projects is critical. Mr. James requested that those limits be temporarily increased.

Director Penzel asked if there are any NRS restrictions to CWSD lending money. Mr. James believes we can but will check. Director Roberts asked what the nexus is for a loan for Minor Ranch repairs. Mr. James responded that this is one possible project that the DVCD may oversee repairs and has funding from FSA. Director Johnson suggested raising the loan limits from \$40,000 to \$100,000 per loan and \$120,000 to \$250,000 for the sum of loans. Mr. James will follow up to make sure CWSD has authority to make loans according to the NRS. Director Griffith asked about charging interest. Director Schank noted that CWSD’s funds come from counties so it doesn’t seem right to charge interest for helping the citizens who provided the funds. Director Penzel asked what length of time is considered “short term.” Mr. James responded that the conservation districts usually receive their funding within three months and pay CWSD back when they get the funding.

There was no public comment. *Director Johnson made the motion to approve changes to CWSD’s Policy for Short Term Loans to Conservation Districts and Watershed Organizations by increasing the individual loan amount to \$100,000 and the total loan amount to \$250,000. The motion was seconded by Director Schank and unanimously approved by the CWSD Board.*

Item #19 – For Possible Action: Discussion regarding possible changes to the Joint Powers Agreement between Alpine County and CWSD and/or consideration of an alternative structure to involve Alpine County and Storey County in the Carson River Watershed process with CWSD. As explained under Item #12, this item was tabled for future discussion. There was no public comment.

Item #20 – For Possible Action: Approval of Agreement #2017-14 addressing funding from Alpine County, California to Carson Water Subconservancy District and compensating Alpine County Representatives for participation in the Alpine County/Carson Water Subconservancy District Joint Powers Authority meetings. As explained under Item #13, this item was tabled for further discussion. There was no public comment.

Item #21 - For Possible Action: Discussion regarding Interlocal Contract #2017-15 with Carson Valley Conservation District for funding in an amount of \$135,000 to assist with permitting and overseeing flood repairs along the Carson River in Douglas County. This topic was discussed under Item #14. There was no public comment.

Director Johnson made the motion to accept the Joint Powers Authority Board's recommendation to approve Interlocal Contract #2017-15 with Carson Valley Conservation District in the amount not to exceed \$135,000 to assist with permitting and overseeing flood repairs along the Carson River in Douglas County. The motion was seconded by Director Roberts and unanimously approved by the CWSD Board, with Director Stodieck and Frensdorff abstaining as potential beneficiaries. Director Penzel noted that even though he is a Douglas County Commissioner, he believed he can vote without prejudice in this matter.

Item #22 – For Discussion and Recommendation: Discussion regarding Interlocal Contract #2017-16 with Dayton Valley Conservation District for funding in an amount of \$32,000 to assist with permitting and overseeing flood repairs along the Carson River in Lyon County. This topic was discussed under Item #15. There was no public comment.

Director Johnson made the motion to accept the Joint Powers Authority Board's recommendation to approve Interlocal Contract #2017-16 with Dayton Valley Conservation District in the amount not to exceed \$32,000 to assist with permitting and overseeing flood repairs along the Carson River in Lyon County. The motion was seconded by Director Schank and unanimously approved by the CWSD Board.

Item #23 –Discussion Only: Staff Reports
General Manager - Mr. James reported:

- He is meeting with all the water purveyors to get an update on their water supply pictures. He is hoping to hold a Water Summit with all the water purveyors sometime in late January 2018.
- He will be meeting with Lahontan Conservation District, Truckee Carson Irrigation District (TCID), Fallon and the US Bureau of Reclamation to look at possible flooding in the Churchill County area. They want to remap the county floodplain but need to determine the 100-yr. flood flows coming out of Lahontan Reservoir.
- Mr. James recognized Debbie Neddenriep for earning her certification as Floodplain Manager. Though it was not a requirement of her job, she took the initiative to study and pass the test at the Flood Managers Association Annual Conference in Long Beach on September 5-8, 2016. Being a Certified Floodplain Manager is a great accomplishment.
- At their recent meeting, the Northern Nevada Development Association (NNDA) Sierra Regional Economic Council discussed the growth created by the industrial park in Storey County. Two of the biggest issues created by the industrial park growth are affordable housing and water supply. The NNDA will be having workshops every six months to discuss a wholistic approach to these concerns, looking at the size of work force that the community can handle.
- Staff is still trying to work out the snags in changes to the Board meeting agenda.
- The Directors payment for meetings has been delayed until it is worked out how to pay the Alpine County representatives.

Brenda Hunt reported that Linda Conlin was selected to receive the Golden Pine Cone Award. She and Mary Kay Wagner had both recommended Ms. Conlin, who recently retired from many years as the driving force behind River Wranglers.

Legal –Mr. Benesch had nothing additional to report.

Item #24- Discussion Only: Directors' Reports

Director Abowd reported that a pipe broke in the Marlette Water System which could have negatively impacted Virginia City, but it was repaired quickly.

Director Schank asked Mr. James if there has been a formal request about Storey County joining CWSD through legislative action. Mr. James responded that he talked with Austin Osborne about it, and Mr. Osborne was going to talk with the County Manager and Commission about it. Mr. James hasn't heard back yet.

Item #25 – Discussion Only: Update on activities in Alpine County. None. There was no public comment.

Item #26 – Discussion Only: Update on activities in Storey County. Mr. Osborne was not present to give an update. There was no public comment on this item.

Item #27 – Discussion Only: Public Comment. Director Penzel suggested creating an Interlocal Agreement to add Alpine County and Storey County in CWSD. Ms. Hunt invited everyone to come to the Alpine Aspen Festival during the weekend of October 7-8 in Hope Valley.

There being no further business to come before the Board, Director Schank made the motion and the meeting was adjourned at 7:42 p.m.

Respectfully submitted,

Toni Leffler
Secretary