



St. Vrain and Left Hand Water Conservancy District
Minutes of the Board Meeting
Via Zoom
February 8, 2021

I. ROUTINE ITEMS

A. Call to Order – *President Smith*

The Board of Directors held their meeting via Zoom. President Smith called the meeting to order at 1:02 PM and asked that Assistant Secretary Lee call the roll.

B. Roll Call – *Assistant Secretary Lee*

Board members present: President Smith, Vice President Varra, Secretary Carlson, Treasurer Rademacher, and Directors Sutherland, Wolford, and Yanchunas were present. Director Golden and Director Sigg were absent. Each were excused. Director Wolford exited the meeting at 2:30 and returned to the meeting at 3:40 PM.

Staff members and consultants present: Executive Director Sean Cronin, Water Resources Specialist Jason Roudebush, Engineer Mark McLean, with Deere & Ault, Scott Holwick, Lyons Gaddis Attorneys and Counselors, Water Commissioner Shera Sumerford, and Assistant Secretary Donna Lee.

President Smith asked if there were any changes or additions to the Agenda. Mr. Cronin replied that a typo and the words "ACTION NEEDED" should have been included under Consent Agenda Item D. Motion: Resolution 20210992 00 Adopt State Records Mgmt Manual. Executive Director Cronin also asked to include a Finance Committee Report as Agenda Item III.H.

II. CONSENT AGENDA

- A. Motion: Approval of January Minutes
- B. Motion: General Fund Finance Reports
- C. Motion: Enterprise Fund Finance Reports
- D. Motion: Resolution 2021-002 – Adopt State Records Mgmt Manual
- E. ACTION NEEDED

President Smith asked if there were any questions, concerns, or discussion regarding the Consent Agenda items. When there were none, he called for a motion. Director Yanchunas moved to approve the Consent Agenda. Treasurer Rademacher seconded the motion, and the motion passed unanimously.

III. DISCUSSION ITEMS

A. Copeland Reservoir Update – *Mr. Roudebush*

Mr. Roudebush stated that staff wanted to provide the full scope regarding Copeland, but the discovery of additional water rights issues complicates the matter. Therefore, Mr. Roudebush

said more work needs to be done to understand these issues to provide a full report to the Board at its March meeting.

B. Office Space Committee Report – *Director Yanchunas*

Director Yanchunas reported the Office Space Committee met on Friday, January 29, to discuss how best to move forward since the consensus was that staff required more space. He further noted that the Committee felt it prudent to explore a real property purchase rather than continue leasing. He continued by stating there was potential for funding the purchase with CBT units' sale, allowing the District to trade one asset for another. Director Yanchunas also said another consideration they took into account was other entities interested in sharing space with the District, such as the Left Hand Watershed Group or Left Hand Ditch Company. However, there was no objection to sharing space with financially sound partners willing to make a hard commitment. The Committee considered the initial objective to be finding more room for the District first. The Committee was seeking the Board's approval to look for space that is at least 2000 sq ft or more if there is an economic benefit and there appears to be serious interest from others renting from the District. Director Yanchunas also noted that the Committee preferred looking at existing property rather than constructing a building. President Smith solicited the Director's feedback. Treasurer Rademacher asked if the landlord had been approached regarding trading space with another entity in the Natural Resources building. Mr. Cronin replied that multiple federal entities make this option less viable. Discussion ensued regarding the need for enough space for a board room and buy as much as the District can afford to cover future needs. The Directors also stated that staff would come back to the office at some point as there is a great benefit to everyone being located together in one office. The Committee received a nod of heads to proceed with its plans, as Director Yanchunas described.

C. Business/Work Plan Implementation – *Executive Director Cronin*

President Smith asked that Executive Director Cronin present the information in the document included in the Board packet. Mr. Cronin explained that this first draft of the work plan focused more on the Water Resources Specialist's work plan. Executive Director Cronin stated he is continuing to add his and the Office Manager's work plans to be more comprehensive. Mr. Cronin asked the Directors for feedback on the draft Work Plan about the format, substance of content, and whether the level of information was sufficient, offering to provide a more inclusive report if requested. The Directors made recommendations they felt were essential to include percentages with the different categories. They also stated they believed all items should remain on the list for now. They advised Mr. Cronin to be strategic in his approach because some projects will take years to complete, and there is a sunset in place for the additional mill levy revenue. The Board asked that Executive Director Cronin's Work Plan also include how resources are being utilized. The Directors commented that this draft of the Work Plan was a great start and needed time commitments, identification of multi-year projects, and a long-term plan. President Smith noted that this draft did meet the Board's direction to set goals. Executive Director Cronin agreed to include the items the Directors recommended and revise the Work Plan for the Board's review at a future meeting.

D. Well Study – *Mr. Roudebush*

Mr. Roudebush referred the Board to the documents included in the Board Packet for discussion purposes. He explained the study is being conducted in collaboration with Mortensen Center for Engineering at CU Boulder and a technology company, SweetSense, Inc. He continued stating the District was approached as a partner with Augmentation members

that could potentially participate in this study. Mr. Roudebush further explained collecting the data on groundwater pumps to monitor flow conditions and power consumption with yield. He provided the background and explained CU and SweetSense would like to partner with the District and individual augmentation members on 10-20 sites and either enter into an agreement with the landowner, or the District would act as an intermediary. Mr. Roudebush stated he and Sean have met with the researchers on this project and seek legal advice. The study's researchers are requesting the District sign a collaboration letter for a Science Foundation Grant similar to the draft included in the Board's packet. Mr. Roudebush stated the benefits to the augmentation members included a free pump test for efficiency and shared data on energy and water consumption. He also noted that participation in the study is contingent upon augmentation members' interests. Although groundwater pumpers are small users, the researchers were still interested in any volume wells for their model's calibration points. The Directors felt the District was a better fit for this type of work if augmentation members don't perceive any harm in linking up with this study. The Directors raised questions about how this fits into the Work Plan, and they agreed this was a good fit. The Directors discussed the decree for the augmentation program, noting that the decree confirms the State's authorization for metering, and there is technology to do the metering that is cheap and can be used in remote mountain areas and cost-effective with no significant staff investments and NO expense to the District. Mr. Holwick provided a legal opinion regarding the DRIP/NSF Collaboration Letter regarding any fatal flaws. The Directors agreed, by a vote, that there were no objections to moving forward once Mr. Holwick completed his review and found no fatal flaws. Mr. Roudebush noted the funding deadline was February 22.

E. Director Compensation – *President Smith*

President Smith explained he had asked Executive Director Cronin to investigate this topic since Directors were attending more sub-committee and special meetings. It had been almost 15 years since the last compensation discussion. Executive Director Cronin provided the history from 1990-2007, noting the compensation was previously set at \$600/per annum, and an increase to \$1200/per annum or \$100 per regular meeting occurred in 2008. Mr. Cronin stated the statute allows for compensation up to \$2400/per annum. To get an increase, it would require the Board to request the Court increase compensation in accordance with the statutory level. Mr. Cronin noted that this item is for discussion at this meeting, but if the Directors agreed to seek an increase in the current compensation, the item would be brought back to the Board for action at the March Board meeting. Directors stated it was probably a good idea to: keep up, support what the majority wants, request an increase based on time demands, cover all meetings people attend, consider it a civic duty regardless of pay. Executive Director Cronin agreed to talk to Mr. Holwick and bring options to the Board next month.

F. SPROWG Participation – *Executive Director Cronin*

Executive Director Cronin referred Directors to the Memorandum in the Board packet and provided some background and history about the District's participation with SPROWG (South Platte Regional Opportunities Work (or Water) Group since its inception six years ago. Mr. Cronin raised the question about whether the District should continue to be a member of this group and part of the more extensive process based on the direction this group is going, the investment the District has already made, as well as the ability to remain at the table during some interesting times in water court. This item was also on the Executive Session list at the bottom of the Agenda, offering an opportunity for legal advice.

G. 50th Anniversary Activities and Implementation – Executive Director Cronin

Executive Director Cronin referred the Directors to the Memorandum in the Board packet and explained that staff created an overall budget to set aside some funds for some 50th Anniversary activities that could be implemented throughout the year with the ongoing Covid-19 restrictions. Directors provided their input, and their suggestions included:

- Checking with the Longmont Museum about putting posters up
- Piggyback on the City of Longmont's 150th
- Create a Video -- Fly drones over sections of the St. Vrain and Left Hand Creeks and show what the District has helped facilitate – especially with the passing of 7A – let the constituents know about the District's accomplishments
- Get exposure on Channel 8
- No Dams Bill a big accomplishment worth noting
- Review the history over the past 50 years like a time capsule

Executive Director Cronin asked if any Directors were interested in working on this with staff, and Secretary Carlson and Directors Yanchunas and Wolford volunteered.

H. Finance Committee Report – Treasurer Rademacher

Treasurer Rademacher updated the Directors about the Finance Committee meeting held before the Board meeting that day. He stated Marie Terry presented the financials with a new format that included a narrative that provided answers to most of the questions anyone had before asking them, which everyone appreciated. Treasurer Rademacher further stated that the Committee discussed the best way to review the monthly finance folders and decided to make an appointment to go into the office before the April Committee meeting to review them. He continued by stating there were new signatories on the bank account, Mr. Cronin had Director Yanchunas' name removed, and President Smith's added. Treasurer Rademacher talked about the meetings scheduled with Colotrust and PFM to determine whether changing investment companies is something the Board may want to pursue.

IV. ACTION ITEMS

A. Motion: Retroactive Approval of SWSP ACTION NEEDED

Executive Director Cronin told the Directors that this item is something he has been sharing over the weekly emails he sends. He stated they have conditional approval for the SWSP but do not have all the details worked out yet. He said they would come back to this item for Action following the Executive Session at the end of the Agenda.

V. REPORTS

A. Water Commissioners Report – Ms. Shera Sumerford

Ms. Sumerford stated there was at 8 AM (on February 8) 1.26cfs at Lyons, and at the time of the meeting, there was 12.2cfs; the result then was snow/ice.

Ms. Sumerford also stated that the Call on the mainstem is Prewitt Reservoir, admin #22059, with an appropriation date of 5-25-1910. She said the Call on the SV is Highland Reservoir, admin #8917, with an appropriation date of 5-31-1874. She continued by saying this water is being stored and calculated with gains in Button Rock reservoir. Ms. Sumerford continued by saying the storage is under State's approval and taking place while Longmont is proceeding

to replace a valve on the outlet works. She said the completion of the repairs or replacement project is estimated to be at the end of February. Ms. Sumerford stated that currently (as of February 8), the calculated fill for Highland Lake is 204 ac-ft.

Snow Pack:

Upper CO -- 82%

South Platte – 87%

St. Vrain – 81%

Ms. Sumerford said the Greeley office would be closed till the end of March. Ms. Sumerford continued by stating she and Martin are continuing with Diversion Records for District 5 and then further reviewing more of the initiatives. Shera said that the inactive list provides them/the State with whether structures are or are not in existence or use; no abandonment will occur till another possible 10 yrs.

B. Legal Report – Mr. Scott Holwick

Mr. Holwick referred the Directors to the Legal Report Memorandum in the Board packet. Mr. Holwick addressed each item, providing additional background and clarification on:

1. Resume Review

- A. Application of BennT Creek Regional Water Authority, et al., Case No. 20CW3215
Recommendation: for discussion purposes and to possibly file a statement of opposition. Mr. Holwick would provide legal advice during Executive Session.

2. Application of Longmont, Case No. 20CW3179

- Recommendation:** The Board ratifies the action it took at the January meeting and affirmed the opposition filed statement.

Mr. Holwick reminded the Board about bringing this item to them in January, stating there was an application by the City of Longmont seeking to change the use of its shares of the Bonus Ditch Company water rights. Mr. Holwick stated he filed a letter of opposition on the District's behalf and said it was not the only opposer in this case. Mr. Holwick stated he brought this item back in February for the Board to ratify the action it had taken in January because this item was not part of his submitted January legal report. Secretary Carlson moved to ratify the Board's action in January to file a letter of opposition in this case. Director Wolford seconded the motion, and the motion passed unanimously.

3. Application of Firestone, Case No. 19CW3236 – Information Only

4. District's Conditional Water Storage Rights for Lake 4 – Information Only

Mr. Holwick noted the application is due on or before March 31, 2021 and is a joint application with Boulder County. Mr. Holwick stated he requested Boulder County secure separate counsel in this case and that the District is also negotiating an operating agreement with the County. Mr. Holwick noted this conditional water storage right is a critical component of the augmentation plan, and he would be bringing this item back in March.

5. Lake 4 SWSP – Possible Action Required - RESOLVED

6. Cache La Poudre Aug Plan – Information Only

Mr. Holwick stated the District has a preliminary conversation regarding Central's conceptual Augmentation Plan and provided the Board with a summary of the proposed plan.

7. Legislative Session – Information Only

C. Engineers Report – Mr. Mark McLean

Mr. McLean stated most of his efforts this past month have been working on the augmentation plan program and the Substitute Water Supply Plan approach. He also said he has been working with Tony Basile on factual information. Mr. McLean stated that streamflow lags snowpack at 72-73% of normal.

D. Executive Director Report – Executive Director Cronin

Mr. Cronin stated he had nothing more to report unless there were questions about the weekly emails he sends them with updates, and there were none.

E. Items from the Board – Directors

Mr. Yanchunas stated that he received an email from an attorney for Windy Gap stating Save Colorado filed an appeal, and that Northern now expects an additional 6–8-month delay (at \$1.5-2 million/mo.). He continued saying the City of Greeley gave Northern a presentation, and the City now thinks it unlikely it will get the necessary permits for its planned high mountain reservoir. He said the City purchased Terry Ranch, which is 85,000 acres with 1.2 mil acre-feet of decreed reusable water with recharge possibilities. He also stated the City made the purchase with redeemable credits for water requirements. He also said the seller's financing infrastructure was interesting and available on the City's website.

Treasurer Rademacher moved to adjourn and move into Executive Session under § 24-6-402 (4) (b), CRS, so that it may receive specific legal advice from the Board's legal counsel on the issues identified in Section VI(a) – (b), below. Director Yanchunas seconded the motion, and the motion passed unanimously.

VI. EXECUTIVE SESSION

- (a) The water court application filed in Case No. 20CW3215, which appeared in the December resume for Water Division No. 1 and whether the District should file a statement of opposition in this case; and

Legal advice was provided, and discussion was held on this issue.

- (b) The 2021 operation of the District's augmentation plan and whether the District should file an application in water court seeking to amend it to allow for sources of augmentation water to be used other than those in the decree in Case No. 02CW334.

Legal advice was provided, and discussion was held on this issue.

Secretary Carlson moved to exit Executive Session. Director Yanchunas seconded the motion, and the motion passed unanimously.

And,

- (c) To the extent necessary and separate from (a) – (b) above, the Board may convene an additional Executive Session under §§ 24-6-402 (4) (b) and 24-6-402 (4) (e), CRS, so that it may receive specific legal advice from the Board's legal counsel and instruct the District's negotiator on the possibility of filing a water court application with one or more co-applicants.

Treasurer Rademacher moved to go into Executive Session under §§ 24-6-402 (4) (b) and 24-6-402 (4) (e), CRS, so that the Board could receive specific legal advice from the Board's legal

counsel and instruct the District's negotiator on the possibility of filing a water court application with one or more co-applicants. Director Yanchunas seconded the motion, and the motion passed unanimously.

Legal advice was provided, and discussion was held on this issue. Direction was given to Executive Director Cronin re: negotiations.

Treasurer Rademacher moved to exit Executive Session. Secretary Carlson seconded the motion, and the motion passed unanimously.

Upon exit from Executive Session, the Board reconvened in open session. Director Yanchunas moved to: (a) direct staff, legal counsel, and Mr. McLean to draft and file an application to amend the augmentation plan decreed in Case No. 02CW334 to add procedures by which to include additional and alternative sources of augmentation and replacement water; and (b) direct staff, legal counsel, and Mr. McLean to draft and submit a second SWSP to add such additional and alternative augmentation and replacement water sources as the District could obtain. The motion passed unanimously.

Upon motion by Secretary Carlson and second by Director Yanchunas, the Board unanimously adjourned the meeting at 4:24 p.m.

Respectfully Submitted,



Donna Lee, Assistant Secretary



Christopher Smith, President