

MINUTES OF THE OCTOBER 6, 2011
SPECIAL MEETING
OF THE PUEBLO CONSERVANCY DISTRICT

Directors Present: Sean Tapia, Paul Willumstad, and Donna Phillips

Also Present: Administrator Rick Kidd, Counselor Don Banner

Guests: Tom Florczak, City of Pueblo Attorney
Earl Wilkinson, City of Pueblo Director of Public Works
Scott Hobson, City of Pueblo Assistant City Manager for Planning
Chris Woodka, Reporter for the Pueblo Chieftain
Jerry Pacheco, City of Pueblo City Manager (Entered at 8:30)

With a quorum present, the Pueblo Conservancy District special board meeting was called to order at 8:07 am.

It was noted that the postings of the meeting notice and agenda were made at the Interim City Hall, the Heritage Center, the Thatcher Building and the County Courthouse on October 4.

Since Mr. Daveline was not in attendance agenda item #2 was moved to #6 on the agenda, if he enters.

City of Pueblo:

Tom Florczak – The City had proposed dissolution to the previous Board and was working on a draft intergovernmental agreement (IGA). They are now proposing a two phase approach. Phase 1 is for the City to cooperate with the District to increase efficiencies by: a) Eliminate costs of administration by having this function performed by the Department of Public Works, b) City will provide meeting and storage space for the District, and c) Encourage the District to contract with the City's consultants for the Levee certification. These consultants are Anderson Consultants with Tetra Tech. The City maintains that the maintenance fund assessments were improperly done. The City proposes that there be no maintenance fund assessment program in 2012 for 2011. Furthermore, that there be a plan developed to refund the assessments collected to those who paid.

Earl Wilkinson – Certification of the Levee is critical. The City has been moving on certification of the Fountain Creek Levee. He believes that FEMA would like for the District to be moving on the Arkansas River and Wildhorse/Dry Creek levees.

Scott Hobson – The City has had an agreement with the Pueblo Area Council of Governments (PACOG) to provide services to them. He believes that the City and the District could look at a similar type of agreement with a scope of services of what the City would do. This agreement would include reimbursements for the District to pay the City for services provided.

Pueblo Conservancy District:

Don Banner – The Arkansas River Levee was constructed after the 1921 flood. The District boundaries are greater than the assessment area designated by the Board and the Court in 1923, although the District had the authority to charge assessments over a larger area. The need for certifying the Arkansas River and Wildhorse Creek levees was brought to the Board in 2007 as a result of the flood plain re-mapping program undertaken by the City for FEMA. The Board had to increase their income to have funding sufficient to cover the costs for the certification process and for continued maintenance. When the Board reviewed the District's Official Plan and the statutes it was decided that a maintenance fund assessment could be imposed. The Board went

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to the Court and obtained an order amending the Official Plan allowing the start of a maintenance fund assessment. The Court approved an annual assessment of up to 3.5% of the 1923 appraised benefits. These appraisals were based upon the benefits to the various entities that they received from being within the District area. The 1923 benefit appraisal process had a mechanism that allowed protests and adjustments. The protests were considered, adjustments made and the appraised benefits agreed to by the Court. There was urgency in 2007 because FEMA was to be back with revised mapping and a Provisionally Approved Levee (PAL) agreement in approximately 6 months. The District would then have only 24 months to have any required improvements and repairs made and the levee system be certified. The Board decided to use the benefit values of the 1920's. Protests were allowed during the normal County tax protest season. Some protestors came to the Board with documentation of how the land in their ownership had changed in use since 1923. Adjustments were made to be commensurate with similar properties.

The City proposed an IGA agreement for dissolution of the District as early as April 2010. Then there were drafts in July and December 2010, and March 2011. The previous Board took the position that the City must pay their assessment before the District would further consider an IGA for dissolution of the District. Gus Sandstrom, Kathy Farley, and Pat Kelly were originally appointed by Judge Phelps to explore dissolving the District. The City has the benefit of institutional memory and being able to distribute costs over a larger area than just the District's assessment area. The District had an oral agreement with the City staff that they would do a new appraisal of benefits within the first 10 years of the maintenance fund assessment program. Banner presented a 1923 article, from the *Pueblo Chieftain*, which explained how the benefit assessments were originally determined. He stated that the Board needs to look at what makes sense to the benefit of the community.

Pacheco entered at this time.

Florczak – The concept of assessments was based upon construction of the levees. The City's focus is that there has been substantial change and there have been no assessments for many years. Since there is no recent appraisal of benefits the District's assessments are arbitrary and capricious. Expediency is not a justification. The District is a wide swath of land but no one outside of a limited area was assessed. The District should not be taking money from the assessment area and spend it outside of that area. The City can incorporate what the District is doing into their Storm Water Enterprise. At the time that the City formed their enterprise the County decided to not form a similar storm water enterprise.

Tapia – This discussion is about money. We need to look at the needs of the community and protection in perpetuity.

Kidd – FEMA sent an email and it looks like the new draft guidelines will not give the relief that we had hoped for with the designation of a non-levee embankment. The federal government may not require flood insurance but lenders may because without certification there is still a risk of flood. Even if FEMA does not impose a requirement for levee certification they would expect the levees to be maintained.

Tapia – There could be some benefits from cooperating with the City.

Florczak – The District can refund the assessment payments that they have received and still have money left.

Tapia – Maintenance and hard work to maintain what we have will still take money. The Board needs to have an opportunity to take a look at an assessment for the entire District.

Banner – If the District obtained a new appraisal of benefits would the City pay its share?

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Willumstad – The District needs to have a short term and a long term plan. We need to get through 2012 and then have a master plan for the future. The agenda for the next meeting needs to include time to discuss the assessment program and how changes may be made. We also need to look at the advantages of utilizing City facilities.

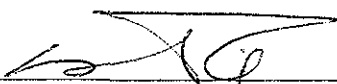
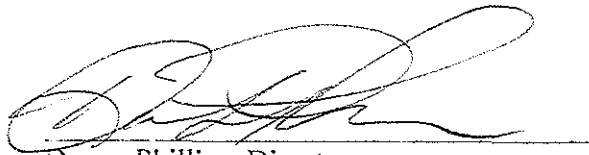
The City cannot impose a mill levy to raise revenues to pay the District's maintenance fund assessment without a Tabor vote.

The District and the City are to try to have a draft of a request for proposals (RFP) for appraisal services to bring to the November 17 meeting.

Tapia is to keep Judge Maes informed of the proceedings of the District.

There being no further business to come before the Board, the business meeting was adjourned at 9:30 am. The next regular meeting date will be October 20, 2011.

APPROVED:


Sean Tapia, Director
Paul Willumstad, Director
Donna Phillips, Director

THE PUEBLO CONSERVANCY DISTRICT

NOTICE OF
REGULAR MEETING

DATE: OCTOBER 20, 2011 (THURSDAY) AT 8:00 A.M.
PLACE: SOUTHEASTERN COLORADO HERITAGE CENTER,
201 WEST B STREET, PUEBLO, COLORADO

AGENDA

1. ROLL CALL
2. APPROVAL OF THE SEPTEMBER 1, SEPTEMBER 8 AND OCTOBER 6, 2011 MINUTES
3. ELECTION OF OFFICERS
4. TREASURER'S REPORT
 - a. ACCOUNTANT'S COMPILATION REPORT *Aug + Sept*
 - b. PAYMENT OF BILLS *Accounting Resolution Double Income month*
5. HIGHLINE CANAL REQUEST – Dan Henrichs
6. ADMINISTRATOR'S REPORT
7. OLD BUSINESS
 - a. DOW response to Banner letter concerning Lake Runyon lease agreement
 - b. Upper Lake Elizabeth ownership
 - c. DOC long term agreement
 - ~~d. DOW Lake Runyon lease proposal~~
 - e. City of Pueblo non-payment of maintenance fund assessment
8. NEW BUSINESS
 - a. Planning for new appraisal of benefits
 - b. Services that may be provided by the City of Pueblo *Coop Agreement Pay to kill*
 - c. Director Compensation
 - d. 2012 Budget Discussion *HARP, MED's*
 - e. Certification of 2011 Maintenance Fund Assessment
 - f. Appointments of Representatives *SDA, HARP Authority*
9. OTHER BUSINESS AS MAY BE BROUGHT BEFORE THE BOARD
10. ADJOURNMENT *Banner Memo*

2011 MEETING DATES:

Regular meetings have generally been held on the third Thursday of the month. Adjustments will be made as required. Special meetings may be scheduled as needed. Please contact the District's Administrator at 719-544-5239 to confirm dates and locations of all meetings.

November 17

December 15