

RECORD OF PROCEEDINGS

100 LEAVES

MINUTES OF THE BOARD OF DIRECTORS MEETING OF THE PUEBLO CONSERVANCY DISTRICT AUGUST 27, 1981

The Directors met for a regular meeting at 8:10 A.M. on the above date, in the office of the District, at 111 E. 5th Street, Pueblo, Colorado.

DIRECTORS PRESENT : G. Sandstrom, K. Farley and P. Kelly
ENGINEER PRESENT : R. Koester
ATTORNEY PRESENT : L. Ward

The meeting was called to order by the President

It was moved and carried that the minutes of the July 30, 1981, meeting be approved as written. The Treasurer's report was approved and the following vouchers were approved for payment:

16675 Majestic Savings & Loan	\$130,000.00
16676 American Insurers, Inc.	125.00
16677 Anthony E. Gradishar Const. Co.	4,850.70
16678 Gus Sandstrom, Jr.	40.00
16679 Kathleen Farley	40.00
16680 Patricia Kelly	40.00
16681 Predovich & Ward Attorneys	150.00
16682 K L H Engineering Consultants, Inc.	430.00
16683 U. S. Postmaster	18.00

It was moved and carried that a \$175,000. Certificate of Deposit be purchased from Midland Federal to run 182 days and a \$175,000. Certificate be purchased from Majestic Savings, to run 94 days, per attached bid tabulation.

The 1982 Budget prepared by CPA McDonald, was reviewed by the Board. (copy attached hereto). The following revisions were agreed upon:

1. Amend definition of "Office Rent" to say "Office and Equipment Rent".
2. Change contingencies to \$7,500.
3. Add an item of "Travel" for \$2,500.
4. Reduce Emergency Flood Repairs to \$186,630.

These revisions are to be made to the proposed budget and it then will be ready for acceptance and approval at the September meeting.

During the discussion of the Budget, there were two new items of future expenses allowed. The first is payment for travel for those who the Director's will agree are to receive travel expenses in the pursuit of District business outside the City. The second is the shifting of \$25.00 per month of expenses incurred in "Office Supplies" to the Office Rent account as a fixed expense. The Office Rent account is to be known as the Office and Equipment Rent, and will begin on January 1, 1982 at \$75.00 per month.

Discussion was then taken up over revisions to the levee walls and the Board agreed to go to Wichita, Kansas to evaluate Wichita's having remodeled an old channel, and how it might apply to the District's Structure through Pueblo. This is in response to an idea that perhaps the levee could be lowered in height to aid in the Park & Recreation Program of improvements along the river trails.

The Board authorized the Treasurer to make an advance as required for travel expenses for the Board's trip to Wichita, and that Tommy Thompson and Engineer Koester accompany the Board members on the tour to Wichita.

The Board then tabled the testing program discussion until September 9, 1981 at 12:00 Noon, at which time Mr. Thompson would be briefed on the Board's Plans to visit Wichita.

The next regular meeting was scheduled for 10:00 A.M. on September 29, 1981.

* At 10:00 AM the Board recessed the meeting until 12:00 Noon, September 9, 1981.

See minutes 9/29
for Amendment.

No

71

Pat Kelly
Pat Kelly, Secretary-Treasurer

PREDOVICH, WARD & BANNER

WALTER J. PREDOVICH
LESTER L. WARD
DONALD J. BANNER

ATTORNEYS AT LAW
727 THATCHER BUILDING
FIFTH AND MAIN STREET
PUEBLO, COLORADO 81003

TELEPHONE 544-5081
AREA CODE 303

August 21, 1981

Pueblo Conservancy District
Pueblo, Colorado

Gentlemen:

You have asked this office to research the statutes of the State of Colorado dealing with the purpose of the District as well as the statutory method of including land within the District. This memorandum addresses these issues and attempts to analyze the Official Plan originally adopted by the District and implications which may be drawn from said Plan. It is our understanding that the Board of Directors is interested in knowing whether or not the District as it is presently constituted can assist in the planning and construction of recreational facilities on lands both within and without the boundaries of the District.

C.R.S. 1973, 37-3-103 sets forth the General Powers of any Conservancy District. It begins "(1) In order to protect life and property within the district, and to protect or relieve land subject to overflowing or washing, or which is menaced or threatened by the normal flow or flood or surplus or overflow waters of any natural watercourse, stream, canyon, or wash, whether perennial, intermittent, or flood, and in order to effect the protection of the land and other property in the district, and to accomplish all other purposes of the district, the board of directors is authorized:". There follows a list of powers and among those powers is the following:

- (h) To acquire by donation, purchase or condemnation, to construct, own, lease, use, and sell, to hold, encumber, control and maintain any...reservoir or retarding basin, mill dam, ...park,... or other public way or place, on any real or personal property, public or private, in or out of said District, for rights of way or retarding basins, ... or for any other use not inconsistent with the purposes of articles 1 to 8 of this title; (emphasis added).

Subparagraph (i) provides as follows:

To replot or subdivide land, open new roads, parks, streets and alleys, or change the location of existing ones. (emphasis added)

It is our understanding that the Official Plan of the Pueblo Conservancy District as originally adopted on June 2, 1923,

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August 21, 1981
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consists of five parts. The statutory framework for the adoption of the Plan is set forth in C.R.S. 1973, 37-3-108. That statute provides that there can be no alteration of the Official Plan after the assessment record is filed with the Court; except as provided in C.R.S. 1973, 37-4-113 which states that the Board of Directors may at any time when necessary to fulfill the objects for which the District was created, alter or add to the Official Plan, and when such alterations or additions are formerly approved by the Board and by the Court, and are filed with the Secretary, they shall become part of the Official Plan for all purposes.

There are two procedures set forth in that statute for altering or adding to the Plan. The first procedure involves situations where the alterations or additions, in the judgment of the Court, neither materially modify the general character of the work, nor materially increase resulting damages for which the Board is not able to make amicable settlement, nor increase the total cost more than 10% above that estimated in the Official Plan. The first procedure requires only a resolution of the Board of Directors for approval of the alteration or addition and the consent of the Court.

The second procedure is applicable in a situation where the proposed alteration or addition materially modifies the general character of the work, or materially modifies the resulting damages, or materially reduces the benefits for which the Board is not able to make amicable settlement, or materially increases the benefits in such a manner as to require a new appraisal, or to increase the total cost more than 10% above that estimated in the Official Plan. Where the second procedure is applicable, the Court is to direct the Board of Appraisers, to appraise the property to be taken, benefitted, or damaged by the proposed alterations or additions. Upon completion of the report by the Board of Appraisers, notice is given and a hearing is had on its report in the same manner as when the District was originally formed. Depending on the circumstances, different sub-procedures are set forth in the statute. In this case, however, it appears that the Court must approve the alterations or additions to the Official Plan after notice and hearing.

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In the circumstance where property outside of the District is benefitted, or property within the District is benefitted in an amount greater than that which was originally appraised, the directors of the District are required to direct the Board of Appraisers to appraise the benefits and comply with the proceedings for appraising lands not at first included within the boundaries of the District (see sections 37-4-103 and 37-4-104) or, the Board may at its discretion, make settlement for the use, benefit, damage or property taken. See C.R.S. 1973, 37-4-115.

If the Board of Appraisers finds that land not embraced within the boundaries of the District will be affected by any proposed improvement or should be included in the District, the Board of Appraisers are required to appraise the benefits and damages to such land, and to file notice in the Court of the appraisal. If the Board of Appraisers recommend that lands be included in the District which are not already in the District, it is the duty of the Clerk of the Court to give notice to the owners of such property by publication and to set a hearing on the matter. (See C.R.S. 1973, 37-4-104 et seq.)

The Official Plan of the Pueblo Conservancy District of June 2, 1923, contains in Part I the Statement of the Plan. A reading of the entire Official Plan leads to the conclusion that the scope of the Plan was limited to the moving of the Arkansas River from its then existing channel through the City of Pueblo to a new channel and to supplement that flood control project by the creation of a small retarding basin formed six miles above the City of Pueblo. This describes the basic Plan originally adopted and it does not appear that the planning and construction of recreational facilities was thought of at the time the Plan was adopted. Thus, an alteration or addition to the Official Plan would have to be prepared to permit the District to actively participate in the construction of recreational facilities.

I would recommend that the District proceed as follows:

1. Define the scope in which the Board of Directors believes the District should be involved in any proposed planning and construction of recreational facilities.

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2. Estimate the cost to the District of any proposed planning and construction activities.

3. Make a determination as to whether or not a proposed scope of involvement of the District materially modifies the general character of the work of the District or increases the total cost to the District more than \$400,000.00 (which is 10% of the estimated total cost of improvements set forth in the Official Plan).

4. Attempt to secure Court approval of the alterations and additions to the Official Plan by either the first or second procedure set forth herein as the case may require.

I am of the opinion that funds can be expended by the District for formulating the scope of the District's involvement and obtaining cost estimates necessary to propose an alteration or addition to the Official Plan. Once the scope of involvement of the District is more clearly defined, I think it will become more readily apparent as to which of the statutory procedures will be applicable to follow in having the Official Plan altered or amended. More detailed statutory analysis can at that time be given.

Very truly yours,

Donald J. Banner
f-u

DJB:crt

THE PUEBLO CONSERVANCY DISTRICT

BOARD OF DIRECTORS
P. KELLY
K. FARLEY
G. SANDSTROM

111 EAST FIFTH STREET
544-6823
PUEBLO, COLORADO

MAILING ADDRESS:
P. O. BOX 234
PUEBLO, COLO. 81002

AUGUST 27, 1981

FED ID#84-6002506

BID TABULATION - 2:00 P.M.

BIDDER	INTEREST	RATE %		TYPE	EFFECTIVE
	367 DAYS (8-30-82)	182 DAYS (2-26-82)	94 DAYS (11-30-81)	COMPOUNDING	ANNUAL YIELD
First National Bank	15.770	16.270	16.770	Simple	\$27,598.
				Simple	\$28,473.
				Simple	\$29,348.
Midland Federal Savings and Loan	16.250	18.010	18.350	Simple	\$28,438.
				Simple #	\$31,518.
				Simple #	\$32,113.
Majestic Savings & Loan	16.321	17.683	18.184	Daily	\$31,500.
				Daily	*\$32,813.
				Daily	*\$33,035.
United Bank of Pueblo	16.500	16.625	16.500	Simple	\$28,875.
				Simple	\$29,094.
				Simple	\$28,875.
Western Federal Savings	14.750	17.250	17.500	Simple	\$25,813.
				Simple	\$30,188.
				Simple	\$30,625.

Two \$175,000 Certificates:

*APPARENT BEST BID: Majestic Savings - 94 Day or
CERTIFICATE #1 Majestic Savings - 182 Day

WITH ONE CERTIFICATE PER INSTITUTION:

#APPARENT SECOND BEST BID:
CERTIFICATE #2 Midland Federal - 94 Day
Midland Federal - 182 Day or

THE PUEBLO CONSERVANCY DISTRICT

BOARD OF DIRECTORS
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TREASURER'S REPORT

Date August 25, 1981

Acct. #	Account	1980 Spent	1981 Budget	Current Month Voucher	Total @ 8/25/81	Unused Portion of Budget
#80	Attorney's Fees	\$ 1,800.	\$ 1,800.	150.	1200.	600.
#81	Director's Fees	1,360.	2,160.	120. (40.)	920.	1240.
#83	Engineer-Administrative	4,560.	4,560.	380.	3040.	1520.
#90	Audit Fees	550.	750.		500.	250.
#92	Insurance & Bond Premiums	797.	1,100.	125.	851.	249.
#96	Office Supplies, Postage	367.	500.		330.	170.
#97	Office REnt	600.	600.	50.	400.	200.
#100	Professional Fees	8,825.	12,000.		8140.	3860.
#105	Repairs & Maintenance of Flood Protection Works	27,802.	30,000.	4850.70	21,309.70	8690.30
#108	Contingencies, unforeseen	000.	5,000.			5000.
#109	Reserve for Emergency Flood Repairs	000.	81,930.			81,930.

CD #08 Majestic Savings

130,000.

\$46,661. \$140,400. \$135,635.70 \$36,690.70 \$103,709.30

TOTAL EXPENDED THROUGH CURRENT MONTH \$ 36,716.70

Vouchers # 16675 thru # 16682

Amount to be transferred \$ 4,768.06 from checking to savings

Deposits \$150,403.76

8/4 transferred to savings \$10,000.00

Tel. Transfer Savings Balance 48,227.25

Checking Account Balance 150.00

Total CD's 1,570,000.

Checking Acct. Bal 7/31	= \$ 150.00
Tel Tfr Bal 7/31	= \$ 33,459.19
Matured CD United Bank	= \$ 130,000.00
Interest on above CD	= \$ 11,343.76
Royalty Ftn Sand	= \$ 9,060.00
	<u>\$ 184,012.95</u>
Purchased CD Majestic	\$ 130,000.00
August Expenses	= \$ 5,635.70

August 25 1981 cash bal \$ 48,377.25

cpa

McDonald, Halbig and Associates, Inc.

CERTIFIED PUBLIC ACCOUNTANTS
TELEPHONE 303-543-0516
SUITE 740 THATCHER BUILDING - P. O. BOX 918
PUEBLO, COLORADO 81002

August 21, 1981

Board of Directors
Pueblo Conservancy District
111 E. 5th St., P. O. Box 234
Pueblo, CO 81001

Ladies and Gentlemen:

We have prepared and enclose estimates of 1981 income and expenditures as compared with the 1981 budget and a proposed 1982 budget for the Pueblo Conservancy District. Since income and expenditures for 1981 to date have not been audited and those for the period to December 31, 1981 are estimated, we do not express an opinion on these items nor on the proposed budget.

Very truly yours,

McDONALD, HALBIG AND ASSOCIATES, INC.

W. G. McDonald, Jr.
W. G. McDonald, Jr., C.P.A. *gm*

WGM: jm
Enc.

PROPOSED 1981 BUDGET
PUEBLO CONSERVANCY DISTRICT
AUGUST 21, 1981

	1981 Budget	1981 Income and Expenditures (Estimated)	Proposed 1982 Budget
INCOME			
Interest	\$ 140,000	\$ 250,000	\$ 250,000
Lease	<u>400</u>	<u>400</u>	<u>400</u>
TOTAL INCOME	\$ <u>140,400</u>	\$ <u>250,400</u>	\$ <u>250,400</u>
EXPENDITURES			
Attorney fees	\$ 1,800	\$ 1,800	\$ 1,800
Directors' fees	2,160	1,740	2,160
Engineer and administration fees	4,560	4,560	4,560
Audit fees	750	600	750
Insurance and bonding	1,100	851	1,100
Office supplies, postage, etc.	500	450	500
Office rent	600	600	900
Professional fees	12,000	12,000	12,000
Repairs and maintenance - flood protection works	30,000	23,500	30,000
Contingencies	5,000	-	5,000
Emergency flood repairs	<u>81,930</u>	<u>-</u>	<u>191,630</u>
TOTAL EXPENDITURES	\$ <u>140,400</u>	\$ <u>46,101</u>	\$ <u>250,400</u>
EXCESS OF INCOME OVER EXPENDITURES	\$ <u>-</u>	\$ <u>204,299</u>	\$ <u>-</u>