

BOXELDER BASIN REGIONAL STORMWATER AUTHORITY
MEETING MINUTES
JULY 28, 2011

DIRECTORS PRESENT: Larry Lorentzen
Lee Tucker
Ken Sampley
Vic Meline
George Reed

DIRECTORS ABSENT: None

PRESIDING: Ken Sampley

ALSO PRESENT: Rex Burns, Authority Manager
Lisa Work, Recording Secretary
Greg White, Attorney
Todd Juergens, Larimer County Construction Manager
Andrea Faucett, Ayres Associates
Mark Peterson, Larimer County Engineer
Dave White
Jim Fry

1. Call to Order

The meeting was called to order by Director Sampley at 4:05 p.m.

Director Sampley is acting President Pro-Tem until after elections later in the meeting.

ADDITIONS OR DELETIONS FROM THE AGENDA

None

OLD BUSINESS

None

NEW BUSINESS

2. Review and approve minutes of June 23, 2011

Director Lorentzen requested correction to the minutes item #4 correct date of meeting from July 27th to July 28th.

Director Lorentzen moved to approve the minutes as corrected and Director Sampley seconded the motion. Director Tucker opposed. The motion passed 2 to 1. Director Reed abstained as he was not on the Board for the June meeting. Director Meline was not present at the June meeting.

Director Sampley introduced the new board members. Director Vic Meline is a joint appointment between City of Fort Collins and Larimer County. And Director George Reed is a direct appointment of Larimer County.

3. Public comment

Jim Fry of 6016 Trotwood Ct Fort Collins CO (unincorporated Larimer County) brought forward a document entitled Agreement for Professional Management Services entered into the 6th day of April 2009 between Boxelder Basin Regional Stormwater Authority and Local Government Solutions, LLC. On page 10 of the document, section 32, there is a provision for a Work Program Annual Review. Mr. Fry has reviewed the public information available but has not seen an annual review and hopes that plans are under way for that review to take place.

Director Sampley agreed that the review is due around April of each year. He stated that the review has been put on hold this year awaiting appointment of a full Board of Directors. Now that the full Board has been appointed, it is the intention of the Board to address that review.

Director Tucker wanted to know if an official resignation from taking the minutes was needed from Director Lorentzen. Director Sampley explained that the person serving as Secretary does not need to be the person taking the minutes but is the position responsible for keeping the records. Greg White Attorney clarified that the Secretary can delegate minute taking responsibility to another person. Mr. White mentioned that elections are the next agenda item and if the newly elected Secretary desires to delegate the minutes, the delegation and Board approval could happen at that time. Director Sampley and Director Lorentzen clarified that the minutes are posted to the website and that Director Lorentzen keeps the recordings of the minutes. Director Sampley further pointed out that a draft of the minutes is forwarded to each Board member to review for accuracy before the minutes are approved. Mr. White pointed out that once the physical minutes are approved they are the official record of the Board not the audio recording. Director Lorentzen noted that the Board has a resolution for the length of time recordings are kept.

4. Election of Authority Board of Director Officers

Director Meline requested that item 10 of the agenda be moved to item 11 of the agenda. Director Lorentzen seconded the motion. The motion passed unanimously.

Director Sampley explained that there are 3 positions in the Board by-laws: President, Secretary, and Treasurer.

Director Lorentzen nominated Director Sampley for Board President. Director Meline seconded the nomination. Director Sampley noted that he is newest member to the area but that he has 30 years experience in this field. The nomination passed unanimously.

Director Tucker nominated Director Lorentzen for the Secretary position. Director Meline seconded the nomination. The nomination passed unanimously.

Director Lorentzen nominated Director Meline for Treasurer. Director Reed seconded the nomination. The nomination passed unanimously.

Director Lorentzen moved to appoint Lisa Work as recording secretary. Director Reed seconded the motion. Director Tucker opposed. Motion passed 4 to 1. Manager Burns pointed out that a draft of the minutes is sent to the Board Secretary for review before they are distributed to the Board for final review. Director Reed asked who is responsible for back-up if Lisa Work is not available or present. Director Lorentzen stated that he will bring his computer so he can record the meeting if needed.

Director Sampley mentioned that the appointments will go through April of next year.

5. Coal Creek Flood Hazard Mitigation Project

Todd Juergens, Construction Manager with Larimer County Engineering Department presented the project update noting:

- Total reimbursement requests to date with FEMA for \$1,050,599.01. This is the total between both the CR 7 project and the dredging project.
- DOLA and FEMA are planning a site visit the 3rd of August at 11:00 am.
- The CR 7 Bridge project was issued a final completion today (7/28/11).
- The dredging project is moving forward and making good progress. The disposal area at Owl Canyon Road and I-25 is complete and in production. The dredge was set in water last Friday and is currently in testing mode. They have yet to have a full 24 hour day of production but they are getting closer.
- The discharge pipe is complete and being used. The drain pipe that returns decanted water is complete. No decanted water has been returned to the reservoir yet. Probably next week they will start returning water.
- The initial hydro survey is done and the first monthly progress survey will be completed next week. This will help generate the quantities for the month of July and also help to coordinate the computer software on the dredge with the survey to ensure accurate depths and elevations.
- The 2 easement agreements are yet to be completed. They are working with CDOT on the easement agreement. CDOT has started a construction project on a new maintenance facility that includes a paved access to their site. That paved access is on the alignment that the County intended to use to run the trucks in to begin the canal excavation. There is a meeting tomorrow with CDOT to work out an alternate easement. The alternative site will give the trucks a turn around on the south end of the property allowing access off CR 7 avoiding the new paved area. This plan is on CDOT's August agenda for approval. The railroad agreement has stalled a little bit with the attorney for North Poudre Irrigation. They still anticipate completion by the end of August.
- Clark reservoir dredging did begin the week of July 25th. They have moved about 2500 yards of material. The GPS system is installed on the dredge and is working accurately. By the middle of next week, they should be running 24 hours – 12 hour shifts 6 days a week. If needed a 7th day can be added to the schedule.
- The total project costs remains at \$5.2 million (including the \$650,000.00 contingency).

- All project costs are covered including the contingency.
- The current change order total is \$3,200 for washed rock bedding and \$169,900 for sheet piling.
- Key issues – need 3 – 4 days of productive dredging to determine how many yards a day / hour they are able to move with the dredge to project forward a completion date.

Director Reed asked about percentage complete of project. Mr. Juergens will add monthly percent complete based on time and percent complete based on dollars to the monthly item report. Director Sampley asked about retainage. He also requested if there is an item that appears to be considerably different than anticipated; it needs to be brought to the Board. Director Lorentzen asked about the State statute just passed regarding retainage. Mr. Juergens explained that the statute had not been adopted when the project was bid so it doesn't affect this project. Director Lorentzen asked how much of the project can be completed prior to getting the railroad easement. Mr. Juergens replied 99% of the inlet canal is outside of the railroad right of way so he doesn't believe there will be an issue. The excavation will begin at I-25 and work west starting at the downstream end and working uphill. That way the water will run away from the work and buy some time to get the railroad easement in place.

Director Meline asked if the contractor was aware of these easements when bidding the project. If so, there shouldn't be a change order for any extra cost of delaying until the fall. Mr. Juergens answered that the contractor was not aware but is now. The railroad easement is shown on the documents. The CDOT easement was intentionally not shown on the documents because they were so far from having something negotiated. The project can be built without the easement across the water district in the CDOT property. The easement is really a bonus to the project and gives the contractor the option to route trucks in a circular fashion and be more productive. The contractor did not bid with the assumption that they would have that easement available. The railroad easement is shown on the documents and when the contractor bid the project he did assume that easement would be in place. At this point Mr. Juergens assumes that easement will be in place before it holds up the project.

Director Sampley asked for clarification that there is not monetary incentive to complete the project early and Mr. Juergens stated that there is not.

Director Tucker asked when Mr. Juergens anticipates starting the canal work. Mr. Juergens stated that they are scheduled to start moving trees after the 15th of August. He explained there is a requirement in the contract that they were not allowed to do any tree removal before the 15th of August. Once the trees are removed, right around the 1st of September, they can start excavating material outside of the existing ditch alignment. There is a lot of material that can be removed while the ditch company is moving water without affecting their operation. The mass excavation doesn't have to wait for the canal to be shut down. The finish work in the existing canal alignment would have to wait. Director Tucker mentioned that North Poudre runs water in September. Mr. Juergens explained that there is work that can be done outside the low flow channel without affecting North Poudre's ability to move water.

6. Eastside Projects Progress Review

Manager Burns stated that Andrea Faucett with Ayres Associates will present an update of her work on these projects. Andrea distributed an update page on the Eastside Storage Facility and one on the Middle Basin Improvements project to the Board.

Director Sampley asked if this item needed to be renamed to reflect Eastside and Middle Basin improvements. Manager Burns explained that the 2 topics are starting to come together so the update will be on both at the same time. Director Sampley requested that the agenda item be combined and renamed Eastside and Middle Basin project report moving forward.

Andrea Faucett presented the project update noting:

- Starting with the Eastside storage facility progress. Since the last Board meeting there have been further discussions with ARDEC about the utilization of their site. Ayres did prepare a second option for them where the footprint of the dam is lower by deepening and excavating material from the center pivot. ARDEC still expressed concerns about moving the cattle over the lower dam as it is still 18 feet wide. They also have concerns about what to do with the cattle until the vegetation is re-established if that option is chosen. Manager Burns explained that this option would require the removal and replacement of top soil and the excavation of ARDEC's center pivot. This would create the problem of about a 3 year time frame of re-establishing grass and they are short on grass to graze their cattle. Ms Faucett stated the benefit of this plan is that the dam would be outside the footprint of their center pivot so it wouldn't require any adjustments to the operation of their pivot.
- Because of some of the concerns that ARDEC has expressed, Ayres has looked at the property to the South. This property is currently owned by the City of Thornton. Ayres has graded in a dam on that site as well. The benefit of this location is much more storage with minimal grading. The residual flows, 100 year discharge from the dam, whether on ARDEC or the Thornton property, is directly tied to the level of improvements needed in the Middle Basin. The larger the dam, the smaller the residual flows, and thus, the smaller the improvements needed for the Middle Basin. As Ayres has gotten into greater detail, the Middle Basin improvements are extensive and in some areas difficult to accomplish. The relationship of the dam size to the Middle Basin improvements is pushing Ayres to think that with the larger dam there will be less trouble accomplishing the goal in the Middle Basin to eliminate the westerly flow path. Manager Burns added that Ayres is discovering more about the hydrology everyday. And that in the extreme, we may be able to get enough storage to obviate the concerns that Timnath has and make it possible not open additional culverts. Ms Faucett distributed a map showing the improvements with the approximate sizes of the flood benches that are required. The original plan was to provide the flood bench on the westerly side where the current flood plain occurs. There are areas where, due to topography, it isn't physically possible to get a flood bench on the westerly side so they have had to be moved to the other side. On the exhibit is the approximate road crossing sizes that would be needed, not only to prevent overtopping of the road crossings, but to prevent the backwater that occurs from the undersized road crossing that exacerbates the spill with the westerly flow path. Another important discovery is the railroad crossing just south of County Road 58 and Mulberry Street needs to be improved in terms of its conveyance. These improvements are based on the ARDEC site and the highest residual flows. This exercise has not been done using the Thornton property.

- Progress has been made with the sizing of the Larimer Weld Canal Siphon. In a recent discussion with Mr. Sommermyer, the decreed flow is 1400 cfs and the normal flow is about 500 cfs but capacity is 900 to 950 cfs. They want the siphon designed for the 900 to 950 cfs. The sizing shown on the map for the siphon is 4 – 10X5 concrete boxes which is a very large structure. Director Sampley pointed out that when on the field trip the flow they saw was 450 cfs. And that they spill at 900 cfs.
- Ayres is moving forward to provide cost estimates to see an order of magnitude. This may push to other options such as not doing some of the upstream embankment improvements to the flood bench between County Roads 52 and 50 because there are not a lot of structures in that area and instead designing a channel that would convey that water downstream at County Road 52 back into Boxelder. This is a work in progress that is being fine tuned but the discussion regarding the size of the reservoir is critical to what is going on here.
- Director Sampley pointed out that on the map Ms Faucett handed out the scale is different for the different cross sections. Ms Faucett explained to look at the dimension given and not the scale. Director Sampley asked which cross section Ms Faucett said a bench couldn't be fit in. Ms Faucett pointed out the legend on the map to see Left Bank modification , Right Bank modification or Both and in some of those areas being modified in the Easterly bank the Authority doesn't have flood plain. In those areas additional easement would need to be purchased to make those modifications.
- Manager Burns discussed that alternatives exist to these improvements to achieve the same effect of moving water from the westerly flow path into the natural flow path of the creek. One possibility would be to move that water instead of trying to keep in the natural flow path for the whole distance but construct a facility parallel to the Larimer Weld Canal to move water from I-25 Easterly into the natural channel of Boxelder Creek. The result would be losing the mitigation of the flood flow on the westerly flow path between CR 54 and Larimer Weld Canal but gaining not having to do the channel improvements all through that distance. There are very few existing improvements in that area which would be damaged. The real improvements that would be subject to damage by the westerly flow path are south of the Larimer Weld Canal. Ms Faucett will be looking into that in more detail. Ms Faucett added that if this option is followed then road crossing improvements would not have to be done at CR 52 or CR 50 so first improvements would occur north of Larimer Weld Canal. Manager Burns acknowledged that there are a number of concerns that would need to be addressed in the process of looking at these new options.
- Director Meline asked where things stand with Timnath. Ms Faucett explained that Timnath's goal is to get the least amount of flow possible. If it can get to a point where it doesn't matter if the I-25 boxes are opened then it would be a great solution for everybody. Manager Burns explained that the Middle Basin improvements don't affect Timnath at all since the flow gets to them regardless of the way it is routed.
- Dave White brought up that most of the Middle Basin is in Timnath's future GMA so it would be in their best interest to have the flooding solved in this area. Mr. White mentioned that he thought Timnath has a proposal in to the County for a new GMA and Director Sampley added that proposal was complicated by Fort Collins/Timnath IGA. Mark Peterson confirmed that there is no formal agreement with Timnath and Larimer County.
- Ms Faucett stated that her intent is to come back in August with costs for two options. One is to not do the upper westerly flow path improvement and the other is to do what is seen on the map. Director Sampley clarified that what is in the plan is to do the improvements as shown on

the provided map and also requested a cost to not do the improvements north but do a channel that parallels the Larimer Weld Canal. These are based on the detention being at the ARDEC site with the lower sized dam. Ms Faucett agreed and said that in effect looking at worst case scenario in terms of cost for the Middle Basin. Director Sampley discussed that the costs will be needed for comparison when looking at other options. Director Lorentzen added that 4 cost options will be needed. Director Sampley stated that the options are: (1) the smaller dam on the ARDEC site with the facilities shown on today's map; (2) the smaller dam on the ARDEC site with the parallel channel along Larimer Weld Canal; (3) the larger dam on the Thornton property with the facilities shown on today's map; (4) the larger dam on the Thornton property with the parallel channel along the Larimer Weld Canal. It was further discussed that there may be more costs in the analysis phase but resulting in a better solution and better idea of which would be the least cost in the future.

7. Financial Report for June 2011

Manager Burns explained the numbers on the report represent the cash balances as of the end of June 2011 and further explained that most of the cash is encumbered for any expenses in the contingency fund for the Coal Creek project. Balance at the end of the year, if the contingency is used, would be in the order of \$60,000 or somewhat less than that.

Manager Burns explained to Director Reed how the financial information is reviewed at each month's meeting and that these monthly reports are prepared by the accountants for the Authority. He also explained that previous Boards asked that the balances in any FDIC insured institution not exceed \$250K so money is transferred accordingly.

Director Tucker and Director Sampley requested that the Board Packets be printed out and distributed at the meeting by Manager Burns so all the members will be looking at the same information at the same time. Director Lorentzen also requested that the information be projected on the screen for all to follow if needed.

Manager Burns presented the claims for June 2011 for a total of \$18,027.62. Director Meline moved to pay bills as listed. Director Lorentzen seconded motion. Motion passed 4 to 1 with Director Tucker opposed.

8. Final Audit Approval

Manager Burns distributed the bound audit report to the Board. Director Lorentzen pointed out that the expenditures during 2010 were under represented in the area of the work done by Ayres Associates for the boundary adjustment reflected on page 9 of the audit report. It appears that the \$67,000 doesn't show in the General Fund expenditures and must have gone to the Capital Fund. If it is in the wrong fund it needs to be corrected.

Director Sampley asked if the Board would like to approve the audit subject to the requested changes. Director Lorentzen would prefer to have the audit changed before approval. Director Sampley asked if there is a timing issue with approval. Manager Burns explained that the Board is required to produce an audit which has been done. Gregory White explained that the audit has

probably been filed with the State as the deadline is Sunday. Director Sampley asked if a filing can be amended but that answer was not known by Mr. White. Manager Burns is to talk with the auditor about correcting the report and amending the filing with the State.

Director Tucker asked why the use of the term District Management instead of Authority. Director Sampley requested the use of Authority instead of District when the corrections are made.

Director Reed had questions regarding the fees actual and budgeted. Director Sampley and Manager Burns explained those numbers and Director Lorentzen pointed out the cover letter on the audit for more explanation.

9. Managers Report

Manager Burns distributed his monthly Manager's Activity report to the Board outlining time spent on public relations activities noting that a monthly newsletter is sent out on the first day of each month. This month's newsletter has a story with pictures of the tour the Board took last week. The Authority Fee Structure Development has been pretty much finished up. The project samples have been placed in 3 ring binders. A final report will be presented at the August meeting and will be rolled into the financial information the Board has requested. The Board will need to make a decision regarding the final structure of the Authority fees. A recommendation of a tiered structure will be presented to the Board in that report.

Director Sampley requested a further work session on the fee structure. Manager Burns scheduled a work session August 11, 2011 at 2pm to address the fee matter and the financial models. Director Sampley requested that the work session be held at the Leeper Center.

Manager Burns discussed the Authority billing preparation and the work being done to compile the database. Toward the end of the year a notice will be sent to customers introducing the Authority as the billing agent and asking for any corrections needed in the database.

Manager Burns has been working with Ayres Associates on the East Side Storage and Middle Basin projects. He has also been working with ARDEC and the CSU real estate office on reviewing possibilities for storage construction on their properties and is beginning to investigate the property to the South owned by the City of Thornton.

The Board has requested that LGS prepare 8 financial models taking into account different project financial scenarios. LGS is preparing the models looking at pay as you go alternatives and debt financing alternatives.

Manager Burns continues to work with Timnath and supply them with information as it is developed on the East Side projects.

Manager Burns was contacted by a contractor to the Soil Conservation Service or NRCS. NRCS has been working on a project to delineate the floods that would result from a breach of each of the SCS dam structures North of Wellington. The project has been defunded but the data acquisition portion of the project has been funded. They have approached the Authority as they have \$200,000

to use to buy LIDAR flights which are done to produce topographic contours over a large area. Manager Burns asked Andrea Faucett to discuss the benefit to the Authority from these flights. Ms Faucett explained that the Authority will need FEMA level contour data for the Middle Basin and East Side Storage facility. Ayres Associates has a photogrammetry group and has asked to bid on the project. The price to fly the entire Boxelder Basin including Larimer County zone A flood plain was \$75,000 to obtain the LIDAR data. To do the processing to get the 2 foot contour data is \$5,000. Ms Faucett contacted the Town of Timnath and they are interested in obtaining the data. Ayres can also get orthorectified photographic data which is helpful in doing mapping and construction plans for \$15,000. This cost is for the entire basin of which the Authority would need a portion. Ms Faucett believes that NRCS would be paying for the actual LIDAR flights has requested an email from Steve Yokum starting negotiations with the other entities and explaining their expectations. Ms Faucett will keep the Manager Burns and the Board informed and explained that this is something the Authority would need to make a decision on as NRCS is moving forward. Director Lorentzen asked if a decision would need to be made before the next Board meeting as action could be taken at the August 11th work session if posted as a special meeting.

Manager Burns concluded his activity report stating that he feels the Board field trip organized by LGS was a success with people learning a lot about the projects.

10. Executive Session for the purpose of discussing the acquisition of property under C.R.S Section 24-6-402(4)(a) C.R.S. and discussing issues relative to matters that may be subject to negotiations, and /or instructing negotiators, under C.R.S. Section 24-6-402(4)(e) C.R.S. regarding the East Side Storage Project.

Director Sampley asked Gregory White if a Board majority is needed to move into executive session. Mr. White explained that 2/3 of the Board present is needed so will need 4 members to agree to move forward. Director Sampley polled the Board and all have agreed to move into Executive session at this time.

10. Adjournment

Meeting was adjourned after Executive Session at 7:05pm.

Approved this 25th day of August, 2011

