

BOXELDER BASIN REGIONAL STORMWATER AUTHORITY
MEETING MINUTES
November 29, 2011

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

DIRECTORS ABSENT: None

PRESIDING: Ken Sampley

ALSO PRESENT: Rex Burns, Authority Manager
Lisa Work, Recording Secretary
Gregory White, Attorney
Todd Juergens, Larimer County Construction Manager
Andrea Faucett, Ayres Associates
Martina Wilkinson, Larimer County Project Manager
Dave White
Mrs. Tucker
Bob Williams
Jim Fry

1. Call to Order

The meeting was called to order by President Sampley at 4:01 pm.

ADDITIONS OR DELETIONS FROM THE AGENDA

None

OLD BUSINESS

None

NEW BUSINESS

2. Review and approve minutes of October 27, 2011.

Director Meline moved to approve the minutes of October 27, 2011. Director Lorentzen seconded the motion. President Sampley polled Board. With all in favor the motion passed unanimously.

Director Tucker asked if the Budget Hearing was posted in the newspaper. It was confirmed that the notice had been posted on November 9, 2011 in the Coloradoan newspaper.

3. Public comment

None

4. Coal Creek Flood Hazard Mitigation Project Progress Review

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

- Clark Lake dredging is complete with final certified volume of 186,770 CY. The contract quantity was 170,000 CY.
- The sheet pile retaining wall, modifications to the CDOT drop structure, and rip rap along the drop structure are complete.
- Inlet canal excavation is ongoing. The mass excavation is completed between I-25 and County Road 7. They have started excavation west of CR 7 but stopped at the Railroad property line waiting for the permit.
- Roadway construction around the perimeter of Clark Lake is ongoing.
- The containment berm is completed around the south oil well.
- The Clark Lake Spillway Modifications should be complete as of today.
- The erosion control is in around the perimeter roads.
- Final stabilization and restoration of the dewatering/disposal site – just letting the ponds settle out and things dry out before equipment can be brought back in.
- The Railroad permit has been signed by the County and payment has been made. Insurance has been submitted to the Railroad. The County is just waiting on the Railroad to return an executed copy of the contract.

Director Lorentzen asked if the rest of the inlet canal can be excavated and topsoil done to get an as built survey before the end of the year. Mr. Juergens feels that the work will be done by the 15th of April 2012 when the ditch company needs to run water. He feels the work has lost a couple of weeks waiting for the railroad agreement to be in place so the schedule will now be weather dependent.

There was discussion related to any change orders or increased costs related to the railroad delay. Mr. Juergens explained that there is the potential for some delay costs but he doesn't know what that amount might be at this point.

Manager Burns requested the Authority be given a copy of the underwater survey. Mr. Juergens agreed to get a copy to Manager Burns and explained that the ditch company has a copy that was submitted to Steve Smith.

Director Tucker and Mr. Juergens discussed the material in the inlet canal and the surveys of the reservoir.

President Sampley requested an email be sent to Manager Burns when the County receives the signed contract from the Railroad.

Manager Burns presented a spreadsheet from Martina Wilkinson who explained that the numbers are an estimate for budget purposes. Manager Burns explained the Authority billing procedure/schedule which is the reason the invoice from the County that was received the 22nd is not being presented to be paid this meeting but will be presented at the December 15th meeting. There was also discussion related to adjusting the 2011 vs. 2012 budget numbers related to the date billed and paid. President Sampley requested clarification of the billing and contingency. Ms. Wilkinson explained that the invoices are for costs actually incurred. Manager Burns explained that he is in contact with the auditors and that the Authority can only pay for actual costs not estimated costs.

5. Eastside Projects Progress Review

Manager Burns explained that there was a second meeting with the City of Thornton and that they are not interested in selling the property or rights to the property. Ayres was then asked to look at a combination of sites or the Gray Lakes site.

Andrea Faucett with Ayres Associates presented a proposal for the Gray Lakes Site Analysis noting that:

- The proposal is broken into 3 phases with the idea that all 3 phases may not need to be completed.
- Phase 1 is the investigative phase of just the Gray Lakes site. The most important feature of Phase 1 is the hydro survey. Representatives from Ayres visited the site today and noted that the lakes are starting to freeze in the shaded areas.
- In order to move forward with the hydro survey, Ayres needs points of access and owners permission to run the air boat on Gray Lakes.
- The purpose of Phase 1 is to determine if this site will work and will there be enough storage to meet the goals of the Authority.
- If Phase 1 will work then there is not a need for Phase 2 of the proposal.
- If Phase 1 will not work then they would need to look at Phase 2 which is combination of the Gray Lakes site and a reduced ARDEC (medium ARDEC) facility.
- Phase 3 would be the geotechnical investigation of the Gray Lakes site.

President Sampley asked if there are other sites to investigate on the conceptual side. Ms Faucett explained that part of the issue with the other sites that have been looked at is an unwillingness of the property owners to work with the Authority. The owners of the Gray Lakes site have approached the Authority and expressed a willingness to work with the Authority. President Sampley asked about the owners of the Gray Lakes site. Manager Burns explained that he has met with the Day family and the Gray Lakes Ditch president and some of the shareholders and feels the only resistance would be to the channel proposed across the south side of CR 52.

Manager Burns explained that Nancy Hurt requested that the Authority build a case that she could take to the Board of Governors of the CSU system showing that the use of the ARDEC site is necessary because there is no reasonable alternative. Director Lorentzen asked if, with the reduced ARDEC site, the downstream structures ARDEC/CSU was concerned with will be removed from the flood plain. Manager Burns explained that those properties would be removed from the flood plain.

Director Reed asked about costs and remaining funds from another project. Ms Faucett explained that there are funds left that she will subtract from the total proposal when those numbers are available. She explained that she is asking for approval to move forward with Phase 1 of the proposal.

Director Lorentzen moved to approve the scope of work and proposed costs not to exceed \$25,117 less the money left over from the previous contract (from the Thornton study) for the Gray Lakes study. Director Meline seconded the motion. President Sampley polled the Board. With all in favor the motion passed.

6. Public Hearing on Authority Budget for 2012 and Supplemental Budget appropriation for 2011

Manager Burns explained that this is an advertised public hearing. There were 2 published advertisements in the Coloradoan on November 9, 2011. One for a supplemental appropriation for the 2011 Budget and the second is for a hearing on the 2012 Budget.

Director Lorentzen pointed out that the first line, first number is not the 2011 adopted budget number and that throws off the rest of the discussion. The number shown by Rickards was never updated after the Audit. The revisions need to be made before approvals can be given. Director Lorentzen requested that the budget be written in the same format as the financial reports from Rickards to include the end of year and beginning of the year balances and audited actual. Without showing the reserves, then the budget is showing expenditures higher than revenues with no place for the extra money to come from so showing a negative balance budget, which cannot be done. Also, Rickards needs to update the audited actual numbers.

Discussion moved to the line items of the proposed budget for 2012. Director Lorentzen and President Sampley requested the management cost in the general fund budget be set at \$75,000.

Gregory White noted that the revenues need to be more than the expenditures as the Authority cannot budget negatively. President Sampley suggested decreasing the right of way or project design line items in the capital projects budget. There was also discussion to decrease the project management LOMR line item to \$3,000 and the project management for East Side be decreased to \$15,000.

Bob Williams of 7056 Mount Adams in Wellington CO commented on the billing expense line item being doubled for 2012. President Sampley explained that an increase in that line item for 2012 follows if the Authority takes over the County billing.

Director Lorentzen moved to continue the public hearing on the Authority Budget for 2012 and the Supplemental Budget appropriation for 2011 to the December 15, 2011 meeting. Director Tucker seconded the motion. President Sampley polled the Board. With all in favor the motion passed unanimously.

Director Reed discussed having the County continue to bill the unincorporated area for one more year. President Sampley asked if the Authority had received an official letter from the County

turning the billing over to the Authority. Manager Burns explained that the IGA requires that if any of the entities are doing their own billing they need to send a letter to the Authority prior to November 15 but that this is the reverse case. Director Reed explained that Commissioner Lew Gaiter and County Manager Frank Lancaster committed to Director Reed that the County will continue billing for 2012 if asked by the Authority to do so. President Sampley and Director Lorentzen explained that the line item for the Authority should remain in the budget. Director Lorentzen asked that a resolution asking the County to continue the billing be drawn up for the December 15 meeting. President Sampley asked that a letter be sent to the County before the December 15 meeting clarifying that they are willing to continue the billing and then have a resolution for the Board for the December 15, 2011 meeting.

7. Financial Report for October 2011

Manager Burns distributed a spreadsheet to the Board members showing the Board's cash flow and resources from the end of October 2011 and projected expenses through the end of the year. The spreadsheet also includes information through the end of the second quarter of 2012.

Manager Burns summarized the report from Rickards. President Sampley asked if work on the financial models has been finalized. He also discussed putting the database and billing work on hold until more information is obtained regarding the County continuing the billing. He asked for clarification on Manager Burns' last month's timesheets in reference to the hours spent on 'Board meeting'. Director Lorentzen mentioned that there was a work session and a special Board meeting in addition to the regular Board meeting in October so that might account for the Manager's increased hours in that area.

Director Tucker asked that Rickards change the heading to district management vs. authority under expenditures. President Sampley agreed and asked again that Rickards change the heading.

Director Lorentzen moved to pay the claims for goods and services in the amount of \$17,269.34. Director Meline seconded the motion. President Sampley polled the Board. With all in favor the motion passed unanimously.

8. Manager's Report

Manager's Activity Report

Customer Contact Program

Location of Meetings for 2012

Manager Burns met with Mr. Vic Day who owns property between CR 52 and CR 50 and lives at CR 54 (Gray Lakes area). He also met with Shawn Hoff, a former Poudre River commissioner who now works for the 3 water districts. Mr. Hoff is a shareholder in the Gray Lakes ditch company. Manager Burns met with Rodney Nelson who is President of the Gray Lakes ditch company. Mr. Nelson asked Manager Burns and Ms. Faucett to attend the next Gray Lakes Board meeting December 13 to present an overview of the Authority plans for that site.

The Authority Fee structure development has been given a lower priority this month as it was determined that the same fees for the unincorporated areas in 2012 as in previous years will be used.

Authority billing preparation has been progressing. LGS has gotten cost estimates for the mailing and reproduction. Per the Board's request tonight that the County do the billing, this work will be placed on hold.

Manager Burns has been meeting with property owners, ditch company owners, and owners around Gray Lakes regarding the configuration of structures around that site. He has also met with Ayres engineers to discuss the possible configuration of a Gray Lakes site and possibility of delaying releases from the upper reservoir until close in flows from the lower water shed have been released from the lower reservoir.

Manager Burns prepared a final bound report for the financial scenarios that was distributed to the 3 member entities and their elected officials.

Manager Burns continues to keep in communication with Timnath's representative Don Toronto, sharing with him the proposal from Ayres that was presented to the Board tonight. The City of Fort Collins officials and Mr. Toronto met a couple of weeks ago. Some progress was made in regard to the IGA between the City of Fort Collins and the Town of Timnath that could be amended if need be or at least monies contemplated in the IGA could be used toward the Authority and the Authority's goal of building the East Side storage project. There is another meeting scheduled for December 8, 2012. President Sampley mentioned that Ayres may not have enough information ready to present at that meeting so that meeting may need to be rescheduled. Manager Burns explained that before the Authority gets too far along with an agreement with Timnath, the Authority needs to be pretty certain that they can provide the flows needed in the configuration of the East Side facility.

Manager Burns explained that in the process of completing the performance self evaluation, he put together a capital improvements program that is consistent with the work done for the financial scenarios.

President Sampley asked about the meeting location changes for 2012. Manager Burns handed out a proposed schedule for meetings in 2012 at the Larimer County building. The meeting rooms in the County building have better facilities for audio/visual for the public in attendance. Director Meline asked if the meeting date can be changed from the 4th Thursday of the month. President Sampley asked Manager Burns to look into availability of meeting rooms on the 4th Wednesday of the month.

9. Evaluation of Performance of Local Government Solutions, LLC

Executive Session for the purpose of discussing the performance of Local Government Solutions, LLC 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.

Director Lorentzen moved to go into Executive Session for the purpose of discussing the performance of Local Government Solutions, LLC 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. Director Reed seconded the motion. President Sampley polled the Board. With all in favor the motion passed unanimously. The Board went into executive session at 6:55 pm.

President Sampley reconvened the Board meeting.

Director Reed moved that the Board of Directors has the duty to assure that it has the most effective management available and within the budget. To accomplish this, the Board is notifying LGS,LLC that the contract is terminated March 1, 2012 and that an RFP will be published as soon as possible and all proposals will be fairly considered. Director Meline seconded the motion. President Sampley polled the Board. With all in favor the motion passed unanimously.

10. Adjournment

Director Lorentzen moved to adjourn. Director Reed seconded the motion. President Sampley polled the Board. With all in favor the motion passed. The meeting was adjourned at 7:52 pm.

Approved this 15th day of December, 2011

