

RECORD OF PROCEEDINGS

100 LEAVES

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS  
OF THE PUEBLO CONSERVANCY DISTRICT

June 9, 1948

A special meeting of the Board of Directors of the Pueblo Conservancy District was held at the office of the District, 113 West Fifth Street, at 2:00 P. M. o'clock on June 9, 1948.

Directors Present: John M. Holmes, W. T. Mathis and Frank Pryor

The minutes of the meeting of March 31, 1948, were read and approved by all present.

The following Vouchers were read and approved:

11257	J. E. Creel, Co. Treas.	1.50
11258	James Froney	15.00
11259	Earl H. Dunlap, Sheriff	3.25
11260	Mountain St. T & T Co.	3.00
11261	J. C. Creel, Co. Treas.	1.50
11262	A. G. Kochenberger, County Clerk	6.25
11263	J. E. Creel, Co. Treas.	153.28
11264	Charles M. Rose	250.00
11265	Mountain St. T & T Co.	1.17
11266	J. C. Creel, Co. Treas.	11.90
11267	Charles M. Rose (Apr)	100.00
11268	Elbert D. Greene (Apr)	194.30
11269	Collector Internal Revenue	30.70
11270	Elbert D. Greene	50.00
11271	J. E. Creel, Co. Treas.	9.85
11272	First National Bank	20,000.00
11273	First National Bank	10,687.50
11274	Mountain St. T & T Co.	1.76
11275	Greene & Company	125.00
11276	Charles M. Rose (May)	100.00
11277	Elbert D. Greene (May)	199.50
11278	Collector Internal Revenue	25.50
11279	Elbert D. Greene	50.00
11280	J. E. Creel, Co. Treas.	1.00
11281	Pueblo Title Guaranty Co.	39.00
11282	Blackburn Engineering Co.	4.00
11283	J. E. Creel, Co. Treas.	1.00
11284	John M. Holmes	10.00
11285	W. T. Mathis	10.00
11286	Frank Pryor	10.00

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Upon motion of Mr. Mathis, seconded by Mr. Pryor, the sale of Certificates listed below was approved because they were sold in a manner believed to be in the best interest of the District and the property holder:

Receipts Pages 358 -- 369 inclusive		
Certs Nos. 98755; 99979; 101039	14.76	Arthur Baros
97650; 98800; 100035	187.70	E. T. Pate
94725 (Partial)	25.00	Izzi - Rocco
75047	5.34	R. B. Thurman
92831; 94649; 96292; 97570;		
98710; 99961; 101024; 102330	155.60	J. J. Andrews
85433; 88081; 90844; 92832;		
94650; 96293; 97571; 98711;		
99962; 101025; 102331	247.46	J. J. Andrews
98922	17.98	Frank Herrera
90861; 92852; 94665; 96308;		
97585; 98752; 99976; 101036;		
102342	50.63	Wm & Carl A. Milne
92853; 94666; 96309; 97586;		
98753; 99977; 101037; 102343	33.09	Wm & Carl A. Milne
99964; 102332	2,705.74	Samuel S. Ginsberg (Vail Hotel)
100128	17.98	Frank Herrera
94725 (Balance)	36.62	Izzi-Rocco

The decision of the District Court regarding validity of Conservancy taxes on property acquired by Treasurer's Deed issued on County Tax Certificate was discussed. Attached hereto and made a part hereof are newspaper clippings regarding the decision. The Secretary reported that Charles M. Rose, who is taking an appeal of this decision to the Colorado Supreme Court, hopes to be able to argue the case before the Court in September.

The Secretary called attention to the recent purchase of property described as Lots 12-13- Block 59, Hobson's Sub., by Frank Masciantano. The seller, Mrs. Fannie Friedman, agreed in January that if we withheld applying for a Tax Title on this property she would pay the Conservancy taxes from the proceeds of a pending sale. Instead, the property was sold subject to unpaid Conservancy taxes. Mr. Pryor made a motion which was seconded by Mr. Mathis that the Secretary proceed at once to make application for Tax Title.

The Secretary called attention to the fact that there are a number of properties on which there are delinquent Conservancy assessments represented by Certificates of Purchase and that in his opinion the owners would pay all of these taxes if they were advised that if they failed to do so within six months, the District would apply for Tax Titles.

The Secretary believed the best plan to put into operation regarding these properties was to ask each owner to agree to pay the delinquent assessments on or before six months and to agree to pay interest @ 6% per annum on the amount involved from the date of the Agreement until paid.

It was the thought of the Secretary that during the six months period each owner could raise funds to pay the amount stated in the Agreement. If an owner fails to sign the Agreement, the District will apply for Tax Title without delay. If the owner signs the Agreement and fails to pay on the due date stated in the Agreement, the District will without notice apply for Tax Title.

Mr. Pryor moved and Mr. Mathis seconded the motion which was unanimously carried that the Secretary try the plan in connection with all properties where it seemed feasible.

The Secretary reported that during the past thirty days, on various occasions, Engineers from the Army Engineer's headquarters at Albuquerque, New Mexico, had called on him and reported that all together eleven representatives of that office had called. Some of them merely wanted to get an idea as to what records were available in the Conservancy District files while some of the men were here for the purpose of making topographical maps of the area just east of the Santa Fe Avenue bridge.



Engineers Francis Elmore and C. F. Gould started on May 25th to superintend digging of test pits in the dirt fill on the levees back of the concrete slabs. The labor for digging these pits is being furnished by the Conservancy District through the Blackburn Engineering Company. At the time of this meeting (June 9th), one pit had been completed. No report as to the findings has been made to the Conservancy District nor have any reports been made to the District as to what data any of the Engineers have acquired.

S. F. Elliot, as Engineer for the District, is keeping an eye on the activities of the crew digging the test pits and the Secretary is also making inspections of the operations as they proceed.

There being no further business, the meeting adjourned.

  
Secretary

Read and approved:

*Chiettain May 7 1948*  
**District Judge Rules Against Pueblo Conservancy District**

District Judge Herry Leddy Thursday exposed a crack in the financial structure of the Pueblo Flood Conservancy district, the agency created after the devastating 1921 flood to harness the unruly Arkansas river.

In what was generally regarded as a test case, Judge Leddy cancelled the conservancy district's lien against a parcel of real estate which the Florman Manufacturing Co. had acquired by redeeming delinquent general taxes.

**RULING SET ASIDE UNPAID ASSESSMENTS**

The ruling set aside not only unpaid conservancy district assessments for the years 1926 thru 1946, but also those which would have fallen due annually against the property from 1947 until 1955.

Leddy's ruling was in line with a recent supreme court decision holding that lien of general taxes is superior to that of special assessments. Effects of that ruling on municipally backed pavement and sewer district assessments are already well known, but the Florman case was the first testing the status of the conservancy district assessments.

Judge Leddy said in a written opinion that he was "reluctant to hold" that the high court ruling applied in the conservancy district's case, but added that the conclusion was inevitable under a clause in the supreme court opinion which said: "Thru no visitation of special improvement tax shall general tax levies be impaired."

Charles M. Rose, attorney for the conservancy district, had argued that it was an entity of the state government created by the legislature for statewide benefit and that hence its assessments were on a par with general taxes and not comparable to the levies

of sidewalk districts and the like, where only local benefits resulted.

That the Florman case was primarily a test was indicated by the fact that assessments involved amounted to only approximately \$250, probably no more than the cost of the law suit. Attorneys believe that the ruling, particularly if allowed to stand unchallenged or affirmed by the supreme court, will result in the filing of a wave of quiet title suits to cancel conservancy assessments against dozens of real estate parcels acquired by tax deed.

It was impossible immediately to estimate the number of parcels acquired by tax deed under circumstances similar to the Florman transaction, but there obviously are many because the flood bankrupted numerous property owners, forcing them to let real estate go for taxes.

**PROPERTY NEVER RETURNED TO THE TAX ROLLS**

In most cases, the district collected annual assessments from the new owners and maintained its supposed lien against property which never returned to the tax rolls. Cancellation of the supposed lien while detrimental to the financial structure of the conservancy district, probably will result in some long-idle property returning to private ownership and the general tax rolls.

The liens were part of the security behind a bond issue which originally totaled four and one-half million dollars, floated to finance the Pueblo flood control project. The bonds are due to be paid out in 1955.

The Florman property involved in the test case lies near its plant at 190 Central Main. It became tax delinquent in 1922, over three years before the conservancy assessments (none of which was ever paid) were levied against it. It lay idle until the Florman Co. redeemed the general taxes recently and went to court to cut off the conservancy assessments.

**CONSERVANCY TAX DECISION MAY BRING FLOOD OF SUITS**

Close on the heels of a successful test case, a second suit to cancel Pueblo Flood Conservancy district assessments against real estate acquired by general tax deed was filed in district court Wednesday.

The new action, seeking to nullify the conservancy district's lien against four lots at Ninth and Craig, was filed by Bert Moore, local real estate broker, not long after the Florman Manufacturing Co. successfully prosecuted the same type of suit in the court of Judge Harry Leddy.

Leddy's opinion outlawed not only delinquent, but also future, conservancy district assessments against the Florman tract, and Moore similarly asked that he be relieved of delinquent assessments to 1931 and future levies thru 1955.

Moore recited in his complaint that general taxes on his tract became delinquent in 1930, the property remaining off the tax rolls until he acquired a general tax deed on May 12, 1948. The latter date is just five days after Leddy's original opinion.

**BLOW MAY NOT PROVE CRIPPLING ONE, BELIEF**

Attorneys predicted after the Florman suit, which was generally regarded as a test case, that numerous suits for similar relief would be filed since aftermaths of the 1921 flood included many tracts under the conservancy district's going to tax sale.

While the ruling, if sustained in the supreme court, will tend to weaken the financial structure of the conservancy district, it is not believed that the blow will be a crippling one. The disputed assessments were regarded as part of the security behind bonds issued

to finance flood protection, but the district's general financial solvency is reportedly sufficient to assure full repayment of the bonds.

Meantime Charles M. Rose, attorney for the conservancy district, took steps to bring the Florman case before the supreme court, and there was a possibility that the Moore action would be consolidated with the earlier one for review by the high tribunal.

The principal question Leddy was called upon to decide was whether the conservancy district fell within the scope of an earlier supreme court ruling in which the lien of general taxes was held to be superior to those of an improvement district—a sidewalk district, in the specific case decided.

Leddy held that such was the case, despite Rose's contention that conservancy district assessment should enjoy parity with general taxes because the levies paid for statewide, and even national

*Chiettain  
 June 3 1948*