

**MINUTES OF THE NOVEMBER 19, 2014  
REGULAR MEETING  
OF THE PUEBLO CONSERVANCY DISTRICT**

**Directors Present:** Paul Willumstad, Matt Cordova, Dennis Maroney, Bill Alt, Corinne Koehler, Ron Serna

**Also Present:** Administrator Rick Kidd, Counselor Joe Bower

**Guests:** Kim Kock, NorthStar Engineering  
Earl Wilkinson, Pueblo Director of Public Works  
Shanna Lewis, Colorado Public Radio

With a quorum present, the regular meeting of the Pueblo Conservancy District was called to order at 10:30 am.

**Public Forum:**  
None

**Minutes:**  
The minutes of the October 22, 2014 regular meeting were reviewed. Alt moved to approve the minutes. Motion passed.

**Treasurer's Report:**  
The October 2014 accountant's compilation report was presented for review. Kidd reported that there is approximately \$94,000 in a money market account at Stifle Nicolaus and recommended that it be reinvested into securities at Stifle Nicolaus. Cordova so moved. Motion passed. Cordova moved to receive and file the accountant's report. Motion passed.

**Bills** – The following bills were posted for review and approval:

\$ 350.00	MBD&G, Monthly Accountant fees
\$ 500.00	Banner and Bower, Attorney fees
\$ 600.00	Kidd Engineering, Administrator/Engineer fees
\$ 525.00	Kidd Engineering, Levee Construction Pre-proposal and Evaluations
\$ 350.00	Kidd Engineering, October 16 Special Meeting Coordination, etc.
\$ 184.70	Alt, Director's Fee
\$ 184.70	Bernard, Director's Fee
\$ 184.70	Cordova, Director's Fee
\$ 184.70	Koehler, Director's Fee
\$ 184.70	Maroney, Director's Fee
\$ 184.70	O'Hara, Director's Fee
\$ 97.44	Bud O'Hara, Mileage to Fountain Creek TAC and Storage Task Group Meetings
\$ 184.70	Phillips, Director's Fee
\$ 184.70	Serna, Director's Fee
\$ 184.70	Willumstad, Director's Fee
\$ 9,987.50	NorthStar Engineering, Task C Arkansas Levee "As-constructed" Survey and Conditional Evaluation Contract
\$ 9,231.00	NorthStar Engineering, Task D Design, Permitting and Regulatory Approvals Contract
\$ 9,324.00	NorthStar Engineering, Task E Construction Support Services, Geotechnical Testing, Staking, As-Builts Contract

November 19, 2014 Minutes, Page 2 of 4

\$ 650.00	NorthStar Engineering, Maintenance Fund Assessment Support
\$ 88.02	Pueblo Chieftain, Construction RFQ Ad
\$ 75.00	Southeastern Colorado Heritage Center, Additional Meetings

Maroney moved to pay the bills. Motion passed.

**Arkansas River Levee Construction Contract, NorthStar** – Kock reported that there had been some feedback concerning the evaluation and award process for this contract. The proposals were evaluated with qualifications being rated at 65 percent and the pricing at 35 percent. The request for proposals and evaluation were based upon a Denver Water Board contract, and others. Wilkinson confirmed that the City has also used a similar process. The notice of award to ASI Constructors was issued at the last Board meeting. The pre-construction conference was held on November 17<sup>th</sup>. The signed contracts have not been received from ASI yet. ASI, NorthStar and the District are working on a final agreement with the Union Pacific Railroad for access. The City of Pueblo has signed an agreement for the District to stockpile materials on City property. The original indication from the Army Corps of Engineers (ACE) was that this work could be done under their nationwide permit and as a continuation of their agreement with the City of Pueblo. Subsequent to the solicitation, they have decided that there needs to be a new permit for the Levee work and that the State Historic Preservation Officer (SHPO) has to sign off on the proposed work and agreements. They believe there is a potential that the Levee could be listed as a structure of historical significance. NorthStar, ACE, FEMA and Kidd were in a conference call with SHPO on November 12<sup>th</sup>. The SHPO said that the Levee is not listed but it is eligible for listing on the historical register. This project will have an adverse affect on the Levee because it is being lowered. They understand the need for this project, but want mitigation to help compensate for the historical loss. The documentation that NorthStar and Kidd have developed and the original documents that the District has may be considered as part of the mitigation. SHPO was not real concerned about the mural artwork, but acknowledged its significance. NorthStar and Kidd are to continue working with ACE to develop a mitigation plan and then report to SHPO. It is anticipated that they will provide their response the first week of December. The Corps of Engineers recommends that we pursue getting approval from SHPO for the entire project, not just the area of the current construction project. This will require more work right now, but we will not have to go through the process again if we are successful in getting approval within a time frame reasonable for this year's construction season. Therefore, the construction will be delayed until December. In the interim, ASI will do some site preparation for their access and haul road, staging area, and office area. The target is to have all agreements in place by the second week of December. Scheduling has been discussed with ASI and the Corps. We will work out the area at the south end of the project first so that we can get out of the River channel. Then the northern portion of the project area will be worked out progressing to 11<sup>th</sup> Street. This will allow us to extend the construction period into April. Aerial photography was done about two weeks ago. The bonding company for ASI is concerned that we are asking the contractor to provide payment and performance bonds, but that the District does not have their funding in place yet. So they are being reserved about providing bonding.

Due to the potential variability of construction conditions and the already shifting construction period, ASI requested consideration of changing the liquidated damages clause and amount. The clause is a part of the EJCD documents used and the damages were \$2000 per day for the work on the water side if not completed by February 15, and \$1000 per day for the balance of the work to be completed by March 15. Bower said that stated liquidated damages circumvents having to document actual damages in the event that the work is not completed by the specified date. Therefore he recommended keeping the clause. However, there could be some flexibility in the dates.

Kidd said that with the number of trucks that will be hauling material out of and in to the project area the railroad may require more flagging than just when ASI is mobilizing and demobilizing.

November 19, 2014 Minutes, Page 3 of 4

**Nomination Committee** – Koehler reported that she was working with Bernard on this. There was no report yet other than that Willumstad had agreed to serve as the President for another year. Willumstad recommended adding the office of Vice President and that office terms be limited to two years.

**ABC Bank Loan** -- Bower reported that work on the documents is continuing. David Lytle is working to prepare an opinion of the tax status for ABC Bank. Lytle's fee is expected to be in the range of \$6000, whereas fees in the range of \$25-50,000 are common for what is charged by attorneys for this type of opinion.

**Fountain Creek Watershed and Greenway District** – Maroney reported that El Paso County's failure to pass the drainage district has complicated the process to get improvements designed and installed. There was a group of about 225 volunteers who cleaned up trash along Fountain Creek through Pueblo. The State Engineer has determined that water transpiration losses on Fountain Creek should be taken out of the native losses instead of being allotted to transmountain diversion water. Their next meeting is to be held in Pueblo on December 12<sup>th</sup>. Maroney is to get information to Kidd so that he can send it out to the Board.

**Fountain Creek Watershed Technical Advisory Committee** – Maroney said that this meeting was held on November 5<sup>th</sup>. There was not any discussion about the El Paso County Water Authority. The water quality data on Fountain Creek was 2009 and previous years. So there is not yet any published data for water quality after the forest fires. The State Engineer is requiring augmentation water plans for debris basins. This impacts the Pueblo Conservancy District due to increased sediment going into the Arkansas.

**President's Report** –

Willumstad extended HARP's Christmas party invitation to the Board. He asked Kidd to update the Board membership listing with everyone's contact information. He asked that Earl Wilkinson, Kim Kock, and Mike Cuppy also be added to the list.

**Administrator's Report-**

Kidd obtained the City's form for their public forum discussion. He will retype the form to fit the Pueblo Conservancy District. The agreement with the City for the prior assessed maintenance fund program was for them to pay \$77,500 in January 2015. There was not a payment required in 2014.

**2015 Budget Discussion** – Kidd presented the draft budget that he had prepared. Maroney expressed a concern that there is not more funding planned for work on Wildhorse Creek. Kidd is to put in \$100,000 for Wildhorse Creek Levee design and construction.

**11<sup>th</sup> Street Bridge** – Wilkinson said that it will be next spring before this project is out for construction. It is anticipated that this will have a six month construction period.

**Maintenance Fund Assessment Certification to the County Treasurer** – The certificate to the Treasurer was delivered on October 24. Kock said that the actual amounts assessed to the properties should be finalized by the end of next week.

**Old Business:**

**Surplus Properties** – Move to discussion at the next meeting.

**New Business:**

Willumstad suggested forming an ad hoc committee to study maintenance fund assessments against non-profit entities.

Alt asked if there is a private land owner that could cause problems with the work that the District is doing. Kidd responded that the current construction work is being done on District

November 19, 2014 Minutes, Page 4 of 4

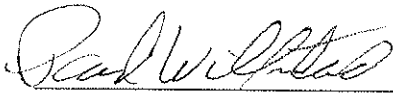
owned land. Work on Wildhorse Creek will be on City and District owned land, but there may be a need to acquire additional right of way.


Kidd handed out the 2015 meeting date schedule.

**Other Business:**

There being no further business to come before the Board, the business meeting was adjourned at 11:48 am. The next regular meeting date will be December 17, 2014, at 10:30 am. .

APPROVED:

  
\_\_\_\_\_  
Paul Willumstad, President

  
\_\_\_\_\_  
Donna Phillips, Secretary