

MINUTES OF THE NOVEMBER 20, 2013
REGULAR MEETING
OF THE PUEBLO CONSERVANCY DISTRICT

Directors Present: Paul Willumstad, Donna Phillips

Also Present: Administrator Rick Kidd, Counselor Don Banner

Guests: John Kenney, Colorado City Representative
Kim Kock, NorthStar Engineering
Mike Cuppy, NorthStar Engineering
Larry Daveline and Joanne Cook, MBD&G, PC-District's Accountants

Matt Cordova was out of town. It was decided to have Donna Phillips participate via speaker phone rather than to delay the start of the meeting. With a quorum present, the Pueblo Conservancy District regular board meeting was called to order at 10:41 am.

Minutes:

The minutes of the October 23, 2013 regular meeting were reviewed. Phillips moved to approve the minutes. Motion passed.

Treasurer's Report:

The October 2013 accountant's reports were presented for review. Phillips moved to receive and file the accountant's reports and pay the bills. Motion passed.

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

\$ 425.00	Black Hills Energy, Lake Runyon electricity
\$ 350.00	MBD&G, Monthly Accountant fees
\$ 500.00	Banner and Bower, Attorney fees
\$ 39.31	Banner and Bower, Remounting of revised flood plain map
\$ 600.00	Kidd Engineering, Administrator/Engineer fees
\$ 187.50	Kidd Engineering, Bustillos and Arkansas Levee Assessment
\$ 184.70	Cordova, Director's Fee
\$ 184.70	Phillips, Director's Fee
\$ 184.70	Willumstad, Director's Fee
\$ 990.00	Boundaries Unlimited, Bustillos south property boundary survey

President's Report –

Willumstad received a call from Kathy Duran. He told her that the District had ordered a survey to determine the location of the Bustillos' south property line.

Administrator's Report-

Comments were deferred until the orders of business.

Banner reported that he had presented the draft budget to Judge Alexander and updated him on the District. Judge Alexander was appreciative of the effort to keep him informed.

Capitalization Policy – Larry Daveline explained that the District had been able to receive exemptions from audit because their receipts and expenditures have been less than \$500,000. This year the receipts have exceeded this limit and auditing will now be required per the

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Colorado Audit Law. His firm cannot do the audit, but they will prepare the financial reports and footnoting required for transmittal to a firm to perform the audit. After discussion, Phillips moved to retain the firm of Garren, Ross and DeNardo to audit the District's financial records for 2013. Motion passed. Daveline said that it would probably be the end of April or into May before they will have the records ready for audit. Kidd is to request a copy of their standard engagement agreement.

Banner presented a draft capitalization policy for the District to consider adoption. The audit procedures require that there be a policy in place. Willumstad read the draft policy. Phillips moved to approve it. Motion passed.

Old Business:

Bustillos Residence – Kidd reported that Boundaries Unlimited completed the property line survey and provided a drawing of the garage and retaining wall with respect to the property line. The garage is on their property, but the retaining wall/fence angles and encroaches on District property. Kidd is to draft a letter addressing the Bustillos' complaint, the survey, and the District's conclusion. Banner has sent a letter to the Union Pacific notifying them of the problem and stating that the District was willing to grant the Bustillos family license to enter onto District property to the extent required for them to make repairs to their garage and wall.

New Business:

2014 Maintenance Fee Assessment – Kock reported that the 2014 assessment amounts should be determined in the next few days. NorthStar has been in consistent contact with the County and it looks like we will be able to do assessments against the State Assessed properties this coming year. Banner and Kock both said that the Assessor and Treasurer offices have been extremely helpful in this process.

2014 Assessment Resolution – The District is required to submit an annual assessment statement to the Treasurer. Banner had prepared a statement and circulated it via email. It was approved by the Directors and signed by Willumstad. Phillips moved to reconfirm and ratify the prior approval. Motion passed.

2014 Budget – A draft budget was provided in the Director's packets. Banner had previously wondered if there was a need for bonding of the Board of Directors and that be added into the budget. Upon further review of the statutes he does not believe that is necessary. The only employees that the District has are the Directors. No one has access to District funds without Board action. Therefore, he concludes that a corporate surety bond is not necessary.

Banner mentioned to the Court that as the levee assessment and repair work progresses the Board will be doing more work than in the past. Willumstad did not feel comfortable in discussing increasing the Director's compensation rate without the full board in attendance. Banner recommended doubling the line item for the Directors' fees as a budgetary matter.

Arkansas River Levee Survey – Banner redrafted the original NorthStar agreement to increase their liability. NorthStar is in agreement with those changes. There was no change in the amount of the previously approved contract. Willumstad signed the agreement.

Kock reported that they have begun the work. They are in the process of layout a baseline and control along the top of the Levee from 11th Street Lake Runyon, and also a baseline along the bike trail. NorthStar has completed about 2000 lineal feet of the baseline and condition survey work. Their basic work schedule is three days per week in the field and two days in the office.

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They have stenciled stationing markers on the parapet wall along the top of the Levee. The railroad has been very good to work with. NorthStar is trying to schedule a meeting with CTL Thompson and the Union Pacific next week to discuss coordination of geotechnical borings and the space requirements of the drill rig.

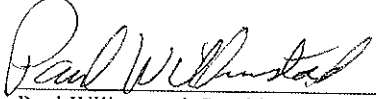
HARP Foundation Appointment – Kidd reported that Louie Carleo has been the District's representative to the HARP Foundation. His appointment expires the end of November. This is a three year term and Carleo is interested in continuing on the Foundation. Phillips moved to appoint Louie Carleo as the District's representative to the HARP Foundation. The term will expire November 30, 2016. Motion passed. Kidd is to invite Carleo to come meet with the District next year.

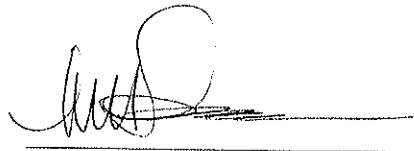
December Meeting Date – Due to scheduling conflicts it was agreed to move the December meeting to the 9th at 2:00 pm. This meeting will also be the final 2014 Budget Hearing.

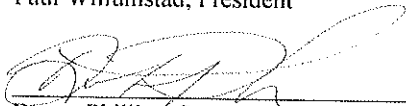
Banner stated that Statute requires that everything the District has must be available for viewing by everyone in the District. He suggested that the District consider hiring a firm to develop a web site and then the minutes and budget could be posted to that web site. We could also include some history of the District and other information as desired. Kock said that NorthStar is working with Dale Creswell to develop a new web site for them. They are paying \$2100 for the design. It was decided to insert \$2500 in the draft budget. Banner is to get some proposals for District consideration.

There being no further business to come before the Board, the business meeting was adjourned at 11:30 am. The next regular meeting date will be December 9, 2013, at 2:00 pm.

APPROVED:


Paul Willumstad, President


Matt Cordova, Treasurer


Donna Phillips, Secretary

PUEBLO CONSERVANCY DISTRICT

NOVEMBER 2013 - DECEMBER 2013

RECEIPTS

VENDOR	ITEM	AMOUNT
Stifel Nicolaus	Interest Payment	\$ 862.24
Pueblo County Treasurer	Maintenance Fund Assessment	\$ 15,654.66
		\$ 16,516.90

DEBITS

VENDOR	ITEM	AMOUNT	CHECK	CODE
Black Hills Energy	Electrical Billing	Prepaid		105
MBDG, PC	Bookkeeping	\$ 350.00	180	90
Don Banner - B&B, PC	Attorney Fees	\$ 500.00	181	80
	E-Filing Fees	\$ 6.00	"	96
Kidd Engineering	Engineer/Admin Fees	\$ 600.00	182	83
	Presentation to Levee Mural group	\$ 345.50	"	100
Director Cordova	Fees	\$ 184.70	183	81
Director Phillips	Fees	\$ 184.70	184	81
Director Willumstad	Fees	\$ 184.70	185	81
NorthStar Engineering	Appraisal Phase III Services and 2014 Assessment Schedule	\$ 2,750.00	186	100
	Arkansas Levee "As-Constructed" Survey and Conditional Evaluation Contract	\$ 24,597.50	"	105
		\$ 29,703.10		

Bustillos

From: "Donald J. Banner" <dbanner@comcast.net>
To: "Cordova, Matt" , "Phillips, Donna" , "Willumstad, Paul"
Cc: RKidd <rickkidd@kiddengineering.com>
Subject: Bustillos
Date: Nov 25, 2013 6:47 PM

My letter to UP got a reply. Received a call today from Alice Despigter, the Denver Service Unit Attorney for Union Pacific. She said that she will be in trial starting Monday for one week and then respond to my letter.

She went on to say she may need a site visit to fully grasp the situation. She also said that her boss, who is out of state, is very unflexible, but that she is flexible. Whatever is decided she said had to a) insure that the track bed wasn't disrupted and b) be at the homeowners sole cost. She said that UP would consider granting the homeowner a license for access, once they understood how that would help and assured themselves it wouldn't hurt the track bed.

She said the Bustillos family should contact their homeowners insurance and file a claim. The fact that a good part of their retaining wall is on our property may make that even more difficult for them.

The Bustillos family probably has no idea that the cost to litigate a questionable claim is way more expensive then just fixing the problem at their expense.

I'll keep you informed.

Looks like we will be able to have a Maintenance Fund Assessment for State Assessed property this year.

Don

**BANNER &
BOWER, P.C.**
ATTORNEYS AT LAW

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P. O. BOX 583
PUEBLO, COLORADO 81002-0583
dbanner@bannerbower.com
PHONE: (719) 544-5086
FAX: (719) 544-2544

DONALD J. BANNER

NOVEMBER 20, 2013

Ms. Josephine Bustillos
605 E. "B" Street
Pueblo. CO 81003

Re: Union Pacific Track/Damage Issue

Dear Ms. Bustillos:

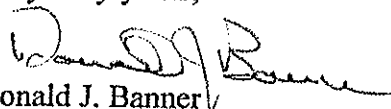
I am the attorney for the Pueblo Conservancy District. Your family has met with the District Directors concerning the problems caused by soil migration from the Union Pacific Track bed adjacent to your property. The District has investigated the issue by sending our engineer to your home, communicating with the City of Pueblo Public Works people, and hiring a professional land surveyor to determine where your property boundary was located with reference to land owned by the Pueblo Conservancy District.

Enclosed please find a copy of my letter of today to the Union Pacific. Attached to the letter is a copy of the survey that was prepared at the District's expense. You will note that your retaining wall is partially located on property owned by the Pueblo Conservancy District and thus constitutes an encroachment into our land.

The Directors of the District are willing to either a) grant to you a license to enter our land for the limited purpose of your repairing or replacing your retaining wall or b) convey by Quit Claim Deed the interest of the District in this land. In either case you will be asked to agree to do any replacement or repair work in a prudent and professional manner and to indemnify the Pueblo Conservancy District from any loss or damage it may suffer as a result of your efforts to rebuild a retaining wall.

Please give this your attention and let us know how you wish to proceed. If you have any questions about this don't hesitate to contact me.

Very truly yours,


Donald J. Banner

C: District Directors

2014 Calendar

January 2014

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February 2014

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May 2014

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June 2014

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July 2014

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August 2014

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September 2014

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October 2014

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November 2014

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December 2014

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