

WASHOE COUNTY WATER CONSERVATION DISTRICT

Regular Meeting

August 3, 2021

DIRECTORS

Cory Casazza
John Capurro
Bill Hauck (via teleconference)
Louis Damonte
Lawrence Belli
Kevin Quilici (appointed today)

ABSENT

Doug Avanzino

GUESTS

Michael Pagni, Attorney
George Ball, Engineer
Shane Dyer, Dyer Engineering
Chad Blanchard, FWM
Scott Schoenfeld, USBR

STAFF

Mary Pat Eymann, Dist. Manager
Brian Casci, Damtender

PUBLIC (in person)

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- 1. DETERMINATION OF QUORUM AND CALL MEETING TO ORDER –**
Vice-President Casazza called the meeting to order at 1:30 p.m., quorum present.
 - 2. PUBLIC COMMENTS –**
Public comment for the record received via email from John Dudley:
“I want to express my opposition of the potential appointment of Cory Casazza and Michael Pagni to any board. Casazza has been found guilty of ethics violations by the Nevada Ethics Commission and Pagni has or will have complaints filed with the Nevada Bar. Neither are fit to serve on any public board.”
 - 3. APPROVE AGENDA –**
 - ❖ Director Capurro made a motion to approve posted agenda; seconded by Director Hauck; motion carried.
 - 4. APPROVE BOARD MINUTES FOR JUNE 2021 MEETING: CHECKS WRITTEN AND FINANCIAL STATEMENTS FOR JUNE – JULY 2021.**
 - ❖ Director Capurro made a motion to approve the minutes and financial reports as presented; seconded by Director Hauck; motion carried.
 - 5. FEDERAL WATER MASTERS REPORT –**
A presentation was provided on the water report from the Water Master’s office. *A complete copy of the Water Report is available at District Offices or on the internet at troa.net.*
 - 6. UPDATE, DISCUSSION AND POSSIBLE ACTION OF SAFETY OF DAMS PROJECT – Shane Dyer**
Not much to report, all BMP’s have been pulled. All that is left is clean up and permitting.

Attorney Pagni reported that USBR must go back in house to recalculate the payment schedule with the final numbers in it. It is anticipated that they should have the updated figures in December or January, payments to start after that.

The other outstanding issue is piezometer. Scott Schoenfeld, USBR stated that we won't know the status until the water level comes up. Also they are going to put a seismograph in.

No action taken.

7. DISCUSSION AND POSSIBLE ACTION AND DIRECTION TO STAFF ON FEDERAL ENERGY REGULATORY COMMISSION (FERC) PRELIMINARY PERMIT FOR A POWER PLANT AT BOCA DAM. – Shane Dyer

No new information to provide. Still waiting for grant money.

Mr. Dyer disclosed to the Board his firm is working with a construction company for the PLPT to come up with some solutions for stream bank restoration on matters unrelated to this project or the District. He just wanted the Board to be aware.

No action taken

8. DISCUSSION AND POSSIBLE ACTION ON APPOINTMENT TO FILL VACANCY IN DISTRICT 4 BOARD POSITION FROM THE FOLLOWING LIST OF CANDIDATES: KEVIN J. QUILICI – Michael Pagni

Under the NRS once a vacancy occurs the Board can appoint someone to fill a vacancy if they are a qualified elector. Only one statement of interest in the open position was received from candidate Kevin Quilici.

Director Casazza feels that Mr. Quilici's background in construction and ranching is a good fit for the Board.

- ❖ Director Capurro made a motion to approve the selection of Kevin J. Quilici to the Board to fill the vacancy in the District 4 Division position; seconded by Director Damonte; motion carried.

9. DISCUSSION AND POSSIBLE ACTION AND DIRECTION TO STAFF ON DISTRICT ENGINEERING CONSULTANT POSITION AND OPTIONS TO RENEW, MODIFY OR ELIMINATE POSITION. – Director Casazza

Mr. Casazza has done research and is wondering whether there is a need of an engineer as well as a consultant engineer now that the Safety of Dams project is completed. Is there a need for engineer or an engineering firm as a on-call firm? What are the needs of the District going forward? Do we move forward with an RFP or stay as is?

Director Hauck agreed with Director Casazza's comments and feels it is a good time to review the need to renew, modify the current contract or go out for RFP.

Director Capurro stated he feels it is necessary to have a professional engineer to provide technical input on issues, but on a need only basis.

Currently the engineer for the District is George Ball and Shane Dyer is an on-call and was the engineer for the Safety of Dams project.

Director Hauck – need an engineer but on an on-call basis. We should go through a process where we hire someone on the needs of the District.

Brian Casci – Mr. Ball has always been at the inspections and completion points with the SOF process. Would the Board want the engineer present at inspections?

Scott Schoenfeld provided public input that other dams do not necessarily have engineer's but have on-call engineers.

Director Belli – indicated he believed the District was okay the way we are, if something comes up that requires an additional engineer than hire at that time.

- ❖ Director Hauck made a motion to go out for Request for Qualifications (RFQ) for an as needed/on-call engineer, with responsibilities and qualifications with Director's Hauck and Capurro setting a proposed document to be reviewed by Attorney Pagni.

Said RFQ to be sent out and responses received to be and placed on a future agenda for review and possible action; seconded by Director Capurro; motion carried.

10. DISCUSSION AND POSSIBLE ACTION ON STAFF COST OF LIVING INCREASES FOR FY2021-2022 – Director Casazza

Director Casazza stated that traditionally we mirror what Washoe County has done. Washoe County has been giving a 2.5% COL raise.

- ❖ Director Capurro made a motion to give a 2.5% cost of living raise to staff: seconded by Director Damonte; motion carried.

11. DISCUSSION, ACTION AND POSSIBLE DIRECTION TO STFF ON IMPLEMENTATION OF TROA REIMBURSEMENT UNDER SECTION 7.A.2(b)(3) – Michael Pagni

Several Disclosures were made for the record prior to this action being heard: Attorney Pagni disclosed again that his firm serves as legal counsel to the Truckee Meadows Water Authority, which is a TROA Party subject to the reimbursement obligations under TROA Sec 7.A.2. TMWA is represented by separate conflict counsel on TROA matters involving the District, and as previously discussed the District has waived any potential conflicts with our representation of TMWA on unrelated matters. While the Board is aware of the relationship, Mr. Pagni wanted to clarify on the record that TMWA is represented by separate counsel on this matter.

Director Hauck made the following disclosure: – “In the interest of full transparency I am disclosing the fact that I am an employee of the Truckee Meadows Water Authority (TMWA) which would participate in the payment of the annual fee reimbursement to the District. The annual fee to be imposed is considered an expense of administration of TROA the formula and imposition of which was negotiated and agreed to by all TROA Signatory Parties. Pursuant to separate agreement TMWA has agreed to pay a portion of Nevada’s share of that fee. After consulting with legal counsel, I do not believe the benefit or detriment to TMWA on this matter is any greater than those already agreed to by all TROA Signatory Parties such that my independent judgment is not affect in a manner which would preclude me from voting on this matter.”

Discussion then ensued on the item. Mr. Pagni explained this is a provision that was agreed to under TROA to provide some reimbursement to this District for expenses incurred by Boca Dam. There is a specific clause that has a formula in there on how to calculate what that reimbursement is. It is the State of Nevada, State of California and the United States that have to pay that reimbursement back to the District. For the past year or so we have been having discussions with different TROA parties on how we calculate that formula and when the implementation would start. There are 2 components to the formula, one is called the APF that is calculated by the water district and there have been several discussions with the TROA parties on that formula in which the Water Master put together a spreadsheet on how he is going to calculate that formula. There does not appear to be any objections to the methodology he is using. It changes on an annual basis. The second piece of the formula is the districts expenses that go into that, that get multiplied by that formula the Water Master puts together. The specific components are laid out in TROA but there a couple of elements there are questions on – where you put the Safety of Dams is it a amortized expense or operating expense. Input was received from the District’s accountant on how he will characterize that, and his recommendation is to put that in the operating expense column. Mr. Pagni has put together a draft on how the district would characterize the elements of the formula and has provided that to the other TROA parties for input. The parties are going to try to meet again in September.

Mr. Pagni wanted to bring this information to the Board to see how they feel and see if there was any input from the Board. Rough numbers for the District expenses eligible for reimbursement are about \$260,000 if it was implemented this year and that gets multiplied by the Water Master’s piece which is right now tracking at about 30% so about \$83,000 would be available for reimbursement to the District

this year if all those pieces were to be put into place. Going forward it is anticipated to be a little higher because the Bureau's current estimate are around \$100,000 per year of what will be paying out for the SOD payment so that will be lumped into the components which would increase the reimbursement back to the District to roughly \$105,000. Actual amounts will vary year to year based on the District's eligible expenses and Water Master's AFR formula. The Water Master's piece varies every year because it is based on how much credit water is stored and released which is how TROA dictates.

- ❖ Director Capurro made a motion to approve councils' recommendation to lump the SOD expense into the operating expense component and the timing on the implementation of November 2021; seconded by Director Quilici; motion carried.

12. ACCEPT AND AGREE TO BARNARD VOGLER & CO. AS AUDITORS FOR FY2020-2021 – Staff

- ❖ Director Capurro made a motion to accept Barnard Vogler and Co as the auditors for FY2020-2021; seconded by Director Belli; motion carried.

13. PRESENTATION AND UPDATE FROM ORR DITCH EXTENSIONS AND WATER COMPANY ON NATURAL RESOURCES CONSERVATION SERVICE TRUCKEE RIVER WATERSHED PROGRAM GRANT REQUEST AND DISCUSSION AND POSSIBLE DIRECTION TO STAFF ON SPONSORING AGENCY ROLE – Michael Pagni *Several Disclosures were made for the record prior to discussion of this item:*

Attorney Pagni disclosed that as the Board is aware, his firm serves as legal counsel to the Orr Ditch Water and Extension Company. The District and Orr Ditch have waived any potential conflicts with his continued representation of the District on this item, but he wanted to disclose the relationship on the record.

Director Capurro made the following disclosure: "In the interest of full transparency I am disclosing the fact that I am a shareholder and director in the Orr Ditch Water and Extension Company. While I receive no pecuniary benefits from the Orr Ditch Company and while this matter does not propose the use of expenditure of any resources of the District and relates to matters in furtherance of public health and safety and the organizational purpose of the District, in excess of caution I have elected to abstain from any participation in this matter. I ask that this disclosure be included in the record."

Director Hauck made the following disclosure "In the interest of full transparency I am disclosing the fact that my employer owns shares in the Orr Ditch Water and Extension Company. I have consulted with the District's attorney and believe I have no financial ties or commitments to the Orr Ditch Company which would preclude me from participating in this matter. I ask that this disclosure be included in the record."

Director Capurro recused himself from deliberation and the following discussion ensued. Speaking as a member of the public and not a Board member, John Capurro advised that Ron Gribble from the Orr Ditch was going to attend this meeting to make a presentation but at the last minute had an emergency. Mr. Gribble has given a report for Mr. Capurro to relay to the Board and was of the opinion the Orr Ditch would benefit from a PL566 project. The Orr Ditch could not sponsor the project. Mr. Gribble tried to contact the NRCS as to where the project stands but was told that no information could be given to the Orr Ditch as they are not the sponsoring agency. The WCWCD is the sponsoring agency and a request from the WCWCD must be given to the NRCS on the status of the project. The Orr Ditch has no access roads along the Ditch everything done is from inside the Ditch. There are problem areas that need assistance with water quality and health and safety issues.

Shane Dyer – Have done about 15 of these projects across the United States and have done them quite smoothly. The Steamboat project is the first one that has gone sideways. It was the first time working with NV NRCS the person who was in charge is now in DC trying to re-write the rules on the whole process. Mike Callahan has become the interim engineer and is very letter of the law in terms of speaking with people, will only speak with client.

Attorney Pagni advised that speaking for the District, the District received an email from NRCS asking about the District's interest in continuing the sponsorship. Mr. Pagni has not followed up with NRCS as he is waiting for direction from this Board on whether or how they wished to proceed. Mr. Pagni noted there was considerable public opposition to the Steamboat Project which the District is not well equipped to handle, and there are positives and negatives to remaining as a sponsor that are policy questions for the Board. The Steamboat project is dead and is not at issue today. As far as progress on the Orr Ditch he has heard nothing from NRCS as to the status.

Director Hauck – Looking at how the Steamboat project went I feel there is no value in the District sponsoring this. I feel the Steamboat project gave the District and me personally a bad reputation and feel there is no good reason to continue.

Director Casazza – recognized the District took a lot of heat on the Steamboat project as well. However, I think this is in the purview of what we are supposed to do as a District. If we don't do it I don't know who else does. Facilitating access to federal money to improve a 100-year-old structure falls in line with what we should be doing as an irrigation District.

Director Quilici asked Mr. Capurro how many water rights users are there at the north end of the valleys? Mr. Capurro responded there were 3 large users. Shane Dyer - advised that the NRCS has already awarded a grant of \$750,000 to the Orr Ditch 100% to study the problems, all it needs is a sponsoring agency. The \$750,00 is just to study the problems and solutions. Then you go back to the NRCS to receive an award of up to \$25 million to implement the solutions. If WCWCD was not to continue as the sponsor could other agencies sponsor?

Attorney Pagni – There other agencies that qualify. Whether they have an interest in participating is unknown.

Director Hauck – Should Shane Dyer be making a disclosure since his firm is handling the project.?

Attorney Pagni noted Mr. Dyer is not a public official or public employee and is not required to make the same type of disclosure made by Board members as he is not voting on this matter. Mr. Dyer disclosed that his firm is engineer to the Orr Ditch as well as several other ditch companies. He also does a lot of irrigation work within the District. We helped write the grant to try and help the Orr Ditch.

Bill Hauck – If the District does not sponsor then what happens?

Attorney Pagni – The District has already agreed to sponsor the first phase, the feasibility phase. If something comes out of the feasibility phase, then the next phase is a separate sponsorship. The question is does the District want to continue the sponsorship of the feasibility phase.

Director Casazza – Feels it is our responsibility to do what is best for the community. And proceeding with this is something that downstream users and the community benefit from.

Attorney Pagni - The District is an Irrigation District organized under NRS 539. It was organized in the 1920's to at that time represent the Irrigation users in the Truckee Meadows. It also got the permit for Boca Reservoir as there was no upstream storage at the time. It is within the statutory intent and purpose for an irrigation district to do things that are of interest to irrigators within the District. Mr. Pagni noted this particular request does not require the expenditure of any District funds.

Director Casazza – Asked if the District does not continue our sponsorship does the \$750,00 go away and the Orr Ditch must reapply?

Attorney Pagni – Yes

Director Hauck – for reasons previously stated I will not be supporting this project and am equally opposed to the fact that Mr. Dyer is promoting this project where he gains a financial benefit.

Director Casazza – agrees with what Director Hauck says but still feels it is our duty to proceed for the protection of these irrigation canals.

Attorney Pagni noted again that any action taken today does not affect Steamboat Canal and does not relate to the Steamboat application or canal in any way. The Steamboat project is dead.

- ❖ Director Quilici made a motion to continue to serve as local sponsoring organization for the Orr Ditch as is with the feasibility study; seconded by Director Casazza; motion carried with Director Hauck opposed and Director Capurro abstaining.

14. LEGAL COUNSEL REPORT – Michael Pagni

All board members are free to contact Mr. Pagni if they feel they have a conflict of interest or need to make a disclosure statement or any questions. Mr. Pagni can assist with the statutes.

15. ENGINEER REPORT – George Ball –

See Engineer's Report is available at District Offices.

Mr. Ball stated regardless what the outcome of the RFQ may be, or whether he chooses to participate, that it has been his great pleasure to serve as the District's Engineer for the past several years. Board members expressed sincere gratitude for all the work Mr. Ball had done over the years for the District.

16. DAMTENDER REPORT – Brian Casci

- Safety Inspection found nothing wrong
- The fence and guard rail have been repaired
- Motor for ventilation system has been rebuilt

17. PUBLIC COMMENTS – None

- Shane Dyer noted he will continue to keep the Board apprised of any possible conflicts arising from work his firm is performing.

18. BOARD COMMENTS AND REQUESTS FOR FUTURE AGENDA ITEMS

Board Comments –

- Director Casazza – There is a video on ethics on the State Ethics Commission website is beneficial and recommends all members review it.

Future Agenda Items – None for next

- In the next couple months RFQ for engineer

19. ADJOURNMENT – There being no further business the meeting Director Hauck made a motion to adjourn the meeting; seconded by Director Capurro; motion carried.

****The next regular meeting will be held Tuesday, September 7, 2021, at 1:30 pm.****