

**Bear River Water Conservancy District
Special Board Meeting
Thursday, September 9, 2010 12:00 noon
102 West Forest Street Brigham City, Utah 84302**

Minutes

Present: Trustees: Chairman Clinton Burt, Vice Chairman Ross Rudd, Dave Forsgren, Charles Holmgren, Brent Baugh, Richard Day and Stan Stokes.

Staff: General Manager Voneene Jorgensen and Administrative Assistant Judy Hartvigsen

Visitors: Bill Bigelow (Hansen, Allen & Luce)

Excused: Financial Chairman LaRall Thompson, Bruce Christensen, Brent Rose and Commissioner Brian Shaffer.

Invocation: none

Adoption of the Agenda – Chairman Clinton Burt

Not discussed

Beaver Dam Project Status

Agreements

General Manager Jorgensen updated the Board on the progress of the Beaver Dam project and the work she has been doing. She explained the history of the project. The contract from the Army Corps of Engineers required the system to be owned and operated by a public entity. She had spoken with our attorney, Craig Terry and was advised it would be fraud against the federal government to sign the contract knowing that Beaver Dam is a private water company. The District was not able to help Beaver Dam as just a “pass through” entity as was previously thought. General Manager Jorgensen looked at other options such as leasing the project back or amending the contract but that was not allowed by the Army Corps of Engineers.

Funding

General Manager Jorgensen explained the Division of Drinking Water approved a grant called principal forgiveness of \$445,000.00 and a loan for \$245,000.00 at 0% interest over thirty years and the Army Corps of Engineers approved a grant for \$1,125,000 for the Beaver Dam project. It was almost 1.5 million dollars Beaver Dam Water Company would lose because they could not qualify without being a public entity. On August 13th, she received a call from Kelly Hansen, President of the Beaver Dam Water Company. He was very upset that they had five days to sign the contract or the money would be lost. He had also just received another call from the State telling him

the system was again on the unapproved list. She told him the District could not sign the contract. Mr. Hansen stated their water system would lose the money and the state would shut it down for non-compliance. Mr. Hansen asked her opinion as to what he should do. She suggested Mr. Hansen talk to his attorney and call a meeting of his shareholders to explain their situation. She explained the District could not sign the contract unless the project is under District ownership and operation in order to be in compliance with the contract. Mr. Hansen asked if the Board would accept the project if he could get all of the shareholders to convey it to the District and General Manager Jorgensen told him she thought the District would do that. She called Attorney Craig Terry for advice about whether the District could sign the contract without acquiring the assets or easements first. He contacted the attorney for the Corps in Sacramento and they concurred that it would be all right to acquire the assets after the contract is signed. A letter written by Craig Terry to the Corps of Engineers stating the conditions of signing the contract was provided for the Board Members. General Manager Jorgensen received a call from Kelly Hansen on Sunday, August 15th. He told her the shareholders had met on Saturday evening and they had all signed a resolution written by their attorney conveying their assets to the District. She then called Chairman Burt and she was advised to poll the Board. She called a quorum of Board Members, explained the situation and found a majority to be supportive of Chairman Burt signing the contract. One board member, Brian Shaffer was not supportive. Commissioner Shaffer stated he felt the money should have gone towards the Collinston project so more people would benefit. She explained to him the Corps of Engineers designated the money for Beaver Dam and it could not be used any other place. She had some shareholders of Beaver Dam Water Company visit with her at the Fair and they expressed their appreciation to the District. She was told after the meeting was over there was no animosity towards the District but more a feeling of gratitude. She also received a call from Brent Hansen acknowledging their problem and expressing appreciation for the willingness of the District to help them. She talked to Ken Wilde of the Division of Drinking Water who told her the only liability held by Beaver Dam is one \$20,000 loan and that will be rolled over into the new loan and amortized with the new loan over the 30 years with 0% interest. (The total loan will be \$260,000.00) The annual payment will be \$7,000.00 per year. The District can now move forward with all the requirements to close the loan. The Division of Drinking Water is very happy that we are taking on this project. It would have been a shame to have lost these funds. The District will get the revenue from the water users to make the loan payment. Kelly Hansen's attorney, Chris Beins and our attorneys have met and negotiated the terms of a contract between Beaver Dam and the District. The Beaver Dam Water Company will continue to manage and operate their system as it is now until such time as the project is complete and their users are connected to the new system.

Water Rights

The shareholders in the Beaver Dam Water Company will convey the water rights of the company to the District and in return those who are currently connected will not be charged an impact fee or connection fee. Any new users will be charged the fees that apply when they want to connect to the new system after it is completed. The impact fee analysis and a capital facilities plan will determine the amount. The water rates are yet to be determined. There was a cost analysis that had to be done before the funds were approved and the users are aware that the cost may be approximately \$46.00 per month. The estimate is still preliminary so we are not quoting any actual

prices at this time. Our attorney, Dallin Jensen will be working on getting the water rights conveyed and the change applications filed with the State Engineer.

Easements

The shareholders of Beaver Dam Water Company have agreed to work cooperatively with the District in acquiring all of the easements needed so the project can be completed in a timely manner. The water revenue collected from now until the project is completed is to be used for expenses incurred in the operation of the system by Beaver Dam. Any funds remaining from water revenue collected when the project is completed will be used to retire the original \$20,000 loan.

In the event the Beaver Dam Water Company fails to fulfill their obligations of the contract, the District will have the right to terminate it and everything will revert back to the way it was. All current customers will have to pay their water bill in full before they can connect to the District system.

General Manager Jorgensen then referred to Bill Bigelow to explain the proposed project. He explained the water sources are three springs. He provided the Board Members with a map of the proposed system showing a booster pump station and a new storage tank. The pump station will incorporate systems for chlorination and arsenic treatment. An 8" distribution line will be installed to serve all of the homes and it will be capable of providing fire flow. The system will include the fire hydrants.

Vice Chairman Rudd asked about future development of water and Mr. Bigelow explained there are adequate water rights for additional water development of the springs. Mr. Bigelow provided a table showing the annual volume of water being used currently by 21 connections at about 15 acre feet per year. The table also showed water use for 41 and 55 connections. He stated it would be about 35 acre feet per year to serve 55 homes. The water rights show there is 45 acre feet of water rights thus he feels there is sufficient water rights to serve future needs. He stated the water coming down the stream has been measured for physical capacity of all three springs and it can be depended on to be 60 gpm. It appears the system could double the number of homes and have enough water rights and wet water. The water rights are being divided so the District will get the culinary water rights and the residents will retain their supplementary rights. The water rights will continue to be studied. The District will own the water rights for the Sleepy Hollow Spring.

General Manager Jorgensen explained she called Bob Favero from the LDS Church and he was sent information about the project to give them an opportunity to participate. They have not gotten back to us yet. Board Member Forsgren suggested contacting the local church leaders about the project because the church is on a mandate by the EPA to come into compliance with water and sewer. Mr. Bigelow has included an option for the church to participate if they are interested. Board Member Holmgren asked about issues with stockwatering and domestic water rights. Mr. Bigelow explained the current 20 users with connections all have a water right for the water they receive. The company was not open to new connections because you had to have a water right. The same thing would have happened if the Beaver Dam Water Company did the project. It was always the plan to turn over all the water rights to the water company and for it to become a public system. Now the District will do that. The water in the system has never been metered and the users could use all they wanted. The project will install meters and the users will pay for the amount they use. Those not currently on the system have their own wells and the water quality is not good in the wells so we anticipate more users to connect.

Board Member Holmgren asked about the cost of arsenic treatment. Mr. Bigelow explained the process. The state and the EPA have concerns about the arsenic level of the water. Board Member Baugh asked about the ownership of the property where the tank and pump station will be located. Mr. Bigelow explained the property owners have agreed to grant the all easements necessary to construct the infrastructure.

General Manager Jorgensen explained the proposed projects for Ukon and Collinston. The District will apply for grants and funding to do these projects also. She has also been working with Deweyville for a water source to blend with the Ukon water to help with their arsenic problems.

General Manager Jorgensen explained the Board needs to realize that the up front costs will come from District funds. The Corps will only let us file for reimbursement every three months. We will need to pay for engineering and attorneys to get the work done to be able to close the Division of Drinking Water loan. District funds spent will be reimbursed at 75% by the Corps of Engineers and 25% by the grant and loan from the Division of Drinking Water. She feels it is very important to quickly move forward and get the easements in place before bad weather. This was the purpose of the special meeting. She asked for authorization to move forward with the scope of work and using District funds to be reimbursed as explained. So far, \$250,000 has been approved by the Corps of Engineers for the preliminary work of environmental studies and pre-engineering. When we receive acknowledgement that the rest of the funding is in place, construction can begin. General Manager Jorgensen asked for a motion of support. Board Member Forsgren questioned whether action can be taken in a special meeting and stated he would be more comfortable for the Board to give verbal authorization to move forward and formalize the consensus of the Board with a motion at the next Board meeting. General Manager Jorgensen requested verbal authorization and then ratification of the motion at the next regular meeting. Board Member Day asked about the location of the tank. Mr. Bigelow explained it would be on private property with a granted easement. If the church decides to participate, it could be moved to the church property and enlarged. Currently the tank size is 200,000 gallons which is adequate for fire protection. General Manager Jorgensen explained the availability of District funds for the preliminary work. Chairman Burt called for a motion of the Board to be ratified at the next regular meeting.

Vice Chairman Ross Rudd moved to poll the attending Board Members to get a consensus of support to move forward with the Beaver Dam project as discussed and ratify the motion at the next Board Meeting. The motion was seconded by Board Member Brent Baugh.

The Board Members voted their support as follows:

Brent Baugh: Aye	Charles Holmgren: Aye
Stan Stokes: Aye	Clint Burt: Aye
Dave Forsgren: Aye	Ross Rudd: Aye
Richard Day: Aye	

General Manager Jorgensen thanked the Board for their support.

Adjourn

The meeting adjourned at 1:15 p.m.