

RECORD OF PROCEEDINGS
PAGOSA AREA WATER AND SANITATION DISTRICT
SAN JUAN WATER CONSERVANCY DISTRICT
MINUTES OF THE SPECIAL MEETING
DECEMBER 1, 2010

Attendance

The following Directors were present:

Representing Pagosa Area Water and Sanitation District: Steve Hartvigsen, Allan Bunch, Windsor Chacey, Roy Vega, and Jan Clinkenbeard.

Representing San Juan Water Conservancy District: Diane Bower, Harold Slavinski, Pat Ullrich, Carrie Weiss, Larry Ash, and Windsor Chacey.

Also present were: Shellie Peterson, Gene Tautges, Renee Lewis, Evan Ela, Steve Harris, Randi Pierce, Jodie Blankenship, Bruce Dryburgh, Glenn Robinson, Bill Hudson, and Janet Santopietro.

Call to Order

The Joint Special meeting of the Pagosa Area Water and Sanitation District (PAWSD) and San Juan Water Conservancy District (SJWCD) was called to order by PAWSD Chairman Steve Hartvigsen at 6:35 p.m. on December 1, 2010. On behalf of SJWCD, a motion was made by Harold Slavinski and seconded by Pat Ullrich to excuse Directors Karen Wessels and Jack DeLange who called and indicated they were unable to attend. Chairman Hartvigsen asked that due to a request by the public the agenda be changed so that the Executive Session would be moved to the end of the meeting. Members of the SJWCD Board stated the agenda should remain as it was posted. Chairman Hartvigsen and Director Chacey expressed concern that items scheduled for later in the agenda may be able to be discussed more thoroughly if they could be discussed first in Executive Session. Directors Vega and Bunch stated they believed that the convenience of the public should come first. On behalf of PAWSD, a motion was made by Chairman Hartvigsen and seconded Director Chacey to enter into Executive Session at 6:40 p.m., pursuant to Section 24-6-402(4)(e), C.R.S., for the purposes of obtaining legal advice from District Counsel regarding matters of negotiation with Trout Unlimited, including Court Case 04CW85. The motion failed 2-3 with Directors Chacey and Hartvigsen in favor.

Disclosure of Potential Conflicts of Interest

Karen Wessels had previously submitted a Disclosure as owner of Alpha Engineering, where one might perceive a conflict could arise. Windsor Chacey had previously submitted a Disclosure as a Director on the Board of PAWSD and a Director on the Board of SJWCD. The Boards noted, for the record, that these disclosures be restated at this time with the intent of fully complying with the laws pertaining to potentials conflicts of interest.

Consideration of Alternative Financing/Ownership of Dry Gulch Reservoir

The Boards considered alternatives for the financing/ownership of Dry Gulch Reservoir. On behalf of PAWSD, Director Bunch asked the SJWCD Board to consider a more active participation in the search for alternative methods to fund the debt service resulting from the purchase of property for Dry Gulch

Reservoir, and/or a contribution from the SJWCD's reserve funds so that the rate payers of PAWSD did not shoulder the full burden . On behalf of the SJWCD, Chairwoman Bower stated that its Board would not be willing to consider that without first having an opportunity to discuss the issue at its next regularly scheduled meeting on December 13, 2010. Pat Ullrich indicated that he felt that the SJWCD had already made its contribution to the project through its successful application and award of grant funds, and that the debt being financed was accordingly smaller because of that contribution.

Executive Session Pursuant to Section 24-6-402(4)(e), C.R.S.

On behalf of PAWSD, a motion was made by Chairman Hartvigsen and seconded by Director Vega to enter into Executive Session at 7:25 p.m., pursuant to Section 24-6-402(4)(e), C.R.S., for the purposes of obtaining legal advice from District Counsel, Evan Ela, regarding matters of negotiation with Trout Unlimited, including Court Case 04CW85. The motion passed unanimously. On behalf of SJWCD, a motion was made by Harold Slavinski and seconded by Pat Ullrich to enter into Executive Session at 7:26 p.m., pursuant to Section 24-6-402(4)(e), C.R.S., for the purposes of obtaining legal advice from District Counsel, Evan Ela, regarding matters of negotiation with Trout Unlimited, including Court Case 04CW85. The motion passed unanimously. Mr. Ela disclosed that due to the nature of the discussion being matters of negotiation concerning an ongoing litigation, a tape would not be made of this Executive Session.

Return to Open Session

The Boards returned to open session at 8:05 p.m. Upon returning to open session, on behalf of PAWSD, a motion was made by Director Vega and seconded by Director Bunch to authorize District Counsel to prepare a motion for final decree in settlement of Court Case 04CW85 in accordance with the terms and conditions in Counsel's letter dated November 16, 2010 (copy attached), and for the contents of that letter to be made available to the public. The motion passed unanimously. On behalf of SJWCD, a motion was made by Harold Slavinski and seconded by Pat Ullrich to authorize District Counsel to prepare a motion for final decree in settlement of Court Case 04CW85 in accordance with the terms and conditions in Counsel's letter dated November 16, 2010, and for the contents of that letter to be made available to the public. The motion passed unanimously.

Consideration of Court Case 04CW85

Evan Ela summarized the settlement agreement as was provided in his above mentioned November 16, 2010 letter regarding the results of the negotiations with Trout Unlimited. First, the decree will allow for 4,700 ac-ft of new storage coupled with the existing SJWCD 6,300 ac-ft storage right for that project location to provide for a total of 11,000 ac-ft. Second, the decree will specify a total maximum diversion rate of 50 cfs, which can be diverted for direct use, into storage, or in part for both purposes, so as to limit total diversion for the Dry Gulch Project to 50 cfs. Third, in addition to the 11,000 ac-ft storage capacity, the decree will also provide for an 11,000 ac-ft per year refill right, but will be limited by an 11,000 ac-ft per year overall maximum and a 9,300 ac-ft rolling ten-year average. Fourth, the agreement allows for a stream flow condition trigger. The District can only divert if the stream flow is at least 100 cfs from March 1 through August 31 and 60 cfs from September 1 through February 29. Fifth, the water must be for the beneficial use of the PAWSD and SJWCD service areas only, but this agreement recognizes that inclusions and exclusions can occur in the future and allows for outside contracts. Sixth, the agreement mandates that every six years the District will show to the court that it has been exercising due diligence in the development of those rights, and allows the District to also reevaluate water demands. Seventh, should the Dry Gulch Reservoir be developed to the size provided, the District agrees to abandon specifically listed water rights if they are undeveloped at that time. Lastly, the Districts acknowledge that

the Water Division 7 has a part in reviewing decrees before it is signed by the water court, and should there be any objections the parties will attempt to work through the objections to reach an agreement.

Other Business

There being no further business to come before the Boards, the meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Windsor Chacey

Secretary/Treasurer

Jack DeLange

Secretary