

**Southwestern Water Conservation District
Board of Directors Meeting
October 8, 2014**

Present: John Porter, President Steve Fearn, Vice-President Bob Wolff, Secretary-Treasurer
J.R. Ford Preston Goetzke Rusty Hinger
Monte Naslund Jenny Russell John Taylor, Emeritus (at 11 am)

Absent: Fred Kroeger, Emeritus Doug Stowe

Staff: Bruce Whitehead, SWCD Executive Director
Laura Spann, SWCD Office Manager
Steve Harris, Harris Water Engineering
Carrie Lile, Harris Water Engineering
Peggy Montano, Trout, Raley, Montano, Witwer & Freeman (participated by phone)
Barry Spear, Maynes, Bradford, Shipps & Sheftel (MBSS)
Jeff Kane, MBSS

Guests: Jerry Archuleta, Natural Resources Conservation Service (NRCS)
Ken Beegles, Animas-La Plata Water Conservancy District (ALPWCD)
Jimbo Buickerood, San Juan Citizens Alliance
Chris Landry, Center for Snow & Avalanche Studies
Trudy O'Brien, O'Brien Accounting
Darlene Marcus, U.S. Representative Scott Tipton
Gabi Morey, San Juan Mountains Association
Sterling Moss, NRCS
Cynthia Purcell, San Juan Conservation District
Denise Rue-Pastin, Water Information Program
Julie Westendorff, La Plata County Commissioner

President John Porter called the meeting to order at 10:05 a.m. Roll was taken and a quorum was present.

Executive Session

(time: 00:00:30)

Peggy Montano (participating by phone) recommended that the board go into executive session for the purpose of discussing the Animas-La Plata Project water rights due diligence case (13CW3011 - Peggy), Animas River depletion water rights due diligence case (13CW3034 – Barry Spear), San Juan County water rights case (05CW88 – Barry) and U.S. Forest Service (USFS) reserved rights case (W-1605-76 - Barry). The statues covering this session are § 24-6-402(4)(b), C.R.S., “conferences with an attorney for the district for the purposes of receiving legal advice on specific legal questions,” and § 24-6-402(4)(e), C.R.S., “determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.” Steve Fearn moved that the board go into executive session. Rusty Hinger seconded. The motion passed unanimously.

Peggy Montano announced that the board was out of executive session, during which no action was taken. The board discussed case 13CW3011. The board provided direction to counsel and staff for proceeding with litigation.

The board adjourned for a short break.

Approval of Minutes (August 13, 2014; September 9, 2014)

(time: 00:02:30)

Jenny Russell moved to approve the August 13 minutes as corrected. Preston Goetzke seconded. The motion passed. Jenny Russell moved to approve the September 9 minutes for the Budget Committee meeting. Steve Fearn seconded. The motion passed unanimously.

Approval of Treasurer's Report (August 2014)

(time: 00:03:55)

Bruce Whitehead summarized the August 2014 budget comparison and treasurer's report. He detailed some transactions made in September and not included in the report. Trudy O'Brien presented Certificate of Deposit interest rates for various local banks, the best being from Bank of the San Juans at 0.37% for a year, 0.45% for two years, 0.55% for three years and 0.65% for four years. SWCD's current CD with First National Bank will mature on April 1, 2015. There was consensus to direct staff to prepare a memo for the December meeting outlining CD options for the board to act on. Steve Fearn moved to accept the August 2014 Treasurer's Report. Monte Naslund seconded. The motion passed unanimously.

Proposed Budget Fiscal Year 2015

(time: 00:14:10)

Bruce Whitehead and Trudy O'Brien presented the proposed FY 2015 budget and responded to board member questions. There was discussion of wages and the process for staff performance evaluations. The performance evaluation for Laura has been completed. There was consensus to zero the line item "SWCD/ALPWCD" building to explore the possibility of construction on the ALPWCD's Durango Pumping Plant Property. Trudy explained the projected increase in revenues for 2015.

Executive Session (Personnel Matters)

(time: 00:32:10)

Barry Spear recommended that the board go into executive session for the purpose of discussing personnel matters. The statute covering this session is § 24-6-402(4)(f), C.R.S., "personnel matters." Steve Fearn moved that the board go into executive session. Preston Goetzke seconded. The motion passed unanimously.

John Porter announced that the board was out of executive session, during which no action was taken. The board discussed personnel matters, and would discuss wages after reviewing completed performance evaluations.

The board adjourned for lunch.

Board Member Reports

Steve Fearn (San Juan County)

(time: 00:39:15)

Steve reported that the Animas Stakeholders Group has supported the U.S. Environmental Protection Agency's (EPA) plugging of the Red & Bonita Mine in San Juan County as an experiment, but the resulting impact on water quality is yet to be proven.

Jenny Russell (San Miguel County)

(time: 00:40:00)

Jenny reported that the Water 101 Seminar held on September 22 in Telluride was a great success. The Town of Telluride has a new water system coming online in November that will provide storage for the first time. The San Miguel Watershed Coalition will host a public forum on October 14 in Placerville to present the watershed report card (partially funded by a SWCD grant) and discuss the Colorado Water Plan.

Preston Goetzke (Hinsdale County)

(time: 00:40:50)

Preston added that there has been lots of rain.

Monte Naslund (Montrose County)

(time: 00:41:05)

Monte reported that the Colorado Cooperative Ditch Company normally puts a call on the river, but did not need to do so this year. Work started on the CCC pipeline repair, partially funded by a SWCD grant.

John Taylor (Emeritus)

(time: 00:41:30)

John added that agricultural processes and demands have not changed significantly over time; from his perspective, worsening pollution is caused by increases in population.

Rusty Hinger (Mineral County)

(time: 00:41:55)

Rusty reported that there has been snow in the mountains. The springs are running and filling up fish ponds, which may stay live through the winter.

JR Ford (Archuleta County)

(time: 00:42:30)

JR reported that Colorado Water Conservation Board (CWCB), San Juan Water Conservancy District (SJWCD) and Pagosa Area Water and Sanitation District (PAWSD) have an agreement regarding adjustments to their reservoir loan, which is contingent on a pending appraisal. SWCD's grants to Mountain Studies Institute (MSI) and San Juan Headwaters Forest Health Partnership to support forest mitigation were leveraged for additional grants in the amount of \$100,000 for mitigation in the Stevens Reservoir drainage and \$75,000 for Reservoir Hill area. PAWSD put construction on hold until 2015 for a new tie-in to connect their ponds and treatment plant to their system in town.

Bob Wolff (La Plata County)

(time: 00:43:50)

Bob was pleased to report on the ribbon cutting ceremony for Long Hollow Reservoir. The Hermosa Creek Watershed Act has been a source of local media controversy.

John Porter (Montezuma County)

(time: 00:44:30)

John said that his report will be incorporated into various topics on the agenda.

Agency Reports

Bureau of Reclamation (BOR)

No representative was present; a report was not available.

Division of Water Resources (DWR)

No representative was present; a report was not available.

U.S. Geological Survey (USGS)

No representative was present; a report was not available.

Natural Resources Conservation Service (NRCS)

(time: 00:44:50)

Sterling Moss, NRCS, provided information on progress related to the agency's Regional Conservation Partnership Program (RCPP). More than \$400 million for 2014 will most likely be funneled through NRCS's EQUIP program to fund RCPP proposals. Initial applications were due in July. The State of Colorado has nine RCPP proposals initially approved as eligible, and the Colorado River Basin has 12. One application focusing on drought resilience from partners in Montezuma County, including the Dolores Water Conservancy District (DWCD) and The Nature Conservancy, has been initially approved as eligible and gone before the Southwest Basin Roundtable for general support. SWCD wrote a letter in support of the application. Sterling responded to board questions.

Colorado Foundation for Water Education (CFWE)

(time: 00:57:20)

Steve Fearn summarized activities at the September 26 CFWE board planning retreat. A board meeting was held on October 2. CFWE will move to new offices before the end of the year. A *Headwaters* issue on the Colorado Water Plan process is in development for release in January.

Colorado Water Congress (CWC)

(time: 00:59:31)

CWC's Summer Conference in Snowmass was attended by more than 315 people, a new record for the organization. Many political candidates spoke at the event. John P, Steve F, Bruce, Rusty, and Preston attended.

Interbasin Compact Committee (IBCC) & Roundtable

(time: 01:01:00)

The Southwest Basin Roundtable will meet on Wednesday, November 12 at the La Plata Electric Association office in Durango. The Basin Implementation Plan (BIP) subcommittee met on October 7 to develop a public outreach strategy, and set evening public meetings for Mancos, Norwood, Pagosa Springs and Durango. The IBCC has not met since June and it was hoped the group could revisit the draft conceptual agreement regarding transmountain diversions.

Colorado Water Conservation Board (CWCB)*(time: 01:04:45)*

April Montgomery was in Japan and not able to update the board. Bruce Whitehead reported on three Water Supply Reserve Account grants approved at the most recent CWCB meeting: the Trout Unlimited-Redburn Ranch diversion, BIP Phase II, and the Thompson-Epperson ditch repair.

Questions/Comments from the Audience*(time: 01:05:50)*

Darlene Marcus, Representative Scott Tipton's Office, reported that U.S. Fish and Wildlife Service (FWS) listed the New Mexico Meadow Jumping Mouse as an endangered species. A portion of the proposed critical habitat is along the Florida River, which will be designated in early 2015. New Mexico ranchers plan to file suit. Meetings are currently being held in Denver regarding the Gunnison Sage Grouse, which will likely be listed as an endangered species by November 15. There is a high probability that if the Gunnison Sage Grouse is listed, the Greater Sage Grouse will be listed as well. The House passed a bill to create more transparency in critical habitat listings.

Old Business**River Protection Workgroup/Hermosa Creek Update***(time: 01:26:20)*

The Hermosa Creek Watershed Act was taken up by the U.S. House Committee on Natural Resources, and several amendments were made which provoked concern from some stakeholders. SWCD participated in discussions with representatives of Trout Unlimited, the Wilderness Society, and Congressman Tipton's office in an attempt to address those concerns. The Act has passed out of Committee with bipartisan support and now awaits action on the floor of the House. The Senate version of the bill has not been marked up in Committee yet, but is scheduled in November. Rep. Scott Tipton has received criticism by some locally for the changes made to the bill by the Committee. The amendments and perceived changes to the House version of the Hermosa Creek Watershed Act have triggered election year politics, which may also be affecting the River Protection Workgroup process.

Darlene described alternatives for the proposed legislation to proceed. Steve Fearn passed on concerns expressed by the San Juan County Board of County Commissioners about changes made by the Committee to the House version of the bill.

Bruce Whitehead and Steve Fearn provided background on the River Protection Workgroup process. The Regional Discussion is continuing, but the Steering Committee has come to an impasse in regards to proposals by the San Juan Citizens Alliance and the Wilderness Society for additional wilderness and/or an additional Wild & Scenic designation that had not been discussed during the Animas Workgroup meetings. It may be necessary to reconvene the Animas Workgroup to provide the public with an opportunity to express their opinions about the new proposals. At the most recent meeting on October 1, the idea of moving forward with the development of the framework for legislation on the Piedra River was discussed. Much of the group was comfortable with the split process concept (continue to work on the Animas/Hermosa, and convene legislative drafting committee for the Piedra) but the group did not reach consensus on this point. A mediated process is being considered by the group. Preston Goetzke, John Taylor, Steve Fearn and Bruce Whitehead had a phone conference on October 1 updating the Hinsdale Board of County Commissioners on the Workgroup process and Piedra River protections. Board comments and feedback were solicited.

Office Report*(time: 01:45:30)*

Bruce Whitehead directed board members to the written Executive Director report, and summarized the following issues:

- Monsoon weather patterns continued during the month of September, with at least three significant storms contributing to increased flows in rivers throughout the basin.
- The Interim Water Resources Review Committee met on September 30 at the State Capitol; six proposed bills for the 2015 legislative session were passed, with discussion of an additional bill regarding Water Rights Change Cases. The CWC State Affairs Committee will meet on October 10 to evaluate these six bills.
- The SWCD/River District joint board meeting held on September 18 in Montrose resulted in the joint adoption of two sets of principles, one regarding contingency planning and the other regarding the Colorado River System Conservation Agreement.
- The 2014 Water 101 Seminar held in Telluride on September 22 received glowing reviews.

- Anne Castle left her position with the Department of Interior on September 30. Jennifer Gimbel (former CWCB Director) will be named Acting Assistant Secretary for Water & Science and may be nominated for the permanent position. Estevan Lopez will be named Principal Deputy Commissioner of Reclamation until his confirmation as Commissioner of Reclamation occurs.

John Taylor provided background on Crowley Reservoir, a privately-owned project located in New Mexico. The reservoir, which supplies water to irrigators near Chromo, Colorado, has been declared out of compliance by the New Mexico State Engineer's Office. CWCB cannot provide grant funding for a project located in New Mexico, but may be able to provide a loan. With San Juan Conservation District as the fiscal agent, a funding request was presented to the New Mexico Water Trust Fund board in September. The request was denied because the fiscal agent was a Colorado entity. John Taylor, on behalf of San Juan Conservation District, requested that SWCD write a letter to the New Mexico Water Trust Fund in support of Crowley Reservoir rehabilitation and explaining difficulties in securing funding. J.R. Ford moved to write said letter. Preston Goetzke seconded. The motion passed unanimously.

Old Business (cont.)

BLM & USFS Joint Land & Resource Management Plan

(time: 02:01:32)

Bruce Whitehead updated the board on the USFS and U.S. Bureau of Land Management (BLM) Joint Land and Resource Management Plan. SWCD filed a protest to the BLM portion of the joint plan, and an appeal to the USFS portion of the plan. SWCD's main concerns have been restrictive bypass standards and two newly identified Outstandingly Remarkable Values (ORVs) on the Dolores River. USFS has denied SWCD's appeal, and a request for discretionary review made by SWCD with support of the Colorado Congressional delegation was denied by the Secretary of Agriculture. The USFS portion of the joint plan has already gone to a Record of Decision (ROD). One of the only remaining options for the board to consider is litigation against the USFS. Colorado Department of Natural Resources (DNR) has indicated that they do not intend to litigate until there is injury. The BLM portion of the joint plan will go to a ROD by the end of the calendar year. Mike Preston, DWCD, and Bruce may meet with Connie Clementson, BLM, in October or November. Discussions between the DNR and USFS are ongoing. CWC Federal Affairs is carrying this item on their agendas from meeting to meeting.

EPA Proposed Rule: "Waters of the U.S." Definition

(time: 02:04:30)

Jeff Kane, MBSS, directed board members to the legal memo on the EPA's proposed rulemaking to define "Waters of the U.S." SWCD's comments are being developed for submission before November 20, which will address implications in the Western U.S. with broadening the application of Clean Water Act restrictions. This would negatively affect agricultural and municipal water users. Whether a specific reach falls under the jurisdiction of the Waters of the U.S. will be decided on a case-by-case basis using complex scientific criteria, which confuses rather than clarifies the definition. The EPA has already received more than 200,000 comments on the rule to date. There was discussion.

Fish & Wildlife Service Proposed Rule Regarding Critical Habitat Designation Process

(time: 02:08:55)

This item was already addressed in discussions with Darlene Marcus, Representative Scott Tipton's office (see Questions/Comments from Audience).

Case No. 13CW3011 Animas – La Plata Project Water Rights Application C-A & DD

(time: 02:09:10)

Bruce Whitehead provided a status report on case number 13CW3011, Animas-La Plata Project water rights due diligence case, which was discussed in executive session. No action was taken.

State Water Plan

(time: 02:09:45)

Steve Harris directed board members to comments on the draft Colorado Water Plan submitted to CWCB on behalf of SWCD. Discussion and comments continue on the Southwest Basin Roundtable's water conservation goal and measurable outcome. The IBCC conservation subcommittee will meet on October 21. Carrie Lile and Ann Oliver, the consultants developing the draft Southwest BIP, are reviewing four draft chapters of the Colorado Water Plan. Their comments are due on October 10, after which they will meet with CWCB representatives to

review the draft together. During a meeting on October 7, the BIP subcommittee scheduled outreach meetings for Durango, Pagosa Springs, Mancos and Norwood to educate the public on the state water plan and provide a forum for feedback. Another BIP subcommittee meeting will be held on October 30 to develop draft language for the Roundtable's consideration on a future use allocation as part of the CWCB instream flow program and the interaction of federal, state and tribal water policy. The final draft water plan is due in late December.

The Water Resources Review Committee held a public hearing on the Colorado Water Plan in Durango on August 27. More than 90 members of the public attended. Many people expressed concern regarding changes to federal water and land management policy and how the prior appropriation system would be impacted by the state water plan. Many others expressed support for East Slope storage and water conservation.

Members of the public introduced themselves. The board adjourned for a short break.

New Business

2014 Grant Report: Pine River Watershed Group

(time: 02:28:40)

Jim Martin was not present. Board members were directed to results of 2014 water quality monitoring and sampling done by the Pine River Watershed Group, which was funded in part by a SWCD grant. A request for funding will not be needed for 2015.

Financial Assistance

Grant Request: Center for Snow & Avalanche Studies

(time: 02:30:20)

Chris Landry presented the request for \$5,000 in funding for 2015 to support monitoring and sampling of dust-on-snow deposition in the San Juan Mountains. In addition, the Center will publish regular alerts and updates throughout the winter and springs describing current dust-on-snow conditions and forecasting how dust will impact snowmelt timing and rates. Chris summarized dust-on-snow conditions for the 2013-2014 winter season and responded to board questions.

Grant Request: San Juan Conservation District

(time: 02:56:25)

Cynthia Purcell presented the request for \$25,000 to support the implementation of practices to improve the instream aquatic habitat, riparian habitat, and wetland areas as a result of adverse effects from the Oso Diversion. The project is approximately 25 miles southeast of Pagosa Springs. Funding and in-kind contributions will also come from the NRCS, private landowners in the area, FWS, Rocky Mountain Bird Observatory, Chama Peak Land Alliance/Friends of the Navajo, Colorado Parks and Wildlife (CPW), the Colorado Cattlemen's Agricultural Land Trust, and Great Outdoors Colorado. The total estimated project cost is \$438,295. Cynthia responded to board member questions. The funding request is for 2015.

Educational Grant Request: San Juan Mountains Association

(time: 03:20:00)

Gabi Morey presented the request for \$9,560 to support Forest to Faucets teacher outreach. After training programs in 2012, 2013, and 2014 designed to provide teachers with 16 hours of in-depth education about watershed science and local water resources, now the coalition would like to create an outreach program to connect with the majority of schools that have received kits and guides in the past to enhance use of the materials. This outreach will include resupplying kit materials, offering assistance to teachers, and providing class presentations. MSI and WIP will continue to partner with San Juan Mountains Association. Gabi responded to board member questions. The funding request is for 2015.

Grant Requests Consideration

(time: 03:36:20)

Steve Fearn moved to approve the following grants: Center for Snow & Avalanche Studies for \$5,000, San Juan Conservation District for \$25,000, and San Juan Mountains Association for \$9,560. Bob Wolff seconded. The motion passed unanimously.

Water Professional Recognition (Dave Grey)*(time: 03:37:20)*

Bruce Whitehead reminded the board of Dave Grey's retirement in early 2015. J.R. Ford moved to recognize USGS's Dave Grey with a letter of appreciation and a gift of a Hawaiian shirt with an embroidered SWCD logo. Monte Naslund seconded. The motion passed.

Animas River Nutrient Standards*(time: 03:40:00)*

Bruce Whitehead, Steve Fearn, and Carrie Lile reported on the Southern Ute Indian Tribe's Request for Proposals for nutrient monitoring of the Animas River to establish nutrient standards based on macro-invertebrates. The tribe was awarded a special grant from the EPA to do so. Similar monitoring was done on the Pine River in 2011. Carrie and Jeff will update the board as the Tribe's monitoring effort progresses. There was discussion about the impacts of the standards on other Animas River water users.

Beginning Board Policy Discussions*(time: 03:50:05)*

John Porter presented the board with a cursory review of several sample board policies for initial consideration. There was discussion around travel and meeting reimbursement.

Haynie & Associates Audit Proposal 2014-2016*(time: 03:56:00)*

Bruce Whitehead summarized the 2014-2016 audit fee estimates from Haynie & Associates, which included all out-of-pocket expenses for travel, report production, and any consultations related to the audit. J.R. Ford moved to retain Haynie & Associates from 2014-2016. Monte Naslund seconded. The motion passed.

Co. Special Districts Property & Liability Insurance Renewal Considerations*(time: 03:58:15)*

Laura Spann proposed two changes to SWCD's Property and Liability policy through the Special District's Association for the board's consideration: 1) assume a \$1,000 deductible for General Liability to save close to \$1,000 annually, and 2) add Excess Liability coverage of at least one million dollars to minimize risk. There was discussion and Barry responded to board questions. Monte Naslund moved to authorize the SWCD executive committee to elect a level of coverage in time for 2015 policy renewal. J.R. Ford seconded. The motion passed.

SWCD 75th Anniversary Commemoration*(time: 04:07:30)*

SWCD's 75th Anniversary, which was founded by the Colorado General Assembly in April 1941, will be in April 2016. Bruce Whitehead provided a review of anniversary commemorations done by other similar Districts. Board members discussed ideas. There was consensus to direct staff to define an amount for inclusion in the proposed budget for FY 2015, and investigate some ideas.

Scholarship Discussion*(time: 04:16:00)*

Denise Rue-Pastin summarized the proposal made to the SWCD Budget Committee on September 9 regarding the possibility of a SWCD-funded scholarship for water-related studies. Barry added that there is nothing in SWCD's founding statute that prohibits or specifically authorizes a scholarship fund. There was board discussion and consensus not to establish a scholarship fund at this time. Bruce summarized the proposal for the Leonard Rice Memorial Scholarship to fund a "river watch" program at a local middle school.

Agency Reports (cont.)**Water Information Program***(time: 04:37:15)*

Denise Rue-Pastin, Coordinator, reported that the Fall 2014 WIP newsletter will be published on the website this week. Denise has been assisting the Animas Watershed Partnership in promoting the idea of a children's water festival in New Mexico. Water 101 Seminar was a success, the best to date, much of which was due to the caliber of the speakers. WIP is a co-sponsor of an exhibit at the Durango Arts Center on October 24 celebrating the 50th anniversary of the Wilderness Act. Denise will speak at the event. Christine Arbogast provided information on reauthorizing BOR funding for WIP, which the board may revisit in 2015 with a new Congress. Denise requested clarification on whether WIP or SWCD provides WIP's office furniture. There was consensus to direct Bruce, in coordination with Denise and Barry, to develop a proposal listing several options for restructuring the WIP program.

Engineering Report

Steve Harris referred board members to his written report, and highlighted the following:

- A ceremony dedicating Long Hollow (Bobby K. Taylor) Reservoir was held on October 2.
- Colorado Water Resources & Power Development Authority held its annual meeting in Durango on October 3.
- Regarding the San Juan and Upper Basin Endangered Fish Recovery Programs, FWS is forming three groups to evaluate down-listing the humpback chump.
- There are no updates regarding demand management through the Colorado River System Conservation Agreement and how \$11 million in funding will be managed.
- A meeting has been scheduled for October 20 to discuss Paradox Salinity Project.
- The Animas River Partnership's sampling efforts on the lower Animas River (funded by SWCD) is ongoing through the end of October. Results may be presented to the board as early as December.

Legal Report

(time: 05:09:45)

Barry Spear summarized the status of three water rights cases in open session:

- The decree was entered on August 8 for the La Plata Ditch Exchange water rights case (09CW51).
- Negotiations continue with the City of Ouray regarding their transmountain diversion filing (13CW3040, 13CW3072).
- A status conference is set for October 31 in the City of Durango recreational in-channel diversion (RICD) due diligence case (13CW3028).

Barry Spear recommended that the board go into executive session for the purpose of discussing Animas River depletion water rights due diligence case (13CW3034), San Juan County water rights case (05CW88) and USFS reserved rights case (W-1605-76). The statues covering this session are § 24-6-402(4)(a), C.R.S., "the executive session concerned the purchase, acquisition, lease, transfer or sale of any property interest," § 24-6-402(4)(b), "conferences with an attorney for the district for the purposes of receiving legal advice on specific legal questions," and § 24-6-402(4)(e), C.R.S., "determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators." Monte Naslund moved that the board go into executive session. Rusty Hinger seconded. The motion passed unanimously.

Barry Spear announced that the board was out of executive session, during which no action was taken. The board discussed water cases in which the board is involved.

Next Meetings

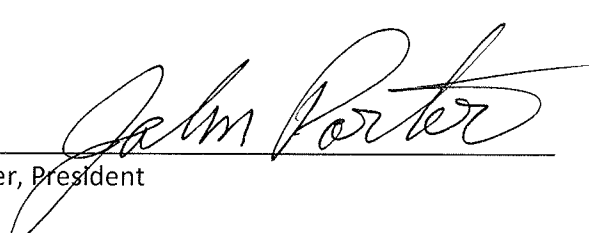
Monday, December 8

10:00 a.m.

Special Regular Board Meeting

Adjournment

President John Porter adjourned the meeting at 6:30 p.m.



John Porter, President