

**Southwestern Water Conservation District
Board of Directors Special Meeting via Zoom
March 25, 2021**

Present: JR Ford Rusty Hinger Amy Huff
Monte Naslund Jenny Russell Don Schwindt
Charlie Smith Doug Stowe David Guilliams (after 9:20 a.m.)

Staff: Laura Spann, Programs Coordinator

Consultants: Carrie Padgett, Harris Water Engineering
Chris Treese, Independent Consultant
Beth Van Vurst, Van Vurst Law, General Counsel

Guests: Orla Bannan, Western Resources Advocates
Ken Curtis, Dolores Water Conservancy District
Marcel Gaztambide, San Juan Citizens Alliance
Ryan Unterreiner, Colorado Parks & Wildlife

1.0 Call to Order – Roll Call and Verification of Quorum

President Jenny Russell called the meeting to order at 9:01 a.m. Roll was taken and a quorum established.

2.0 Review and Approve Agenda

(time: 00:00:50)

There was board consensus to approve the agenda as noticed.

3.0 Questions & Comments from the Audience

(time: 00:01:00)

There were no questions or comments from the audience.

4.0 Old Business

4.1 State Legislative Update & Position on Bills

(time: 00:01:15)

Chris Treese described SB21-189 (Colorado Water Conservation Board Construction Fund Project), which is the annual construction fund bill for CWCB projects' authorization. Monte Naslund moved that SWCD support SB21-189). Don Schwindt seconded. The motion passed.

Chris Treese described HB21-1046 (Water Share Right Mutual Ditch Corporation), which addresses legal and technical nuances of the mutual ditch company statute that has been the subject of recent and pending water court rulings. After a stakeholder process reached consensus on a proposed rewrite of the bill as introduced, that strike-below amendment was passed by the House Agriculture, Livestock and Water Committee. The bill now states that its provisions are subject to each mutual ditch corporations' articles of incorporation, bylaws, and court decrees. The bill, as amended, would generally allow mutual ditch companies to maintain their historical operations. Chris recommended that SWCD continue to monitor HB21-1046.

Chris Treese described SB21-087 (Agricultural Workers' Rights), which removes the historical exemption of agricultural labor from state and local labor and minimum wage laws. It also provides detailed directions and limitations on farm-labor operations. Among other limitations, the bill specifies meal breaks and rest periods, prohibits use of the short-handled or long-handled hoes, creates an agricultural work advisory committee to study and analyze agricultural wages and working conditions, and creates an appeal process and enforcement actions, including minimum penalties, for aggrieved agricultural employees, whistleblowers, and key service providers. While not directly a water bill, Chris explained that it may adversely impact agricultural operations in Colorado and therefore water use. There was board discussion regarding the bill's relationship to SWCD's mission, the

potentially devastating impacts of the bill on the sustainability of agribusiness in Colorado, and whether other bills impacting water-related industries within the District would be similarly considered. Don Schwindt moved that SWCD oppose SB21-087. Monte Naslund seconded. The motion passed 5-2. Doug Stowe and JR Ford abstained.

Chris Treese described HB21-1233 (Conservation Easement Tax Credits), which makes numerous changes affecting claims for an income tax credit for the donation of a perpetual conservation easement. The proposed changes are generally favorable and clarifying for potential easement donors. While not directly a water bill, it addresses well-established problems, limitations, disincentives, and ambiguities regarding tax benefits for conservation easements. Chris thought that HB21-1233 was a constructive, incentive-driven bill supportive of agriculture as well as conservation easement programs within the District. There was board consensus to monitor HB21-1233.

Chris also updated the board on consideration of the "Long Bill," or state budget bill, the status of the Waters of the United States rule under the Clean Water Act, a proposed legislative concept regarding the use of natural features for recreational in-channel diversions, and a proposed healthcare bill that may have positive impacts for SWCD as an employer.

4.2 Proposed Rescheduling Special Board Meetings to April 8th and 22nd *(time: 00:44:00)*

There was board consensus to reschedule the upcoming SWCD special board meetings to April 8th and April 21st.

5.0 Executive Session

(time: 00:47:15)

Beth Van Vurst recommended that the board move into executive session for the purpose of discussing agenda item 5.1, the general manager hiring process, including an update on the general manager hiring process and continued deliberations regarding applicants for the position. The statutes covering this discussion in executive session are § 24-6-402(3.5), § 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," and § 24-6-402(4)(f)(1), C.R.S., "personnel matters." Chris Treese was invited to join the executive session as an independent contractor charged with coordinating the general manager hiring process. Monte Naslund moved that the board go into executive session. Rusty Hinger seconded. The motion passed unanimously.

6.0 Summary and Action Items from Executive Session

(time: 00:49:45)

Beth Van Vurst announced that the board was out of executive session at 10:57 a.m. Beth reported that in executive session the board discussed agenda item 5.1, the general manager hiring process, including an update on the general manager hiring process and continued deliberations regarding applicants for the position. No action was taken during the executive session.

7.0 Board Personnel Committee Meeting

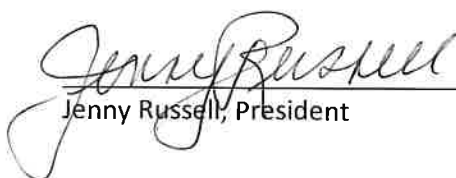
7.1 Proposed Updates to SWCD Personnel Policies

(time: 00:50:20)

Beth Van Vurst and Chris Treese reviewed proposed updates to SWCD's personnel policies regarding paid time off. The Personnel Committee provided input and feedback to the suite of proposed leave policies, including incorporation of recently enacted state legislation addressing pandemic-related and other employee leave requirements. The committee directed Beth and Chris to revise their proposed outline consistent with committee direction, review with the District's employment counsel, and return with proposed policies for full Board consideration.

8.0 Adjournment

President Russell adjourned the meeting at 12:15 p.m



Jenny Russell, President