

NOT YET APPROVED

Ponderosa Community Services District

Minutes of meeting

April 10, 2014

Present:

Directors: D. Doty, C. Marchaunt, M. Moroney

Absent Director: B. Benton

Staff: D. Robertson, J. Robertson, M. Towfiq

Absent staff: T. Griesbach

Snow Monitor: J. Parminter

District Counsel: J. Lew via telephone conference

4 Creeks Engineering: M. Ainley via telephone conference

Guests: B. Arnold

The meeting was called to order at 12:40 p.m. followed by the flag salute.

Welcome: The president welcomed our guest.

Comments from the Public

Ms. Arnold presented a parcel map that included the PCSD property and the adjoining parcels that clearly depicts the legal, recorded access easements through PCSD property to the parcels behind.

President Comments

The meeting will proceed with a quorum of directors. Mr. Benton is unable to attend the meeting today for health reasons.

There are two outstanding issues for this project. One is the quantity of additional excavation at the Summit tank site. The other is the number of days past the original final completion date per the contract. By contract this project should have been completed in early December. We did not reach substantial completion until February, which amounts to 99 days delay.

Mr. Benton, Mr. Doty and Mr. Robertson met with our attorney; engineer and contractor in the 4 Creeks Visalia offices to negotiate a resolution of these issues in order reach final completion on this water project. Due to the absence of Mr. Benton, Mr. Doty will present recommendations for board consideration today.

Minutes from previous meeting(s)

Having been reviewed, there was a motion and second to accept the minutes from the March 28, 2014 meeting as written. Motion carried unanimously,

Communication

Letter from Health and Human Services

Water Manager

Monthly water sample passed

Water manager attended meetings as requested

Picked up pump

Current average daily water use is down to 1500/day, before the construction project average use was 8000/day, now we are averaging 2000/day or less.

Fawn well pumped 149,700

Lake well 1230

There were 1 or 2 transfers from Holby; figures on number of gallons are unavailable

Received new pipe cutter/breaker tool

We have received a letter from HHSA; there is a change in the reporting of water testing results. The lab will now send the results directly to the State; the State will notify the county of test results. There is no new action required on the part of the water manager. He still takes water samples to approved labs; the labs forward the test results to the appropriate agency and continue to notify the district.

Secretary Report

Secretary Report March 2014

Agenda and packet posted to website on March 10, 2014 at 8:21 am PST.

Special agenda posted to website on March 12, 2014 at 11:31 am PST.

Attended Board Secretary training conference on Feb 27-28, 2014

- In process of creating records retention policy for review and approval

- Suggest formalizing financial procedures to go with current financial policies

- Suggest creating a public outreach plan and policy

- Formalize website posting procedures

Emailed and spoke with attorney

Emailed and spoke with Tom Griesbach

GM report via phone conversation

He has gotten his new computer working and gotten help with accessing the documents he needs to fulfill S. Witherow request. He has printed the booklet and is working on it. He is not quite finished with it, hoping to be done in the next few weeks.

He did see Mr. & Mrs. Witherow while in Truxton. Mr. Griesbach verbally notified Mr. Witherow that he was in the process of working on the documents requested.

GM has OSHA training documents collected to present to employees.

He also has the annual injury report that is required to be posted in the employee notice area.

He has completed the FIMA record. He has not been contacted by the state for any further documentation.

He will bring the binder to the office to be stored in the secured file cabinet.

He said that hopefully things will be smoothing out soon at the lumber yard and he will be able to begin attending district board meetings again.

Secretary Report April 2014

Agenda and packet posted to website on April 12:04 pm PST (waiting to see if anything needed to be changed/amended re: project items).

Special agenda posted to website on April 10, 2014 by 8:50 am PST.

Communications with attorney, engineer.

Began working on record retention policy – need to finalize document schedule with treasurer and GM

Reports

- General Manager - Not present
- Financial Coordinator – nothing to add
- Treasurer

The financial report for February was presented for review. Major expenditures for the month were utility expenses, secretary conference expense, and hydrant snow removal

It was moved by Mr. Doty, seconded and passed unanimously to accept the February treasures summary as presented.

The financial report for March was presented. Major expenditures were travel reimbursement expenses for secretary conference, utility expenses, propane, and a bill from the county for the November 2013 election.

Overall, the current budget is in good shape. There are still some funds due from the water and snow assessments. The expenditures in water are at approximately 50% of the budget, snow is 25% of budget, 735 fund is at 72% with a balance of less than \$7000.00.

The county procedures to move funds to and from reserves require a board resolution.

*Future agenda item – resolution to move funds from 740 general fund into 735 fund in order to satisfy USDA reserve requirements (May agenda).

Resolution to make annual payment on USDA loan (July agenda)

The treasurer requested director/staff input for next fiscal year's budget. Any projects or anticipated purchases amounts should be provided in order for the treasurer to budget as accurately as possible.

The treasurer's report was temporarily interrupted.

At 1:15 pm the President moved to the Unfinished Business item of the Status of Water System Improvement Project; in order explain the details of the negotiation to the board before the teleconference with attorney, Julia Lew, and engineer, Matt Ainley.

- Status of Water System Improvement Project

At issue for the district was the amount being charged by the contractor for additional excavation at the Summit tank site and the number of days (99+) past the original contract date for completion of the project. The district and the engineer believe the amount being charged for the additional excavation (\$29,000+) was too high and they did not feel it could be sufficiently justified by the contractor – however the actual quantity could not be confirmed by the project inspector, who was not present on the day the work was performed. Additionally there were other contract change orders (CCO) that had not been submitted for signatures and processing even though the works had been completed. In February, the board had agreed to pay \$5400 on a CCO related to asphalt work. The paperwork was sent to the contractor but had not been returned and therefore not processed. The engineer informed Hobbs that the district was not willing to approve the amount claimed for the additional excavation and furthermore was considering a claim for liquidated damages. Hobbs submitted a revised CCO for the asphalt work to include 99 days additional to the contract (thereby negating the district's delay claim). At that point, 4 Creeks would not accept the change nor submit the CCO to the district for approval. Mr. Doty informed the board that a meeting was scheduled with the district representatives (Doty, Benton, Robertson), out attorney (Lew), engineer (Ainley) and

contractor (Hobbs). During that meeting, Mr. Hobbs abruptly departed before a resolution could be reached. The district representatives with advice and guidance of the engineer and attorney offered to waive a liquidated damages claim of \$58,410.00 and pay the contractor a total of \$29,256.00 for all outstanding CCOs and balance of work per the contract. This initial offer was rejected by the contractor and countered by Mr. Hobbs requesting an additional \$3000.00. Mr. Doty instructed our attorney to counter that request with the district agreeing to an additional \$1500.00 above the original offer. The district received confirmation through 4 Creeks, via email, that the contractor agreed to the counter offer. Mr. Hobbs sent a letter via email through the engineer, accepting the district offer.

Excerpt of letter:

Attn: Dale Doty President

Subject – Final Project Acceptance, Value and Consideration

Ponderosa CSD Water System Upgrades – Contract with Hobbs Construction Inc.

Sir:

Hobbs Construction Inc. hereby formally accepts the Districts final Pay Estimate Number 4 in the calculated amount of \$546,190.00 as payment in full for all works contracted with the District.

As part of this final acceptance, the following verbiage from the District is hereby incorporated and agreed to.

The District is willing to offer the following:

\$546,190.00 as the final contract amount. Additionally, if you are willing to accept these as the final amounts, the District would be willing to allow an extension of contract days to February 13, 2014 and March 14, 2014, essentially waiving its claim to delay damages.

If you accept, then you understand that without either the District or you admitting any liability, this fully and finally settles, in their entireties, all claims, demands, actions, losses, liabilities, costs, and expenses, of whatever nature, whether known or unknown, and whether asserted or not asserted, pertaining to this project and final completion and acceptance of the project by the District. This specifically includes, but is not limited to, contractor claims for any other work performed on the project, and District claims for any additional delay damages. This agreement pertains to the project and its final completion only and does not extend to any issues related to work required or performed pursuant to the warranty and the warranty period.

Respectfully Submitted

Mike Hobbs – President

Michael L. Hobbs

Hobbs Construction Inc

Mr. Doty asked if all directors understood the terms and asked for questions. It was asked if all of the contract work had been completed. It has been determined by the engineer, project inspector, and district reps, during a walk-through inspection, that the final punch-list items have been completed by the contractor. No other works are due to be performed except as required during the warranty period. There was a brief discussion. As the district's representative during negotiations, Mr. Doty recommended the board formally accept the letter from Mr. Hobbs. For the record, there was a consensus to accept Mr. Hobbs' letter of acceptance of payment for a contract total in the amount of \$546,190.00.

At 1:30 a conference call with the attorney, Julia Lew and engineer, Matt Ainley began.

The board will discuss and consider the following:

- a. a resolution accepting the project as completed - moved to the end of the list
- b. Change Order 3 in the amount of ~~\$29,256.00~~. The new amount of the Contract Change Order is \$30,756.00 and includes an additional 99 days to the contract period (thereby waiving the district's claim to liquidated damages).

It was moved by C. Marchaunt, seconded and passed by the following roll call vote.

C. Marchaunt – aye
M. Moroney – aye
D. Doty - aye

- c. Claim for liquidated damages from the District \$58,410.00 – waived by consensus through consultation with attorney
- d. Final pay request from contractor. The total amount of pay request 4 is \$37,787.00 and includes CCO3 (\$30,756). This payment will bring the contract current \$518,880.50, but not include the final retainage payment (27,309.50) USDA holds for thirty days.

It was moved by D. Doty to approve final pay request from the contractor for \$37,787.00. There was second, the motion passed by the following roll call vote.

C. Marchaunt – aye
M. Moroney – aye
D. Doty - aye

- e. Pay request from engineer. 4 Creeks submitted a Change Order Request for an additional 230 working days of construction administration (USDA exhibit K) in the amount of \$17,215.00.

It was moved by D. Doty to accept the engineering CCO in the amount of \$17,215.00.

Following a brief discussion to clarify that this was not the final invoice, there are additional unpaid engineering invoices, the motions was seconded and passed by the following roll call vote.

C. Marchaunt – aye
M. Moroney – aye
D. Doty – aye

Our attorney recommended the board take action to authorize the signing of all submitted CCOs as outlined during this meeting.

It was so moved by D. Doty, seconded and passed by the following roll call vote.

C. Marchaunt – aye
M. Moroney – aye
D. Doty - aye

All outstanding engineering invoice amounts were reviewed. All invoices are per the contract and total \$13,048.55. During the review of invoices, the district treasurer informed Mr. Ainley that an invoice in the amount of \$1748.05 and been previously paid and his office had been notified of this payment. Mr. Ainley agreed to subtract that amount bringing the new total for outstanding invoice to \$11,300.50.

It was moved by D. Doty to authorize a final payment to 4 Creeks engineering for all outstanding invoices in the amount of \$11,300.50, in addition to the CCO amount of \$17,215.00. The motion was seconded and passed by the following roll call vote.

C. Marchaunt – aye
M. Moroney – aye
D. Doty - aye

f. Authorization to execute any and all other documents necessary for the completion of the project.

D. Doty moved that the board authorize the execution of execute any and all other documents necessary for the completion of the project. The motion was seconded and passed by the following roll call vote.

C. Marchaunt – aye
M. Moroney – aye
D. Doty – aye

The attorney suggested that the board authorize the submission of any PCSD project related expenditures to USDA for reimbursement. It was moved by D. Doty to submit the following expenses to USDA for reimbursement.

Property appraisal for Summit tank easement - \$3,500

Easement acquisition cost - \$10,000

Additional labor by PCSD employees - \$11,095.84

Legal fees related to the project - \$2186.50 + additional TBD

And any other expenses to be determined

The motion was seconded and passed by the following roll call vote.

C. Marchaunt – aye
M. Moroney – aye
D. Doty – aye

Resolution accepting the project as completed.

Having determined that all necessary actions have been taken, the board considered a resolution accepting the project as complete.

It was moved by D. Doty to accept Resolution 2014-98-A accepting the Ponderosa Water System Improvement Project as complete per the contract with 4 Creeks Engineering and Hobbs Construction. The motion was seconded and passed by the following roll call vote.

C. Marchaunt – aye
M. Moroney – aye
D. Doty – aye

Out attorney will file the notice of completion with the county.

The treasurer's report was resumed.

Budget items to consider

New roof on district building

Parts/supplies

SCADA system

Pump installation at Summit

The president asked if there were any further questions or discussion on the treasurer's report. Hearing no objections, the treasurer's report was accepted.

- Water Coordinator
 - **Progress on water system improvement project** – see above

- Snow Monitor - recent storms produced 22 inches of snow, on top of 8 inches. Season total is now 8 feet, 2 inches. There have been no snow removal invoices received from High Sierra to date.
Snow Coordinator - nothing to add
- PPOA/PCSD Liaison – none
- Forest Service Liaison – nothing to report

Director Comments - none

Unfinished Business

Ongoing items

- PCSD building maintenance
 1. Replace portions of fascia boards
 2. Paint building
 3. New roof—with additional roof over fire truck door – request for plans
- Update water ordinance 99W – Copies have been distributed. Directors are requested to review the first 10 pages and come prepared to discuss at the next meeting.
This item will be postponed to the next regular meeting. Directors are requested to have reviewed pages 10-20 and be prepared with comments or recommendations. – carry forward.

New Business

- Preliminary 2014-2015 fiscal year budget discussion, review of current 2013-2014 fiscal year budget amounts and spending, review of current water and snow removal rates.

Directors and staff were directed to provide a list of probable expenses, purchases and possible project expense to the treasurer before the next regular board meeting.

The board will consider raising current water rate by the December 2013 CPI, and snow rates by the June 2013 Los Angeles, ENR.

The date for the next regular Board meeting will be **Thursday May 8, 2013 at 12:30 p.m.** in the District Building.

Adjourn 2:45 pm

Minutes prepared by Jennifer Robertson/Board Secretary