

**BOXELDER BASIN REGIONAL STORMWATER AUTHORITY  
2016 ANNUAL ADMINISTRATIVE MATTERS RESOLUTION**

RESOLUTION

WHEREAS, the Board of Directors (the "Board") of the Authority have a duty to perform certain administrative obligations during each calendar year to comply with certain statutory requirements and to assure the efficient operations of the Authority; and

WHEREAS, the Board desires to set forth such obligations herein and to designate, where applicable, the appropriate person or person(s) to perform such obligations on behalf of the Boards; and

WHEREAS, the Board further desires to acknowledge and ratify herein certain actions and outstanding obligations of the Boards, if any.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE BOXELDER BASIN REGIONAL STORMWATER AUTHORITY HEREBY RESOLVE AS FOLLOWS:

1. The Board directs the Authority Manager to submit a proposed budget to the Board by September 1, to schedule a public hearing on the proposed budget, prepare a final budget, and budget resolutions, including amendments to the budget if necessary; and to file the approved budgets and amendments thereto with the proper governmental entities in accordance with the Local Government Budget Law of Colorado, Sections 29-1-101 to 29-1-115, C.R.S.
2. The Board designates Pinnacle Consulting Group, Inc. as the official custodian of "public records," as such term is used in Section 24-72-202, C.R.S.
3. The Board has established a policy regarding requests to inspect or obtain copies of the Authority's public records consistent with the requirements of and authority granted by the Colorado Public (Open) Records Act, C.R.S. §24-72-205 ("Open Records Act").
4. The Board determines to hold regular meetings on January 27, 2016, February 24, 2016, March 30, 2016, April 27, 2016, May 25, 2016, June 29, 2016, July 27, 2016, August 31, 2016, September 28, 2016, October 26, 2016, November 21, 2016, and December 21, 2016. The location of the meetings will be at the Leeper Center, 3735 Cleveland Ave., Wellington, Colorado.
5. The following agreements with non-governmental entities are subject to annual appropriation during the budget process:
  - a. Agreement for Authority Management Services between Boxelder Basin Regional Stormwater Authority and Pinnacle Consulting Services, Inc. (subject to annual appropriation).
6. The Board has reviewed and previously approved the minutes from the January

16, 2015, January 28, 2015, February 25, 2015, March 25, 2015, April 15, 2015, April 22, 2015, May 27, 2015, June 30, 2015, July 8, 2015, July 22, 2015, August 19, 2015, August 24, 2015, August 26, 2015, September 10, 2015, September 23, 2015, September 30, 2015, October 28, 2015, November 10, 2015, November 23, 2015, December 10, 2015, and December 21, 2015 meetings of the Board, which minutes are attached hereto as Exhibit A.

ADOPTED AND APPROVED THIS 25<sup>th</sup> DAY OF May, 2016.

BOXELDER BASIN REGIONAL STORMWATER  
AUTHORITY

By:   
Gerry Horak, President

ATTEST:

By:   
Bill Schneider, Secretary

I, Bill Schneider, Secretary of the Board of Directors of Boxelder Basin Regional Stormwater Authority, do hereby certify that the annexed and foregoing Resolution is a true copy from the Records of the proceedings of the Boards of said Authority, on file with Greg White, general counsel to the Authority.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Authority, at Larimer County, Colorado, this 25<sup>th</sup> day of May 2016.

  
Bill Schneider, Secretary

**EXHIBIT A**

**MINUTES**

**January 16, 2015**

**January 28, 2015**

**February 25, 2015**

**March 25, 2015**

**April 15, 2015**

**April 22, 2015**

**May 27, 2015**

**June 30, 2015**

**July 8, 2015**

**July 22, 2015**

**August 19, 2015**

**August 24, 2015**

**August 26, 2015**

**September 10, 2015**

**September 23, 2015**

**September 30, 2015**

**October 28, 2015**

**November 10, 2015**

**November 23, 2015**

**December 10, 2015**

**December 21, 2015**

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## MINUTES OF THE COORDINATED SPECIAL MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD  
January 6, 2015

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a coordinated Special Meeting, open to the public, at the Ayres, 3665 John F Kennedy Pkwy, Fort Collins, CO 80525 at 3:30 p.m. on Tuesday January 6, 2015. Notice of the Meeting was duly posted.

ATTENDANCE:     Directors in Attendance:  
Ken Sampley, President  
George Reed, Secretary  
Vic Meline, Treasurer  
Lee Tucker, Director  
Richard Seaworth, Director (Via Conference Call)

Also in Attendance:  
Stan Myers, Brendan Campbell and Crystal Bidwell , Pinnacle Consulting Group, Inc.  
Greg White; BBRSA Legal Counsel

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CALL TO ORDER           The Meeting was called to order at 3:32 p.m. by Director Sampley, President, noting that a quorum was present.

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AGENDA           The Board reviewed the agenda. Upon motion duly made by Director Meline and seconded by Director Reed it was unanimously

**RESOLVED** to approve the agenda as presented.

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PUBLIC COMMENT     No public comment at this time.

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ITEMS FROM THE FINANCE     Financial Report: Mr. Campbell presented the financial report as of December 31, 2014 and November 30, 2014 as they relate, including the cash position report, the cash encumbrance report, the work order status update, and the capital costs summary broken out by project. The December Financials do not include the check to the Margaret Griffin Trust in the amount of \$42,000 and to

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Uthmann Enterprises in the amount of \$4,800 as they were added after the Financials were created back in December. All of the presented invoices are within scopes of service that the Board has previously approved.

Director Seaworth agreed everything is within budget except he still does not understand how far along each project is. For example, he would like to know how much money in total has been spent on County Road 52. Director Reed agreed that he would like to see a percent completed for capital costs by project.

Director Seaworth is concerned that all the time Manager Myers puts towards County Road 52, that Wellington will not get a break on paying the entire bill. Director Sampley clarified that we are not capitalizing management costs, such as Manager Myer's costs. Manager Myers agreed and mentioned those costs were not included in the original CWCB loan.

Director Seaworth would like to see an additional Construction and Right of Way break out under County Road 52 on the Capital Costs by Project report to capture the detail on the Check Detail listing provided. Mr. Campbell stated that he will have that further break out on the report going forward.

Approval of Payables: Mr. Campbell presented for consideration and approval, the Schedule of Payables for December 2014 in the amount of \$112,233.65, including checks 1185 through 1191. Upon motion duly made by Director Meline and seconded by Director Reed it was

**RESOLVED** to approve the December Schedule of Payables as presented, by a four to one vote, with Director Tucker opposed as follows:

- Ayres Associates Inc. - \$42,056.09
- Greg A. White, Attorney - \$2,070.00
- Murray Dahl Kuechenmeister & Renauld LLP – \$6,182.08
- Phelps Adkinson - \$6,182.08
- Pinnacle Consulting Group, Inc. – \$9,265.48
- Margaret Griffin Trust - \$42,000.00
- Uthmann Enterprises, LLC - \$4,800.00

Financial separate summary: Mr. Campbell provided an additional summary to answer the questions the Board Members had from the previous meeting regarding the global financial summary of the Authority from inception to now. More specifically questions regarding, the amount of money has been received, and spent as it relates to all the projects.

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Manager Myers spoke to the Memo that accompanied the spreadsheets. He stated the primary purpose of the Memo was to provide input to the December 23<sup>rd</sup> meeting with the entity members. Manager Myers provided the Memo and spreadsheets to all the board members to ensure everyone had a chance to review it.

Director Reed mentioned he attended the December 23<sup>rd</sup> meeting and did not read the Memo before the meeting, and believes there is a good chance that others did not review this as well as it was not mentioned during the meeting.

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### RATIFICATION OF FORMAL JOHNSON OFFER LETTER

Manager Myers presented the Johnson Offer Letter in the amount of \$22,000 to the Board. Manager Myers had previously sent an email to all the Board Members requesting approval to increase the original offer of \$17,000 to by thirty percent to \$22,000. Four members responded to the email and approved the suggestion. Manager Myers spoke with Doug Johnson regarding the increase, and Mr. Johnson currently has his attorney reviewing it. Mr. White stated that he spoke with Mr. Johnson's attorney and there should not be an issue.

Following review and discussion and upon motion duly made by Director Reed, and seconded by Director Tucker it was,

**RESOLVED** to ratify the Formal Johnson Offer Letter regarding the Flowage Easement and Right of Way in the amount of \$22,000 as presented.

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### CONSIDERATION OF REIMBURSEMENT OF LAKE CANAL COMPANY'S LEGAL FEES

Manager Myers presented the Lake Canal Company's Legal Fees in the amount of \$1,801.74 regarding the Stipulation.

Director Sampley clarified that actually this bill is for Lake Canal's legal fees as it relates to what will happen with the acquisition of the Day property.

Following review and discussion and Director Reed made a motion and Director Tucker requested this action be tabled until after Executive Session.

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### LEGAL ITEMS

Director Sampley moved to go into Executive Session in compliance with requisite statutory procedures under the Colorado Executive Session Laws, for the Board to discuss a strategy relative to negotiations, pursuant to C.R.S. § 24-6-402(4)(a)(e). Upon motion duly made by Director Sampley and seconded

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by Director Tucker it was unanimously

**RESOLVED** to convene an Executive Session, pursuant to C.R.S. § 24-6-402(4)(a)(e), “Concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest, and “determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.”

Manager Myers reported: “It is January 6, 2015, and the time is 4:26 p.m. I am the Manager for Boxelder Basin Regional Stormwater Authority. As required by the Colorado Open Meetings Law, this Executive Session is being recorded.”

Present at the Executive Session: Director Ken Sampley, Director Richard Seaworth (via conference call), Director Vic Meline, Director Lee Tucker, Director George Reed, Manager Stan Myers, and Greg White.

No decisions or actions were taken in the Executive Session.

The Executive Session concluded at 5:11 p.m.

All present at the beginning of the Executive Session were present at the Adjournment of the Executive Session.

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CONSIDERATION  
OF  
REIMBURSEMENT  
OF LAKE CANAL  
COMPANY’S  
LEGAL FEES

Pursuant Director Tucker’s request to consider the approval of the Reimbursement of Lake Canal’s Legal Fees in the amount of \$1,801.74 for the Stipulation following the executive session, the approval of Reimbursement of Lake Canal’s Legal Fees in the amount of \$1,801.74 for the Stipulation was brought before the Board for consideration. Upon motion made by Director Reed, and seconded by Director Meline

**RESOLVED** to approve payment of the Lake Canal Legal Fee’s in the amount of \$1,801.74 as presented.

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CONSIDERATION  
OF MODIFYING  
OFFER TO  
MOUNTAIN  
VISTA GOLF  
COURSE

Board gave direction to move forward with agreement with Mountain Vista Golf Course owners based on discussion in Executive Session.

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DIRECTORS  
COMMENTS

Director Tucker expressed concerns about the design of the North Poudre Inlet Canal and the source of the statement in the November 17th minutes that states "that the directive was given to protect the north side, which was completed, but to leave the south side alone". Manager Myers was directed to have Ms. Faucett clarify this statement and to follow up with North Poudre Irrigation on the stump removal.

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ADJOURNMENT

There being no further business to come before the Board, and upon motion duly made by Director Reed and seconded by Director Tucker the meeting was adjourned, by unanimous vote, at 5:23 p.m.

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The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Respectfully submitted,



Crystal Bidwell, Secretary for the Meeting



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## MINUTES OF THE COORDINATED REGULAR MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD  
January 28, 2015

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a coordinated Regular Meeting, open to the public, at the Leeper Center, 3800 Wilson Avenue at 4:00 p.m. on Wednesday, January 28, 2015. Notice of the Meeting was duly posted.

ATTENDANCE:

Directors in Attendance:

Ken Sampley, President (arrived at 4:06 p.m.)  
Vic Meline, Treasurer  
George Reed, Secretary (was excused at 5:30 p.m.)  
Lee Tucker, Director  
Richard Seaworth, Director

Also in Attendance:

Stan Myers, Brendan Campbell and Crystal Bidwell; Pinnacle Consulting Group, Inc.  
Mark Peterson; Larimer County  
Andrea Faucett; Ayers Associates  
Greg White; Authority Legal Counsel  
Malcolm Murray; Murray Dahl Kuechenmeister & Renaud LLP  
Lou Gaiter, Larimer County Commissioner  
Larry Lorentzen, Town of Wellington Administrator/ Clerk  
Travis Harless, Board Member of Town of Wellington  
Dave White, Citizen

CALL TO  
ORDER

The Meeting was called to order at 4:06 p.m. by Director Reed, noting that a quorum was present.

Director Sampley arrived at 4:06 p.m.

AGENDA

The Board reviewed the agenda. Upon motion duly made by Director Seaworth, seconded by Director Reed, and upon vote, it was unanimously

**RESOLVED** to approve the agenda as amended, adding "III, B Consideration of Assembly of Bid Documents."

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### APPROVAL OF MINUTES

The minutes of the December 10, 2014 special meeting were presented for the Boards consideration and approval. Following review and discussion, and upon motion duly made by Director Reed, seconded by Director Meline, and upon vote, it was unanimously

**RESOLVED** to approve the December 10, 2014 special meeting minutes with the following amendments:

- Page 3: “Director Seaworth wanted to know why Wellington has paid more than 30% of the fees. An explanation was provided through discussion during the meeting, and with written material. Director Seaworth stated the explanation did not satisfactorily address his question.”

Mr. Campbell noted a summary had been created to show the total revenue from each entity from the date of inception. When looking at only the Stormwater Service Fees, not at the System Development Fees for the past three years, the Town of Wellington paid 29% in 2012, 28% in 2013, and 27% in 2014. Although the impervious area may have changed over time, the Town of Wellington’s percentages of how much they paid have remained relatively close to the original 30%. Director Seaworth pointed out that when you add the additional System Development fee it brought the total amount paid by the Town of Wellington to 32.2%.

The minutes of the January 6, 2015 special meeting were presented for the Board consideration and approval. Following review and discussion and upon motion duly made by Director Reed, seconded by Director Seaworth, and upon vote, it was unanimously

**RESOLVED** to approve the January 6, 2015 special meeting minutes as presented.

### 2015 ANNUAL ADMINISTRATIVE MATTERS RESOLUTION

Manager Myers presented the 2015 Annual Administrative Matters Resolution to the Board for consideration and approval.

Director Reed wanted clarification regarding Manager Myers’ role with contracts and negotiations on behalf of the Authority within the Annual Administrative Matters Resolutions.

Director Seaworth asked Greg White, BBRSA Attorney, at what time does the Board indemnify all the actions it has done throughout the year.

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Mr. White responded to both Directors by clarifying that the Annual Administrative Matters Resolution is for the purpose of statutory requirements such as the Colorado Public Open Records Act, and determining official custodian of record, and that general manager duties are discussed at every meeting along with approval of contracts. The Board is protected by the Governmental Immunity Act of Colorado (GIAC), and therefore any actions taken within the Board's authority are protected under the GIAC. As for the Board indemnifying itself; that statement is without merit, because the Board cannot protect itself by indemnifying itself. Some Boards do ratify all the decisions of a manager acting on behalf of the Authority, but this Annual Administrative Matters Resolution does not have anything to do with that. Mr. White noted that the Authority carries insurance that protects the Authority and the Board members, although the insurance is not a requirement.

Following review and discussion and upon motion duly made by Director Reed, seconded by Director Seaworth, and upon vote, it was unanimously

**RESOLVED** to approve the 2015 Annual Administrative Matters Resolution as presented.

PUBLIC  
COMMENT

Lou Gaiter, Larimer County Commissioner addressed the Board to thank the Directors and Pinnacle Consulting Group for their continued efforts, as he believes this is important work. Commissioner Gaiter stated everyone's efforts are appreciated and are often times overlooked especially when the land is dry and not flooding. He recalled a recent meeting County Commissioner Johnson held for the citizens regarding floodplain regulations. Over a hundred people showed up to discuss concerns they had, specifically about the loss of property. Commissioner Gaiter did not want people to forget that nine people along the Front Range died in the 2013 floods and millions of dollars of damage was done, including Larimer and Weld counties. He reminded the Board that there are human lives at stake and this project needs to be completed. Commissioner Gaiter mentioned that Director Seaworth raised an interesting comment about percentages of fees that have been paid by each entity and that he was just briefed on the subject earlier that afternoon. He apologized to Director Seaworth for the delayed response to his questions, and mentioned that he believes the answers that will be provided in the summary regarding this topic will answer the questions he has been asking. Commissioner Gaiter concluded by again thanking the Board for their continued efforts and service.

Travis Harless, Trustee of Town of Wellington addressed the Board with two inquiries. The first was how communication flows between the Authority

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Board and the Boards of each entity represented. Mr. Harless wanted to know how communications get conveyed to individuals or if there is a specific manner in which information is passed. Director Sampley responded by stating that in Fort Collins there are a number of items that council members have acted on, and there is discussion around those items to continue the flow of communication. Specifically, the Amendment to the IGA, was thoroughly discussed with the City of Fort Collins Council members, and Director Sampley also assumed Larimer County discussed it in detail as well. Also, last February there was a presentation about the Authority to help inform anyone who was interested in learning more and that allowed for questions from interested parties. Mr. Harless then inquired about how much money has been spent to this point. He wanted to know how much money was left in the bank.

Director Sampley pointed out that this was part of the discussion regarding the financial summary that Mr. Campbell was going to present later in the meeting.

Mr. Campbell responded to Mr. Harless and stated that he does have a summary of all the accounting for the Authority from the date of inception to current. Mr. Campbell mentioned that the summary does include a couple of items such as the FEMA Grant which technically did not come through the Authority but rather Larimer County. Though assuming the Grant was part of the Authority numbers, the total dollars spent to date on capital projects is, \$6,694,076.

Mr. Harless stated that he is interested in knowing the projected remaining costs for the projects, as was mentioned in a letter issued by the Town of Wellington's Counsel regarding the concerns over the amount of money that is still needed to complete the project. He stated the concern the Town of Wellington Board has is that they do not have a projected amount for the cost remaining to complete the project and yet they are on the hook for a percentage of it. At this time, the Town of Wellington Board does not believe that anything downstream from Wellington will affect Wellington and they are unsure of their percentage of responsibility to cover costs. They are trying to come to a determination of what the Town of Wellington is responsible for while also remaining respectful of the citizens of the Town and making sure they do not incur any unnecessary costs.

Manager Myers pointed out to Mr. Harless that he thought many of his questions would be addressed in the Pro Forma presentation that was to follow.

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ITEMS FROM THE  
FINANCE  
DIRECTOR

Financial Report: Mr. Campbell presented the financial report as of December 31, 2013 and December 31, 2014 as they relate, including the cash position report, the cash encumbrance report, the work order status update, and the capital costs summary broken out by project.

Mr. Campbell noted that in 2014 the Authority collected more revenues than originally budgeted for, due to each of the entities having more growth and thus additional impervious areas which resulted in more revenues collected. Mr. Campbell noted that the budget is based on the previous year.

Director Seaworth asked if Mr. Campbell would provide the percentages for each entity and Mr. Campbell stated he would.

Director Seaworth wanted to bring to the Board's attention that the Authority has spent \$6.9 million dollars and the balance sheet shows total assets of only \$2,592,320, which means \$4 million dollars has escaped somewhere and stated that this might be why the Board receives so many questions about the Authority's spending.

Director Sampley clarified that a large portion of that money was spent on the grant and for Coal Creek Mitigation Project and all the costs involved in that project such as dredging, was a service not an asset that can be physically seen.

Director Seaworth's stated that if any individual was to go on the website and look at this they would be very confused. He believes that not enough money has been spent on public outreach, as evidenced by the fact that the expenditures show only \$309 has been spent. This is the reason why he believes people are angry.

Director Sampley stated that there is a website, which is continually updated, newsletters, and monthly (sometimes more frequent) meetings, which are always open to the public.

Approval of Payables: Manager Myers presented for consideration and approval, the Schedule of Payables dated January 14, 2015, in the amount of \$37,202.15, including checks 1196 through 1199. Upon motion duly made by Director Meline, seconded by Director Reed and upon vote, it was

**RESOLVED** to approve the January Schedule of Payables, in the amount of \$37,202.15, including the check numbers listed above, by a 4-1 vote, with Director Tucker opposed, as follows:

- Ayres Associates Inc. - \$14,243.27
- Greg A. White, Attorney - \$3,375.00

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- Murray Dahl Kuechenmeister & Renaud LLP - \$6,707.51
- Pinnacle Consulting Group, Inc. – \$12,876.37

Director Seaworth stated his concern regarding the percentage of completion with regard to some of the invoices and that he and Director Reed have not received information regarding their request for percentage of completion on some of the engineering work.

Director Sampley said Ayres Associates provides a work order accounting each month and it is provided in the packet.

Director Seaworth stated he has reviewed the report and is concerned that some projects only show 28% complete, for example.

Director Sampley clarified that the report actually reflects the percentage of budget remaining. Director Sampley stated that the way in which numbers are presented can be addressed later when the Board consults with the Manager about “estimate at completion”, which is a project management professional term, and when the Board discusses where the Authority is at, or what has been deemed Proforma.

Director Seaworth wants to know percentage complete of design, specifically, with the design of County Road 52, and if the amount paid so far for that design is in line with where the design is at.

Ms. Faucett stated in her report she discusses what is currently happening with the final design of County Road 52, but like Director Sampley stated, the percentage completed is subjective. In her opinion County Road 52 design is complete and has been submitted to the State Engineer and she is waiting for comments back. Based on the comments from the State Engineer, there may need to make some changes to the design. She is willing to put in an additional column that gives her opinion of percentage completed with design.

Director Sampley stated that going forward there should be an estimate at completion, as he believes it is the only way to accurately look at it. The estimate at completion would be based on where we are right now and what work still needs to be done. We could also provide an estimate of completion with each task, but there is concern with that because if it is compared to the budget, and does not match exactly, it could pose some issues although it would be subjective.

### 2014 Audit

Mr. Campbell presented the 2014 audit engagement letter with Poysti &

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Adams to the Board noting that the cost of \$6,500 represents a 3% increase over last year. Mr. Campbell clarified that Poysti & Adams audit the financial statements and make sure they materially accurate in accordance with Generally Accepted Accounting Principles.

Director Seaworth wanted to know if they audit whether each entity is paying the amount they should be based on impervious areas, and if they audit our billing mechanisms.

Mr. Campbell stated they do not audit those items.

Director Sampley was interested if there was a rationale about why we haven't gotten other proposals from different audit firms other than Poysti & Adams.

Mr. Campbell responded by saying there can be a benefit of having a new set of eyes look at the financial statements. However, Poysti & Adams can switch the lead auditor to maintain a fresh look at the statements, and while there could be a cost benefit with going with someone different, Poysti & Adams rates are reasonable and they provide a quality service.

Mr. Campbell did state there are audit firms that can perform agreed upon procedures audits. Poysti & Adams was engaged to provide a financial statement audit which is required by the State. However, the Authority can engage another firm, or Poysti & Adams, to complete an Agreed Upon Procedures audit. The Audit would have a narrow focus: to determine whether the billing practices are being performed properly. Mr. Campbell stated that in his years of experience he has not seen an audit addressing this type of issue.

Upon motion duly made by Director Seaworth, and seconded by Director Tucker, it was unanimously

**RESOLVED** to approve Poysti & Adams to conduct the 2014 audit in the amount of \$6,500.

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ITEMS FROM  
AUTHORITY  
MANAGER

AUTHORITY MANAGER'S REPORT

Mr. Myers presented the Manager's Report.

Larimer Weld Canal Crossing Structure (LWCCS): Greg White has had discussions with Butch Sommermeyer of the Larimer and Weld Canal Company. Mr. White will present a draft agreement to the Authority Board in Executive Session later in this meeting. Manager Myers has been in contact with Roger McConnell and Western Heritage (Norm Karasa) who own the properties adjacent to the construction. They are currently reviewing the draft agreements developed by Greg White.

Lake Canal Reservoir Agreement: A final version of this agreement has been reviewed and executed by both parties.

AT&T Cable Relocation: Manager Myers has been contacted by Tom Jakse of Clearwater Consulting who is managing this project for AT&T, who stated they are hoping to begin lowering their cable within the next few weeks.

Mountain Vista Golf Course Coordination: Manager Myers and Rick Phelps met with Deryle and Matt O'Dell (owners of Mountain Vista Golf Course) on December 29<sup>th</sup> and the results of this meeting were reported to the Board at the Special Meeting on January 6<sup>th</sup>. Based on direction from the Board a draft agreement is being prepared by Greg White, which will be reviewed in Executive Session.

Discussions with Doug Johnson: Doug Johnson has received a right-of-way offer letter for the required right-of-way and flowage easement. Mr. Johnson has turned this over to his legal counsel, Sean Rutledge. Greg White is initiating further discussion with Mr. Rutledge and will report this to the Board in Executive Session.

Information Request from the Town of Wellington: A memorandum was prepared for the December 23, 2014 meeting of member entities. Supplemental information has been developed since this memorandum is an effort to clarify information.

Manager Myers reviewed the Proforma spreadsheet which summarizes money as it relates to each project, starting from what the amounts were estimated at the time the original CWCB loan application was submitted, how much money has been spent to date, the remaining balance, and the estimate at completion for the various projects.

Director Seaworth asked how long the various projects are going to take.

Manager Myers stated that construction should be completed by the end of the year. Manager Myers stated that the schedule for construction has already been provided in the memo that was sent out on December 17, 2014.

Manager Myers clarified that the ROW costs to date reflected on the Pro Forma included the costs to lower the AT&T cable. This cost should be allocated to construction costs instead and will be reflected that way in subsequent copies of the Pro Forma.

Status of ESDF Land Acquisitions: Manager Myers and Malcolm Murray intend



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to provide an update on the Boxberger, Day and the Day recreational (partnership) parcels in Executive Session.

Consideration of Bid Documents: Manager Myers requested the Board grant an authorization not to exceed costs of \$5,000 for Pinnacle Consulting Group Inc., and \$5,000 for Ayres Associates to prepare the Bid Documents over the next month in order to remain on schedule for construction. Following review and discussion the Board requested this action be tabled until after Executive Session.

### CONSULTANT REPORTS

#### ENGINEER'S REPORT

Ms. Faucett presented the Engineer's report.

#### On-Going Work

Middle Basin/Larimer and Weld Canal Crossing Structure (LWCCS): Xcel has not completed their review of the power poles being impacted by the side spill weir as yet, but they have stated they will begin looking at the design drawings we have sent. This is at least some progress, and Ms. Faucett will continue to keep the board posted.

#### ESDF

Final Design Report: Ms. Faucett received an email from Jeremy Franz (State Engineer) regarding his review of our Final Design submittal which included the Final Design Report, Technical Specs., design drawings, application and application fee. Jeremy stated that he is about 25% done with his review with no major comments yet. He feels he will complete his review by the middle of February. This should give us plenty of time to address any comments and obtain our permit from the State prior to the June construction date.

404 Permit Application: The State Historic Preservation Office (SHPO) has concurred with our report stating there are no significant impacts to historic features with the construction of ESDF. Matt Montgomery with the Corps of Engineers has said the permit will be approved and issued sometime this month, which is well ahead on our June construction date.

#### CLOMR:

##### *City of Fort Collins:*

The CLOMR was submitted to the City of Fort Collins on Wednesday November 29th, and Ayres received review comments from the City on December 29th. Ms. Faucett is working through the City of Fort Collins comments now and plans to re-submit to the City of Fort Collins on or before February 6th. None of the City of Fort Collins comments were significant in

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nature.

### *Larimer County:*

Ayres submitted the CLOMR to the Larimer County Flood Review Board on December 10th. Ms. Faucett met with the Larimer County Flood Review Board on January 6th and received their comments. One comment of significance from the Flood Review Board was their desire to have the ESDF outlet gauged and possibly tied into the City of Fort Collins Flood Early Warning System. They also requested that the Authority pay for Water and Earth Technologies (WET) to design a roadway overtopping warning sign/system for CR 52. They originally requested that the Authority construct enough box culverts under CR 52 to reduce the overtopping depths to current standards. The warning system was a compromise. Ms. Faucett has contacted Markus Ritsch with WET to obtain a scope of work and fee estimate for designing both the downstream gauge at the outlet to ESDF and the warning system at CR 52. On January 12th Ms. Faucett attended the Larimer County Commissioners hearing on the Boxelder CLOMR. The CLOMR was approved by the Commissioners pending Ayres adequately addressing the flood review comments including the CR 52 concerns.

### *FEMA:*

Ayres submitted the CLOMR to FEMA on December 19th. Ms. Faucett was notified that Michael-Baker has been assigned the case and has begun working with their reviewer. Ayres has not received initial comments from them as yet, but would expect them before the February board meeting. There is budget remaining to address comments received from the City of Fort Collins, Larimer County and FEMA. Ayres' goal is to finalize the CLOMR and gain approvals from the three entities by May 1, 2015.

Peer Review of ESDF: Ms. Faucett contacted Duane Smith about his peer review of ESDF. He noted that although he had not begun, he will make it a priority, particularly since the State Engineer (Jeremy Franz) is making progress. Ms. Faucett will continue to report on this in the coming months.

### **Next Steps for ESDF:**

Ms. Faucett was contacted by Don Ash, who is the engineer hired by the Day family to review the design. Ms. Faucett sent them copies of the CLOMR, along with a jump drive which has all of the design drawings and other design data on it. Ms. Faucett had not heard anything from them since all the design data was sent. Ms. Faucett will continue to report on this until it is resolved.

County Road 50 Design: Ayres is continuing to work with the County to

## RECORD OF PROCEEDINGS

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resolve concerns related to the future CR 50 design and how it relates to the spillway construction. The County has reviewed Ayres design for the CR 50 drainage culvert sizes and placement and has approved that design. The remaining issue is related to the future design of CR 50 and how that might impact the flowage easements, or the spillway design. Ms. Faucett is meeting with the County on January 20th to discuss their future design for CR 50. Ayres will likely need to put this design into the 2-D hydraulic model they prepared for the spillway to determine if it changes any of the design components related to the spillway scour protection or the downstream flowage easement limits. Ms. Faucett will continue to keep the board updated on this issue until it is resolved.

### LEGAL ITEMS

Before the Board went into Executive Session, Director Seaworth requested Mr. White and Manager Myers report on a letter Brad March, Town of Wellington Attorney, sent out earlier to the other entities' attorneys in the afternoon.

Neither Mr. White or Manager Myers had seen the letter from Brad March. Director Seaworth presented a copy of the letter to Mr. White and asked him to review the letter. Mr. White reviewed the letter and summarized its major points. A copy of this letter is attached to these minutes

Director Sampley moved to go into Executive Session in compliance with requisite statutory procedures under the Colorado Executive Session Laws, for the Board to discuss a strategy relative to negotiations, pursuant to C.R.S. § 24-6-402(4)(a) and (e), seconded by Director Tucker and upon vote, it was unanimously

**RESOLVED** to convene an Executive Session, pursuant to C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers reported: "It is January 28, 2015, and the time is 6:07 p.m. I am the Manager for Boxelder Basin Regional Stormwater Authority. As required by the Colorado Open Meetings Law, this Executive Session of the Boxelder Basin Regional Stormwater Authority is being recorded."

Present at the Executive Session: Director Ken Sampley, Director Vic Meline, Director Lee Tucker, Director, Director Richard Seaworth, Greg White, Malcolm Murray, Andrea Faucett, and Manager Stan Myers.

This Executive Session is for the following purposes: C.R.S. 24-6-402(4)(a),

## RECORD OF PROCEEDINGS

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concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402-4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers cautioned each participate to confine all discussion to the stated purpose of the Executive Session and stated that no formal action may be taken during Executive Session, and if any point any participate believes the discussion is going outside of the proper scope of the Executive Session, please interrupt the discussion and make an objection. The Board President will close the Executive Session by saying the time and returning to the regular meeting.

The Executive Session concluded at 6:55 p.m.

All present at the beginning of the Executive Session were present at the adjournment of the Executive Session.

The Board reconvened in regular session at 6:55 p.m.

OTHER MATTERS      Consideration of Bid Documents: Manager Myers requested the Board grant an authorization not to exceed costs of \$5,000 for Pinnacle Consulting Group Inc., and \$5,000 for Ayres Associates to prepare bid documents for construction. Following review and discussion, and upon motion duly made by Director Seaworth, and seconded by Director Meline, it was unanimously

**RESOLVED** to approve time and material not to exceed \$5,000 for Pinnacle Consulting Group Inc. and \$5,000 for Ayres Associates to prepare the bid documents for the 3 remaining projects for a total budget of \$10,000.

DIRECTOR                      There were no director comments presented.  
COMMENTS

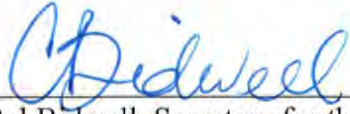
ADJOURNMENT              There being no further business to come before the Board, and upon motion duly made by Director Seaworth, and seconded by Director Tucker, the meeting was adjourned, by unanimous vote, at 6:57 p.m.

The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

## RECORD OF PROCEEDINGS

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Respectfully submitted,



Crystal Bidwell, Secretary for the Meeting

## MARCH, OLIVE & PHARRIS, LLC

J. BRADFORD MARCH  
STEWART W. OLIVE  
JOHN W. PHARRIS

ATTORNEYS AND COUNSELORS AT LAW  
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ARTHUR E. MARCH  
1908-1981  
ARTHUR E. MARCH, JR.  
1933-2005

January 28, 2015

### VIA FAX ONLY

Carrie M. Daggett  
Fort Collins City Attorney's Office  
P. O. Box 580  
Fort Collins, CO 80522

(970) 221-6327

Jeannine S. Haag  
Larimer County Attorney's Office  
P. O. Box 1606  
Fort Collins, CO 80522

(970) 598-7430

Gregory A. White  
Attorney at Law  
1423 W. 29<sup>th</sup> St.  
Loveland, CO 80538

(970) 667-2527

Gary White  
White, Bear, Ankle and Waldron  
2154 E. Commons Avenue #2000  
Centennial CO 80122

(303) 858-1802

RE: Boxelder Storm Authority

Dear Carrie, Jeannine, Greg and Gary,

As you know, our office serves as Town Attorney for the Town of Wellington. In May of last year, there was a substantial change in the Wellington Town Board. Shortly after the Trustees were sworn in, Town Board members began raising questions regarding the Boxelder Stormwater Authority (the "Authority"). Members of the Town's Board of Trustees have appeared before the Authority Board regarding the Authority's operations, expenses and plans for development of the east side project. Trustees who have had contact with the Authority Board have been advised, including by the Chair, that issues raised by members of the Wellington Town Board are ones that needed to be raised at a membership meeting rather than being presented to the Authority Board. After some effort and a number of months of reviewing records and after finally getting some information from the Authority Manager, representatives of the Town Board of Trustees the County and the City informally met and discussed a myriad of issues, not the least of which involve concerns centering on County and City contributions. I am advised that representatives of the City and County assured the Wellington representatives that concerns would be looked into and that Wellington would be provided with information and all members concurred that the Authority Manager needed to provide a performa outlining the scope of the east side project, the anticipated costs associated with the project and projected cost overruns. One of the members of Wellington's Board of Trustees met with financial representatives from both the County and the City, and indicated at Wellington's Board meeting that the conversations confirmed in that Board member's

mind that payment deficiencies existed. As an outcome to the discussions between the member representatives Wellington's representative on January 7<sup>th</sup> send out the attached email outlining direction from the membership to Pinnacle Consultants. The email was addressed to participants and board members and I am told that there was no disagreement raised with the scope outlined in the email

At Wellington's Board of Trustees meeting yesterday evening, Richard Seaworth and Lee Tucker, who both serve on the Authority Board, advised the Town Board of Trustees that at the last Authority Board meeting, Pinnacle as the Authority's Manager was directed by the Authority's Board President to cooperate with the requests made by the Authority members and provide the performa and other requested information. Both Messrs. Seaworth and Tucker concurred that the project has languished and that the scope of the project has been broadened substantially beyond the scope intended when the parties originally entered into the IGA. Tim Singewald, a member of Wellington's Board of Trustees, shared with the Town Board that the January 7<sup>th</sup> email had been sent to Mr. Meyers requesting specific information so as be able to allow the members' to further discuss issues regarding the Authority. The Town Board was advised that there has been no follow-up by attendees of the membership meeting, nor by Pinnacle Consultants as manager for the Authority.

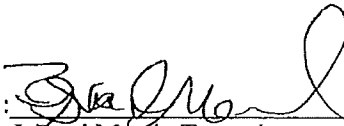
As each of you may be aware, contributions by the County to the Authority are never made until the end of the following fiscal year, the Town Board indicated that pending resolution of issues it, Wellington similar to the County, will not make its contribution for 2014 until year end 2015 or until issues are addressed. . Impact fees from new construction in the County should have been collected at the time of building permit so 2014 impact fees will be remitted to the Authority at this time. In addition to delaying its 2015 payment to the timeframe in which the payment is normally made by the County, the Town Board also authorized one of its Board members to take action to retain special counsel to deal with concerns which the Town feels the Authority and its membership are unwilling to address.

In fairness, the Town Board members have attempted to work through proper channels to obtain answers to legitimate questions related to contribution deficiencies, the scope of the project(s) and concerns regarding the operations of the Authority. I appreciate that the Authority, and perhaps the members would prefer not to deal with the issues being raised by Wellington.

I am advised that the Board will again review these issues at its next Town Board meeting. I would strongly urge each of you to contact your clients and determine whether there is an ability to resolve issues before the Town Board is required to take further steps to address frustrations related to the Authority's operations.

Very truly yours,

MARCH, OLIVE & PHARRIS, LLC

By:   
J. Brad March, Town Attorney

JBM/sch

**JANUARY 7, 2015 EMAIL**

**From:** [Singewald@aol.com](mailto:Singewald@aol.com)

**Date:** January 7, 2015 at 7:43:07 AM MST

**To:** [stanm@pinnacleconsultinggroupinc.com](mailto:stanm@pinnacleconsultinggroupinc.com), [gaiterl@co.larimer.co.us](mailto:gaiterl@co.larimer.co.us), [ghorak@fcgov.com](mailto:ghorak@fcgov.com),  
[wroxell@fcgov.com](mailto:wroxell@fcgov.com), [brinkhjd@co.larimer.co.us](mailto:brinkhjd@co.larimer.co.us), [leelois10@msn.com](mailto:leelois10@msn.com), [rseaworth@msn.com](mailto:rseaworth@msn.com),  
[sue-george-reed@msn.com](mailto:sue-george-reed@msn.com), [singewtr@co.larimer.co.us](mailto:singewtr@co.larimer.co.us)

**Subject:** **Boxelder - Request for information**

Stan Meyers,

We had a discussion last month among the members of the Boxelder IGA. It was suggested that we obtain an analysis from you as to the remaining scope of the projects with respect to both time and financial requirements.

We were all fairly confused as to the IGA's current position and a suggestion was made to request a Performa for the remaining portions of the project.

If we could get an idea on the remaining costs (guesstimations) to complete the projects underway, along with a timing factor for each phase, it would be greatly appreciated.

Please also supply a note as to whether or not we are still within the original budget estimates and if not, how much more commitment would be required of the Members to reach completion (both time and money).

Commissioner Gaiter was going to try and schedule another discussion later this month so the earlier we can get the information to analyze prior to this meeting would be most helpful to all.

Thank you for your anticipated help on this.

Tim Singewald

ps I did not mean to exclude Mr. Sampley in this request, however I could not find an email address for him.



# RECORD OF PROCEEDINGS

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## MINUTES OF THE COORDINATED REGULAR MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD  
February 25, 2015

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a coordinated regular meeting, open to the public, at the Leeper Center, 3800 Wilson Avenue at 4:00 p.m. on Wednesday, February 25, 2015. Notice of the Meeting was duly posted.

ATTENDANCE:      Directors in Attendance:  
Ken Sampley, President  
Vic Meline, Treasurer  
George Reed, Secretary  
Lee Tucker, Director  
Richard Seaworth, Director (via teleconference)

Also in Attendance:  
Stan Myers, Brendan Campbell, Kirsten Starman, and Crystal Bidwell;  
Pinnacle Consulting Group, Inc.  
Mark Peterson; Larimer County  
Andrea Faucett; Ayers Associates  
Greg White; Authority Legal Counsel  
Marge Moore and Don Shannon; Shannon & Associates  
Larry Lorentzen, Town Administrator/Clerk; Town of Wellington  
Tim Singewald, Trustee; Town of Wellington  
Lois Tucker, and Dave White; Citizen

CALL TO ORDER                      The Meeting was called to order at 4:06 p.m. by Director Sampley, President, noting that a quorum was present.

AGENDA                      The Board reviewed the agenda. Upon motion duly made by Director Meline, seconded by Director Reed and upon vote, it was unanimously

**RESOLVED** to approve the agenda as amended, moving item VI. B. "Directors Comments" to I. F.

APPROVAL OF MINUTES                      The minutes of the January 28, 2015 regular meeting were presented for the Boards consideration and approval. Following review and discussion, and

## RECORD OF PROCEEDINGS

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upon motion duly made by Director Meline, seconded by Director Sampley and upon vote, it was

**RESOLVED** to approve the January 28, 2015 regular meeting minutes as presented, by a four to one vote with Director Reed abstaining from voting.

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PUBLIC  
COMMENT

There were no public comments presented.

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DIRECTOR  
COMMENTS

Director Reed commented that he has read the complete Intergovernmental Agreement (IGA) again trying to focus on the words 'annual meeting' and he determined they are not contained in the IGA. Also, he reread the Bylaws and was unable to find any information regarding an annual meeting reference. Director Reed noted that the Board of Directors can modify the Bylaws with a majority vote and therefore, he drew the conclusion that if the members in the IGA would like to have an annual meeting that they could call the meeting and set an agenda. Director Reed stated that he hoped members of the Boxelder Basin Regional Stormwater Authority would be as helpful as possible in providing any information needed for the meeting.

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ITEMS FROM THE  
FINANCE  
DIRECTOR

Financial Report: Mr. Campbell presented the financial report as of December 31, 2014 and January 31, 2015 as they relate, including the cash position report, cash encumbrance report, work order status update, and the capital costs summary, broken out by project.

Mr. Campbell stated un-capitalized project costs for the Coal Creek Project and Siting and Boundary Surveys have been added to the balance sheet for illustrative purposes.

Director Seaworth requested clarification regarding why the project costs for the Coal Creek Project are un-capitalized. Mr. Campbell stated the reason why the project costs are deemed un-capitalized is because the Authority does not own this asset, and therefore it is not capitalized on the Authority's books. Mr. Campbell placed the costs on the balance sheet for reference purposes, but they are not part of the audited balance sheet based on Generally Accepted Accounting Principles. Mr. Seaworth noted the number has changed three times since he has been on the Board but that he is okay with the number as it is reflected in the minutes now.

Approval of Payables: Mr. Campbell presented for consideration and approval, the Schedule of Payables dated February 13, 2015, in the amount of

## RECORD OF PROCEEDINGS

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\$37,219.73, including checks 1200 through 1204.

Mr. Campbell noted that after a final review of the Ayres Associates invoices, there was time regarding the grading and drainage design for County Road 50 included on Work Order #15- Final Design of CR 52, that needs to be re-categorized to Work Order #9- Final Design of ESDF, instead. This does not change the amount of money to be paid to Ayres Associates but rather it reclassifies it between work orders. The Check Detail needs to be amended showing \$3,240 reclassified from line item 3-58010 CR52 Engineering/Project Design, to 3-55010 ESDF Engineering/Project Design line item.

Director Seaworth asked about the Ayres Associates' invoice "Final Design of ESDF- Boxelder Work Order 9", in which it states "Ms. Faucett attended several Boxelder Board Meetings." Based on this language he believes there were several board meetings that he did not know about.

Director Sampley recounted the meetings Boxelder Basin Regional Stormwater Authority held from November 2014 through January 2015 and determined three board meetings were held, and that he would characterize that as several. Director Sampley concluded that he would rather the invoice stated the actual amount of meetings than the word "several". The change was noted by both the Board and Ms. Faucett. Ms. Faucett will list the exact number of meetings in future invoices.

Director Seaworth noted there was time allotted to CTL/Thompson and requested clarification. Ms. Faucett explained that the work completed by CTL/Thompson, as noted on Work Order 10- Final Design of LWCCS, was for sulfate testing in the Boxelder Creek. The results concluded that the sulfates in the flows were extremely high and therefore Ayres Associates will be using sulfate resistant concrete in all of the structural concrete. Ms. Faucett noted that high sulfate levels are very typical in this area.

Director Seaworth requested clarification as to the meeting that Malcolm Murray had with Brent Bartlett and how it relates to condemnation. In Mr. Murray's absence, Mr. White helped to clarify that there was a question on whether Lake Canal held any title interest on the properties that are being subject to eminent domain, such as the recreational parcels. In summary, the conversation was in regard to whether or not Lake Canal needed to be a part of the Condemnation process or not.

Upon motion duly made by Director Reed, seconded by Director Meline, and upon vote, it was

**RESOLVED** to approve the February Schedule of Payables, in the amount of \$37,219.73 including the check numbers listed above, by a 4-1 vote, with Director Tucker opposed. The vendors and amounts are as follows:

- Ayres Associates Inc. - \$15,716.62

## RECORD OF PROCEEDINGS

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- Greg A. White, Attorney - \$3,690.00
- Murray Dahl Kuechenmeister & Renaud LLP - \$3,593.37
- Pinnacle Consulting Group, Inc. – \$10,219.74
- Shannon & Associates - \$4,000

ITEMS FROM  
AUTHORITY  
MANAGER

AUTHORITY MANAGER'S REPORT

Mr. Myers presented the Manager's Report.

Information Request from the Town of Wellington: Brendan Campbell and Manager Myers from Pinnacle appeared at a Town of Wellington Work Session on February 2nd to address additional questions regarding the Sources and Uses Spreadsheet developed by Pinnacle Consulting Group as part of the CWCB loan application process. During the work session Brendan Campbell addressed several questions from various Trustees and Richard Seaworth, who was also in attendance. In addition, Mark Peterson of Larimer County and Ken Sampley of the City of Fort Collins passed out material and answered questions regarding their respective entities collection and payment of Boxelder Authority fees. Subsequent to this Work Session Brendan Campbell provided Mr. Singewald, and others, additional information and input as requested.

Anheuser-Busch (AB) Force Main and CR52 Box Culvert Conflict: Over the past few weeks a conflict has surfaced regarding the verified elevation of AB's 24 inch sewer effluent force main which runs under CR52, and the proposed installation of four 4X20 box culverts under CR52. This conflict surfaced after in-the-field potholing revealed that the force main was physically installed at a depth shallower than the AB As-Built drawings. On February 12th, Manager Myers, Andrea Faucett of Ayres and Mark Peterson of Larimer County, met with Tim Seitz and Dennis Wallisch of AB to discuss this conflict, its resolution, cost and schedule. A Right-of-Way Agreement between AB and Larimer County indicates that all related costs to lowering the AB line will be borne by AB. The Authority, Larimer County and AB will continue to discuss options for resolving this issue.

Larimer Weld Canal Crossing Structure (LWCCS): Greg White has submitted the draft of the agreement, reviewed by the board in January, to Butch Sommermeyer of the Larimer and Weld Reservoir Company. We are currently awaiting Mr. Sommermeyer's review. Roger McConnell and Western Heritage (Norm Karasa), who owns the properties adjacent to the construction, were given draft easement agreements. An update to these agreements will be presented in Executive Session.

## RECORD OF PROCEEDINGS

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AT&T Cable Relocation: Manager Myers and Andrea Faucett of Ayres met with Tom Jakse of Clearwater Consulting on February 17. The AT&T cable is to be lowered in the next few days.

Mountain Vista Golf Course Coordination: Manager Myers submitted the draft of the agreement, reviewed by the board in January, to Deryle and Matt O'Dell (owners of Mountain Vista Golf Course) on February 9<sup>th</sup>. As of the date of this report, the O'Dell's were continuing their review of this document. An update to this agreement will be presented in Executive Session.

Discussions with Doug Johnson: Manager Myers continues to work with Doug Johnson on the acquisition of this easement and right-of-way. Discussions have been delayed this month due to family members being outside the country. An update to this agreement will be presented in Executive Session.

Status of ESDF Land Acquisitions: Manager Myers and Malcolm Murray intend to provide an update on the Boxberger, Day and the Day recreational (partnership) parcels in Executive Session.

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BIDDING  
PROCESS  
UPDATE

Ms. Starman from Pinnacle Consulting Group Inc. provided an update and overview regarding the bid process and distributed an organizational chart, that is a typical structure of how capital projects are managed with Pinnacle Consulting Group, Inc. (PCGI) acting as the Project Administrator and Ayres Associates acting as the Authority Engineer.

Director Reed asked that the change order process be clarified. Ms. Starman stated that Ayres Associates would be responsible for validating any change orders needed, as they will be onsite ensuring that everything is being built based on the plans, and any further negotiations with the contractor regarding the change order would be handled by PCGI. The Board would need to approve any change orders, and the project administrator would never approve any invoice that included an unapproved change order.

Ms. Starman summarized the timeline and noted that based on the State Engineer Plan Review being complete on March 6, 2015, the Bid Package would be prepared and issued by March 27, 2015, which would result in a public bid opening on May 15, 2015. Following this timeline PCGI would have contractor recommendations to the Board at the May meeting.

Ms. Starman stated that Requests for Proposals (RFP's), for the professional services, will be completed in late March, and after review, recommendations will be presented to the Board at the May meeting as well.

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## RECORD OF PROCEEDINGS

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### CONSULTANT REPORTS

#### ENGINEER'S REPORT

Ms. Faucett presented the Engineer's report.

#### **On-Going Work**

Middle Basin/Larimer and Weld Canal Crossing Structure (LWCCS): Stephanie Rich with Xcel has passed along the design drawings and application for the relocation of the Xcel poles to their Builders Call line for review. Ms. Rich explained the cost to move the poles will be between \$10,000 and \$15,000, which have been included in Ayres' engineers estimate. Ms. Faucett continues to put pressure on Xcel to get this resolved.

#### **ESDF**

Final Design Report: Ms. Faucett expects to receive final design comments from Jeremy Franz on the final design plans, technical specifications and final design report in the next few weeks. Ayres will need to address the comments and re-submit for final approval to the State Engineer. Once the comments have been addressed the State Engineer will sign the cover of the drawings. The last remaining document to prepare for the State is the Emergency Action Plan (EAP). This is typically done once the project is under construction, according to Jeremy Franz the state engineer. There is budget remaining to address comments and prepare the EAP.

404 Permit Application: A conditional approval has been received on the 404 permit application from the Corps of Engineers. The condition is pending approval of the 401 certification from the State. The 401 certification is related to water quality. Ms. Faucett has spoken to the State on the 401 certification and has been told Ayres will have it in March. After the 401 certification is received, Ken Sampley will need to sign the 404 permit, and then the Corps of Engineers will sign it. The 404 permit is good for 2 years, meaning the project must be constructed within a two year time period.

#### **CLOMR:**

##### *City of Fort Collins:*

Ayres has addressed the City of Fort Collins comments and re-submitted the CLOMR on February 12th. The City has 3 weeks to provide any additional questions or concerns or to accept the CLOMR and sign the Community Acknowledgement Form. As noted previously, the comments were not significant and Ayres feels confident the City will approve the CLOMR with this submittal.

As part of the CLOMR submittal process all impacted property owners must be notified of the CLOMR submittal and the impacts on their property. Each

## RECORD OF PROCEEDINGS

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of the 450 properties will be receiving a letter and a map which shows the effective floodplain and the proposed project floodplain on their property. Ms. Faucett attached an example of the letter and map to her report. All properties have received a reduction in the base flood elevation, with some properties (Timnath overflow) seeing the floodplain entirely removed.

### *Larimer County:*

As noted last month, the Larimer County Flood Review board requested that the ESDF dam outlet be tied into the City of Fort Collins Flood Early Warning System or FEWS. Ken Sampley has stated that if the City decides to tie the ESDF dam outlet into the FEWS system they will do it on their own and not in conjunction with the construction of ESDF or CR 52 improvements.

In addition, the Flood Review Board requested that the CR 52 improvements include a water level gauge and corresponding flashing sign which would be activated when CR 52 is overtopped. An estimate was obtained from Water and Earth Technologies for this work. Director Sampley and Mark Peterson are determining whether this effort is warranted or not considering the current CR 52 has no warning system and the project reduces the risk of overtopping.

Other than this issue, Ayres has finished addressing the Larimer County issues and re-submitted the CLOMR on Friday February 20th.

Director Sampley provided a very quick summary stating that currently there is not a warning system on County Road 52 when flooding occurs over the roadway. The Review Board said that something should probably be done. An electronic warning system would cost approximately \$30,000 to \$40,000. Since this project will not be making the flooding worse, the question remains whether something so costly is needed. Director Sampley stated some sort of warning system should be in place, he just hasn't had a chance to discuss further with Mr. Peterson.

### *FEMA:*

The CLOMR was submitted to FEMA on December 19th. Ayres was notified that Michael-Baker has been assigned to our case and has begun working with their reviewer. Ayres has not received initial comments from them as yet. Ayres has budget remaining to address comments received from the City of Fort Collins, Larimer County and FEMA. The goal is to finalize the CLOMR and gain approvals from the three entities by May 1, 2015.

Peer Review of ESDF: Duane Smith has finished his peer review of ESDF and provided comments to Ayres and Brierley on the plans and technical specifications. Duane did not note anything of significance in his review but

## RECORD OF PROCEEDINGS

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he did catch some items that needed better clarification in the plans and specs. Ayres is addressing Duane's comments.

County Road 50 Design: The County has approved the grading for CR 50. Ayres will be tracking the earth work separately in the ESDF construction budget. The County has offered to pay the earth balance difference to obtain an appropriate profile for CR 50.

County Road 52 Design: Ayres, Mark Peterson and Manager Myers met with Anheuser Busch (A-B) regarding their high pressure effluent line in CR 52. Ayres had the line potholed where the proposed CR 52 box culverts will be placed and although their as-built drawings show the 24" line being 9-10 feet below the ground the potholes determined that it is as shallow as 5.5 feet. Mark Peterson produced a franchise agreement at the meeting which A-B had signed which stated that if the County needed to do any work in the future that was in conflict with the A-B line, then A-B must relocate the line at their expense. Ayres also provided an exhibit to A-B which showed the 5 future box culverts that the County might put in, since A-B stated if they were going to lower the line they might as well lower it for the full future build out of the drainage improvements. The biggest issue is the timing of doing the work, as they do not have any redundancy in their line. They noted the only time they had planned to shut down the plant was over Thanksgiving. The current plan is to include this schedule constraint in the construction schedule for CR 52 and ESDF.

Next Steps for ESDF: Ms. Faucett met with Jason Woolard from PCGI to plan the bidding process. As noted previously, Ayres is waiting on the SEO comments, which are the last approval needed to obtain before construction can begin.

Ayres continues to assist Manager Myers with property negotiations.

Design Budgets: Based on the current level of design and where everyone is with the budgets, Ms. Faucett feels the design effort is in good shape in terms of budget tracking. Ms. Faucett will know more once Ayres receives comments back from the SEO on the design, but Ms. Faucett has left some budget to address those comments along with comments from Duane Smith.

Director Tucker asked Ms. Faucett about the south bank of the Inlet Canal and who at the North Poudre Irrigation Company (NPIC) told her that the south bank could be left alone. Ms. Faucett responded that Steve Smith (former President of NPIC) advised her verbally to armor the flood bench on the north side of the canal and leave the south side alone.

Ms. Faucett recently met in the field with Scott Hummer (Manager) and



## RECORD OF PROCEEDINGS

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Mike Blehm to discuss the scouring on the south side of the canal immediately below County Road 7 Bridge. Ms. Faucett has a picture that shows a debris pile that was left on the north side of the canal which forced water flows inadvertently against the south side, creating the scouring issue in her opinion. She advised them to remove the debris field before the canal starts to carry water this spring. She also referred them to Todd Juergens, with Larimer County regarding their concerns about working around the CR7 bridge.

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### LEGAL ITEMS

Director Reed moved to go into Executive Session in compliance with requisite statutory procedures under the Colorado Executive Session Laws, for the Board to discuss a strategy relative to negotiations, pursuant to C.R.S. § 24-6-402(4)(a) and (e), seconded by Director Meline and upon vote, it was unanimously

**RESOLVED** to convene an Executive Session, pursuant to C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers reported: "It is February 25, 2015, and the time is 5:10 p.m. I am the Manager for Boxelder Basin Regional Stormwater Authority. As required by the Colorado Open Meetings Law, this Executive Session of the Boxelder Basin Regional Stormwater Authority is being recorded."

Present at the Executive Session: Director Ken Sampley, Director Vic Meline, Director Lee Tucker, Director George Reed, Director Richard Seaworth, Greg White, Malcolm Murray (via teleconference), Andrea Faucett, and Manager Stan Myers.

This Executive Session is for the following purposes: C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers cautioned each participate to confine all discussion to the stated purpose of the Executive Session and stated that no formal action may be taken during Executive Session, and if any point any participate believes the discussion is going outside of the proper scope of the Executive Session, please interrupt the discussion and make an objection. The Board President will close the Executive Session by saying the time and returning to the

## RECORD OF PROCEEDINGS

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regular meeting.

The Executive Session concluded at 6:00 p.m.

All present at the beginning of the Executive Session were present at the adjournment of the Executive Session.

The Board reconvened in regular session at 6:00 p.m.

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OTHER MATTERS Shannon and Associates Additional Appraisal Work: Manager Myers presented an additional Work Order for Shannon and Associates to update previous appraisals completed on Boxberger, Day, Iodence and Recreational Parcels to the Board. This work is not to exceed \$15,000. The initial work will be the evaluation of the alternative Boxberger Appraisal by Clayton, and updating the Boxberger Appraisal. No work is to be initiated until Malcolm Murray concludes the stipulation agreement with the Day Family. Following review and discussion, and upon motion duly made by Director Sampley, seconded by Director Reed and upon vote, it was

**RESOLVED** to approve Shannon and Associates to complete the additional appraisal work regarding updating the previous appraisals for Boxberger, Day, Iodence and Recreational Parcels in the amount not to exceed \$15,000.

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ADJOURNMENT There being no further business to come before the Board, and upon motion duly made by Director Tucker and seconded by Director Meline the meeting was adjourned, by unanimous vote, at 6:05 p.m.

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The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Respectfully submitted,



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Crystal Bidwell, Secretary for the Meeting

# RECORD OF PROCEEDINGS

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## MINUTES OF THE COORDINATED REGULAR MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD  
March 25, 2015

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a coordinated regular meeting, open to the public, at the Leeper Center, 3800 Wilson Avenue at 4:00 p.m. on Wednesday, March 25, 2015. Notice of the Meeting was duly posted.

ATTENDANCE:      Directors in Attendance:  
Ken Sampley, President  
Vic Meline, Treasurer  
George Reed, Secretary  
Lee Tucker, Director  
Richard Seaworth, Director

Also in Attendance:  
Stan Myers, Brendan Campbell, and Crystal Bidwell; Pinnacle Consulting Group, Inc.  
Mark Peterson; Larimer County  
Andrea Faucett; Ayers Associates  
Greg White; Authority Legal Counsel  
Malcolm Murray; Murray Dahl Kuechenmeister & Renaud LLP  
Lois Tucker, and Jim Mokler; Citizen

CALL TO ORDER              The Meeting was called to order at 4:00 p.m. by Director Sampley, President, noting that a quorum was present.

AGENDA              The Board reviewed the agenda. Upon motion duly made by Director Reed, seconded by Director Meline, and upon vote, it was unanimously

**RESOLVED** to approve the agenda as presented.

APPROVAL OF MINUTES      The minutes of the February 25, 2015 regular meeting were presented for the Boards consideration and approval. Following review and discussion, and upon motion duly made by Director Seaworth, seconded by Director Meline, and upon vote, it was

## RECORD OF PROCEEDINGS

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**RESOLVED** to approve the February 25, 2015 regular meeting minutes as amended, by a 4-1 vote, with Director Tucker abstaining from voting. Amendments are as follows:

- Page 9: Change “President” to “Manager”

PUBLIC  
COMMENT

There were no public comments brought before the Board.

ITEMS FROM THE  
FINANCE  
DIRECTOR

Financial Report: Mr. Campbell presented the financial report as of December 31, 2014 and February 28, 2015 as they relate, including the cash position report; cash encumbrance report; work order status update; and the capital costs summary, broken out by project.

Director Sampley asked if the Town of Timnath’s contribution had been received. Manager Myers stated that he had been in contact with Don Taranto regarding the contribution and anticipates receiving their contribution, in the amount of \$171,102, in the next couple days.

Director Seaworth asked how the amount of \$171,102 was derived. Mr. Campbell stated that \$171,102 is twenty-five percent of the costs related to the East Side Detention Facility and the Larimer Weld Canal Crossing Structure expenses for 2014.

Director Sampley asked if anyone from the Wellington Board knew if Wellington was processing their payment. Director Reed responded by stating he attended the Town of Wellington Board meeting two weeks ago, at which time they pulled the payment off their list of payments, and as of last night, the payment was still not on the list to be paid.

Director Seaworth asked for clarification regarding the increase in the amount the Town of Timnath paid in 2013 versus 2014. Mr. Campbell explained that the Town of Timnath paid an initial amount of \$500,000 in 2012, and once the initial amount was depleted, they begin to pay their twenty-five percent portion. During 2013, a portion of the initial amount paid was still being used which decreased the 25% portion for 2013

Director Seaworth asked if Mr. Campbell could explain the Statement of Revenues and Expenditures with Budget sheet, line item Right-of-Way, Construction: Direct & Indirect in the amount of \$5,110,514 that is in both the budgeted amount and the projected amount. Mr. Campbell stated that projected construction costs for 2015 need to be updated. It was originally budgeted for construction costs to begin in 2014 with the remaining in 2015;

## RECORD OF PROCEEDINGS

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however, construction will not begin until 2015 which will result in more construction costs being incurred in 2015 than originally budgeted.

Director Seaworth stated that he added up all the Right-of-Way Construction Direct and Indirect costs under the East Side Detention Facility, Larimer Weld Canal Crossing Structure, and County Road 52 and it totaled \$7,740,312. Director Seaworth asked why the entities were asked to pay \$13 million instead of \$7,740,312. Mr. Campbell clarified that the financial statements are prepared on an annual budget basis and do not contain comprehensive multi-year project budgets. The budgeted amount of \$7,740,312 on the financial statements is not the total costs of the projects but is the original budgeted construction costs for 2015 alone.

Director Seaworth stated that he believes if the \$13 million is the actual amount then the Authority needs to go back to the entities and inform them, as the fee payers have a right to know what their elected officials said it was going to cost. He expressed his concern about ensuring the project will be completed like the Authority is saying it will, as he never hears mention of savings, but rather more expenses, such as the golf course, and additional work orders submitted by Ms. Faucett.

Manager Myers responded to Director Seaworth and reminded him that the landscape budget for the golf course came in under budget by approximately \$150,000, which offset the right-of-way costs.

Director Sampley stated this information has already been provided and that this is not a summation of all the costs but rather the budget for 2014 and 2015. Director Sampley noted that the Proforma is the best estimate of overall costs at this time.

Approval of Payables: Mr. Campbell presented for consideration and approval, the Schedule of Payables dated March 17, 2015, in the amount of \$37,530.45, including checks 1205 through 1209.

Director Sampley noted that the amount paid to Pinnacle this month includes other duties related to bidding of the project. Manager Myers also explained that Pinnacle processes their billing from the 26<sup>th</sup> of each month to the 25<sup>th</sup> of the next month and that this bill included the January 28<sup>th</sup> and the February 25<sup>th</sup> board meetings.

Director Seaworth stated he had some serious questions regarding the invoices for Malcolm Murray and Shannon and Associates. Director Seaworth does not understand why the appraisals are being updated. Mr. Murray clarified that the appraisals needed to be updated, as they were

## RECORD OF PROCEEDINGS

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completed approximately a year ago, and in order to discuss a settlement it was important to know what the current value of the property was.

Manager Myers stated that the updated appraisals were part of the scope that was reviewed and approved at the Board meeting last month. Director Seaworth requested the invoices get paid towards the end of the meeting, as it is difficult to approve the bills prior to reviewing the documents.

Upon motion duly made by Director Meline, seconded by Director Reed, and upon vote, it was

**RESOLVED** to approve the March Schedule of Payables, in the amount of \$37,530.45 including the check numbers listed above, by a 3-2 vote with Directors Seaworth and Tucker opposed. The invoices approved for payment are as follows:

- Greg A. White, Attorney - \$4,410.00
  - Lake Canal Reservoir Company - \$1,801.74
  - Murray Dahl Kuechenmeister & Renaud LLP - \$3,880.78
  - Pinnacle Consulting Group, Inc. – \$20,242.93
  - Shannon & Associates - \$7,195.00
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ITEMS FROM  
AUTHORITY  
MANAGER

Anheuser-Busch (AB) Force Main and CR52 Box Culvert Conflict: Manager Myers heard from Tim Seitz who is Resident Engineer with AB on March 18th. He is still awaiting word from their St. Louis office. He stated that they are moving forward on plans to relocate the force main over Thanksgiving break. This effort will need to be coordinated with Larimer County and the County Road 52 contractor. Ayres Associates will coordinate with AB staff and the phase adjustment required for the County Road 52 Bid Package.

AT&T Cable Relocation: Tom Jakse of Clearwater Consulting has reported that this work is about halfway done. Final completion is dependent on the "final cutover" which has to be scheduled out of Atlanta. It is currently estimated to be complete in the next three weeks.

Discussions with Doug Johnson: Manager Myers continues to work with Doug Johnson on the acquisition of this easement and right-of-way. Discussions have been delayed this month due to family members being outside the country. An update to this agreement will be presented in Executive Session.

Larimer Weld Canal Crossing Structure (LWCCS): Greg White has finalized the agreement with Butch Sommermeyer of the Larimer and Weld Canal Company. This document is now ready for Board consideration for approval. Roger McConnell and Western Heritage (Norm Karasa) who owns the properties adjacent to the construction have given their verbal approval of the easements and have indicated they are executing the easements. An update on the easements will be presented in Executive Session.

Director Seaworth stated that he received a phone call from Mr. Sommermeyer who had some concerns about the bidding process. Mr. White, Authority legal counsel, explained that when he spoke with Mr. Sommermeyer, Mr. Sommermeyer requested input into the bidding process. After clarification, Mr. Sommermeyer indicated to Greg that he was fine with the Agreement and asked that he be kept informed.

Manager Myers stated that the funds for the project come from the CWCB, and so the construction project has to adhere to their guidelines. One guideline is that the project must go through a public bid process, and there is no way to circumvent that. Manager Myers stated that the Authority has agreed to have the Larimer Weld Canal Crossing bid separately, which is what Mr. Sommermyer has requested and he can provide input in the bid qualifications.

Manager Myers presented the Lake Weld Canal Agreement to the Board for consideration and approval. Following review and discussion, and upon motion duly made by Director Reed, seconded by Director Sampley, and upon vote, it was

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**RESOLVED** to approve the Lake Weld Canal Agreement, by a 4-1 vote, with Director Tucker opposed.

Mountain Vista Golf Course Coordination: Manager Myers completed negotiations with Deryle and Matt O'Dell (owners of Mountain Vista Golf Course), and presented the Mountain Vista Golf Course Agreement to the Board for consideration and approval. Following review and discussion, and upon motion duly made by Director Reed, seconded by Director Sampley and upon vote, it was

**RESOLVED** to approve the Mountain Vista Golf Course Agreement, by a 4-1 vote, with Director Tucker opposed.

Review of Invoice from Lake Canal Reservoir Company (LCRC): Manager Myers stated that Rodney Nelson (President of the LCRC) is asking for payment for additional legal review required for the ESDF condemnation process. The Board approved payment of \$1,801.74 in January. They are now requesting an additional \$1,570.80 for a total of \$3,372.54.

Director Sampley stated it is reasonable to believe these were costs that were incurred for negotiation purposes prior to executing the Agreement with Lake Canal. Manager Myers agreed and stated this in regard to the stipulation discussions regarding the condemnation of the Day property.

Mr. Murray addressed the Board and stated that the Lake Canal was named in three properties; the Day Family Farm, Iodence property and the recreational parcel. They filed their Disclaimer on January 14, 2015 with Court and Mr. Murray had conversations with the Lake Canal prior to filing the Disclaimer to inform them of what needed to be stated to reserve their rights, while eliminating them from the case.

Manager Myers presented the Lake Canal Reservoir Company invoice to the Board for consideration and approval. Following review and discussion, and upon motion duly made by Director Seaworth, seconded by Director Tucker, and upon vote, it was unanimously

**RESOLVED** to approve payment of the Lake Canal Reservoir Company invoice, in the amount of \$1,570.80.

Status of ESDF Land Acquisitions: Manager Myers and Mr. Murray will provide and update on the Boxberger, Day and the Day recreational (partnership) parcels in Executive Session.

Resolution Concerning Officer's Signature: Manager Myers presented the



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Resolution Concerning Officer's Signature for the Boards consideration and approval. Director Sampley stated that he requested this document be draft in the event that he is unable to sign a document. Currently, the bylaws only state the President may sign documents on behalf of the Board. Mr. White stated the reason the Authority needs this document is because the way the Intergovernmental Agreement was written, it only provides for certain officers on the Board to execute documents, and does not provide for a Vice-President. Mr. White stated that normally bylaws would designate a Vice-President who would be granted permissions to execute documents in the absence of the President. After further discussion, it was decided that the Bylaws need to be amended, and this item was tabled until the next meeting to be considered.

### CONSULTANT REPORTS

#### ENGINEER'S REPORT

Ms. Faucett presented the Engineer's report.

#### **On-Going Work**

Middle Basin/Larimer and Weld Canal Crossing Structure (LWCCS): Ms. Faucett stated that she received a call back from the builders call line and who stated that they are processing the application for the relocation of the power poles, and will have an estimate and schedule for when the work will be completed in the next 3 weeks. As noted previously, the cost to move the poles will be between \$10,000 and \$15,000, which has been included in the engineers estimate. Ms. Faucett will continue to put pressure on Xcel to get this resolved.

#### **ESDF**

Final Design Review by State Engineer: Ayres received final design comments from Jeremy Franz, of the State Engineers Office (SEO) on March 12, 2015 and Ayres and Brierley met with Jeremy on March 18, 2015 to review the comments. One of the more significant comments was their requirement to separate any work on North or South Gray into two separate sets of plans and to submit a permit for each dam as well. This is apparently for the benefit of the SEO as they track the North and South Gray dams separately. Ayres will keep the construction work (buttressing, tide flex valves, retaining wall) in the current set of plans to be bid with ESDF but create two separate sets of plans for North and South Gray, as the SEO requested. Another significant comment was they have not received anything from the Lake Canal regarding their proposed spillway and outlet design, which must be approved by the SEO before construction. Ms. Faucett contacted Duane Smith about the design and he said he was not authorized to begin work on this as yet. This is critical, as the buttressing cannot be done

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until the existing outlet and spillway is removed and back filled in North Gray dams. Ms. Faucett and Manager Myers have been in contact with the Lake Canal to get them moving on this issue.

Ayres and Brierley have begun addressing the comments from the SEO. The plan is to resubmit the plans, specifications and final design reports to the SEO by April 10, 2015. Ayres will also have some additional analysis that will need to be done on the emergency spillway (based on the comments) which may increase the area of scour protection and/or slightly change the Johnson flowage easement.

404 Permit Application: Ms. Faucett has not received the 401 certification yet from the State. This is the final permit holding up the 404 permit approval. Ms. Faucett will continue to track this with the State and the Corps of Engineers. After the 401 certification is received, Ken Sampley will need to sign the 404 permit and then the Corps of Engineers will sign it and our time clock will begin. The 404 permit is good for 2 years, meaning we will have 2 years to construct the project.

### CLOMR:

#### *City of Fort Collins:*

Ayres has addressed the City of Fort Collins comments and re-submitted the CLOMR on February 12, 2015. Ayres is currently awaiting either approval or additional comments from the City

#### *Larimer County:*

Ayres re-submitted the CLOMR to Larimer County on February 20, 2015 and are awaiting either final approval or any additional comments. Ms. Faucett has not heard anything additional related to the warning system on CR 52. Ms. Faucett assumes this is being addressed between Director Sampley and Mr. Peterson.

The Board discussed that they are not comfortable with paying \$30,000 for a warning system on CR 52 as it already overtops and the current plans will reduce the flood risk.

Ms. Faucett had attended the meeting of the Larimer County Flood Review Board and was able to reiterate the comments made at that meeting. The main concern was why the current culverts are not reducing the overtopping depth on CR 52 to the current Larimer County Standards. Ms. Faucett explained the proposed design, and the Intergovernmental Agreement, and that the Authority's plans will make the situation better. The Larimer County Flood Review Board stated that they wanted some warning system put in place in the interim.

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Director Sampley stated that he believes that if we go back to the Flood Review Board, and make a reasonable argument as to why a warning system is not necessary, they would rescind their request.

The Board considered a motion to tell the County that the Authority is- not willing to install a warning system on CR 52. Following review and discussion, and upon motion, duly made by Director Seaworth seconded, by Director Tucker, and upon vote, it was

**RESOLVED** to not approve the proposed motion to refuse to install a warning system on CR 52, by a 3-2 vote, with Directors Seaworth and Tucker voted for the motion and Directors Meline, Reed and Sampley opposed.

*FEMA:*

Ayres submitted the CLOMR to FEMA on December 19, 2014. Ayres received comments from FEMA on March 5, 2015. Ayres is working to address those comments and intends to re-submit on or before April 3, 2015.

Peer Review of ESDF: Ayres has finished addressing comments from Duane Smith.

County Road 50 Design: The County has approved the grading for CR 50. Ayres will be tracking the earthwork separately in the ESDF construction budget. The County has offered to pay the earth balance difference to obtain an appropriate profile for CR 50.

Next Steps for ESDF: Ms. Faucett outlined the priorities for ESDF:

1st Priority: Obtain CLOMR approval from City of Fort Collins, Larimer County and FEMA.

2nd Priority: Obtain State Engineer Final Approval for plans, specs and design report.

3rd Priority: Bid ESDF and LWCCS.

Design Budgets: Mr. Faucett reported that based on the current level of design and where they are with the budgets; the design effort is in good shape in terms of budget tracking. Ms. Faucett will know more once she receives comments back from the SEO on design, but she has left some budget to address those comments along with comments from Duane Smith.

Director Seaworth asked Ms. Faucett to estimate how much she thinks it will cost to prepare the additional plan sets for North and South Gray Lakes Ms. Faucett stated that she believes it will cost between \$2,500 and \$3,000.

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Manager Myers gave a brief update on the Bid Tracker being used to track the Bidding and construction Phase Services for the 3 three regional stormwater projects. He reported that Pinnacle still anticipates presenting the results of the bids on these projects at the May Board meeting. However, due to the SEO comments, the process is approximately 10 days behind schedule. Manager Myers suggested that the Board appoint a Board member to act as a representative of the Board to interface with consultants and the contractor during the bidding and construction process. This would include contractor interviews and selection and reviewing pay applications and change orders.

The Board determined a Work Session was needed to discuss how this Board interface during bidding and construction might work.

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### LEGAL ITEMS

Director Reed moved to go into Executive Session in compliance with requisite statutory procedures under the Colorado Executive Session Laws, for the Board to discuss a strategy relative to negotiations, pursuant to C.R.S. § 24-6-402(4)(a) and (e). Director Meline seconded, and upon vote, it was unanimously

**RESOLVED** to convene an Executive Session, pursuant to C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers reported: "It is March 25, 2015, and the time is 5:37 p.m. I am the Manager for Boxelder Basin Regional Stormwater Authority. As required by the Colorado Open Meetings Law, this Executive Session of the Boxelder Basin Regional Stormwater Authority is being recorded."

Present at the Executive Session: Director Ken Sampley, Director Vic Meline, Director Lee Tucker, Director George Reed, Director Richard Seaworth, Greg White, Andrea Faucett, and Manager Stan Myers.

This Executive Session is for the following purposes: C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402-4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers cautioned each participate to confine all discussion to the stated purpose of the Executive Session and stated that no formal action may be taken during Executive Session, and if at any point any participant

## RECORD OF PROCEEDINGS

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believes the discussion is going outside of the proper scope of the Executive Session, please interrupt the discussion and make an objection. The Board President will close the Executive Session by saying the time and returning to the regular meeting.

The Executive Session concluded at 6:22 p.m.

All present at the beginning of the Executive Session were present at the adjournment of the Executive Session.

The Board reconvened in regular session at 6:22 p.m.

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### OTHER MATTERS Directors Comments:

The Board ask that payables be moved to the end of the agenda as the last item to be reviewed after Executive Session. The Board believes that Mr. Campbell can review the financials at the beginning of the meeting and Manager Myers can review the payables at the end of the meeting.

A tentative date and time were also agreed to for the Bidding and Construction Work Session. A tentative date was set for April 9, 2015 at 3:00pm at Ayres Associates Offices in Fort Collins, Manager Myers will seek to confirm this will work for Board members and other personnel and get back to the Board via email.

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### ADJOURNMENT

There being no further business to come before the Board, and upon motion duly made by Director Reed, and seconded by Director Tucker, the meeting was adjourned, by unanimous vote, at 6:24 p.m.

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The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Respectfully submitted,



Crystal Bidwell, Secretary for the Meeting

# RECORD OF PROCEEDINGS

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## MINUTES OF THE COORDINATED SPECIAL MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD  
April 15, 2015

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a coordinated Special Meeting, open to the public, at the Ayres, 3665 John F Kennedy Pkwy, Fort Collins, CO 80525 at 3:00 p.m. on Wednesday April 15, 2015. Notice of the Meeting was duly posted.

ATTENDANCE:     Directors in Attendance:  
Ken Sampley, President  
Vic Meline, Treasurer  
Lee Tucker, Director  
Richard Seaworth, Director

Directors not in Attendance, but excused, were:  
George Reed, Secretary

Also in Attendance:  
Stan Myers and Jason Woolard, Pinnacle Consulting Group, Inc.  
Greg White; BBRSA Legal Counsel  
Mark Peterson; Larimer County  
Malcolm Murray; Murray Dahl Kuechenmeister & Renaud LLP (came for the Executive Session)  
Andrea Faucett; Ayers Associates  
Tim Singewald, Town of Wellington Trustee  
Travis Harless, Town of Wellington Trustee  
Eric Fuhrman, TST Consulting Engineers  
Don Taranto, TST Consulting Engineers, Town of Timnath

CALL TO ORDER           The Meeting was called to order at 3.02 p.m. by Director Sampley, President, noting that a quorum was present.

AGENDA           The Board reviewed the agenda. Upon motion duly made by Director Seaworth and seconded by Director Meline it was unanimously

**RESOLVED** to approve the agenda as presented.

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### PUBLIC COMMENT

Tim Singewald stated that Town of Wellington has concerns that the member entities be contacted before the Authority receives the funding from the CWCB for an update. Director Sampley explained that no update is scheduled. Mr. Singewald said there was concern that costs are rising on ESDF. Mr. Singewald is still trying to get information requests. He stated that the Town of Wellington voted unanimously last night to retain the firm Lyons Gaddis of Longmont to assist in matters dealing with the Authority. They expect to present the Authority an open records request in the near future. Mr. Singewald stated that rumors concerning use of dirt on the Day property, a bridge on the Day property, the fiber optics relocation, the Budweiser effluent line and the golf course. He asked for better communication from the Authority Board. Director Sampley pointed out that the City of Fort Collins has responded to information requests concerning fee revenues and that the number of properties not properly assessed in Fort Collins are few. Mark Peterson reported that a small number of properties may not have been properly billed through the County's billing process. Mr. Peterson also pointed out that Brad March told the County no further information was needed at this time. Manager Myers also pointed out that the Authority has responded to information requests. Director Seaworth pointed out that some residents of Wellington who were not in the floodplain previously are now reporting that they are now in the floodplain. Director Sampley and Andrea Faucett pointed out that this does happen in rare occasions due increase accuracy of the modeling and mapping used.

The public input discussion concluded with agreement that the Authority would wait for the formal information request from the Town of Wellington's new legal counsel.

### OTHER MATTERS

Jason Woolard of Pinnacle discussed the proposed bidding and contracting process for the construction projects. In addition, he outlined the monthly payables and funding process (first attachment to these minutes). Retainage is set by State statute at 5% until the contractor achieves final completion. The bid schedule will be used as a format for the pay requests from the Contractor. The process outlined an approximate 45-60 day payout. He also reviewed a sample Project Pay Application (second attachment). This is an internal budget management form that will be available to the Board for review and not subject to public review.

Ayres (Andrea Faucett) will review the billed quantities on Contractor pay requests and Pinnacle (Jason Woolard) will input Contractor pay requests and other project costs into the Project Pay Application. It was clarified that the CWCB Contract is a reimbursement contract in which CWCB releases funds after each pay request. Jason outlined how contingences will be tracked through

## RECORD OF PROCEEDINGS

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the process. Pinnacle will submit the approved payables package to the Authority Board and CWCB on or about the 15<sup>th</sup> of each month.

There was also discussion of a Board representative to approve change orders which would then be ratified at the subsequent board meeting. Change Orders for this project will likely be due to site conditions or design changes determined necessary during construction. there was discussion of potentially establishing a force account which would limit the total aggregate amount that could be spent on change orders. There was also discussion of a limit for the amount of each change order that may be approved without prior Board approval. Some Board members were not comfortable with a Board Member being responsible for this approval. Director Seaworth suggested the Pinnacle (Authority Manager) should take on this role. Director Seaworth suggested establishing this process after the projects are bid and the contingency amounts are established. This approach was satisfactory to the Board at this time.

In the review of the Change Order Form, approval signature lines will be added for the Engineer and the Authority Manager. Director Seaworth asked that change orders be submitted with clear descriptions of the proposed modification and cost.

There was consensus to scheduling Board meetings on an as needed basis to accommodate the Project Pay Application cycle.

Jason and Andrea summarized that the final bid date is still dependent on resolution of the State Engineer's comments, roughly targeted for the middle of May to start the public bid process. Construction start for ESDF is likely toward the end of June.

There was also a brief discussion of bidding qualifications and the bidding and the selection process.

Greg White left the meeting at this point.

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### LEGAL ITEMS

Director Seaworth moved to go into Executive Session in compliance with requisite statutory procedures under the Colorado Executive Session Laws, for the Board to discuss a strategy relative to negotiations, pursuant to C.R.S. § 24-6-402(4)(a) and (e). Upon motion duly made by Director Seaworth and seconded by Director Sampley it was unanimously

**RESOLVED** to convene an Executive Session, pursuant to C.R.S. § 24-6-402(4)(a)(e), "Concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest, and "determining positions



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relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.”

Manager Myers reported: “It is April 15, 2015, and the time is 4:48 p.m. I am the Manager for Boxelder Basin Regional Stormwater Authority. As required by the Colorado Open Meetings Law, this Executive Session is being recorded.”

Present at the Executive Session: Director Ken Sampley, Director Richard Seaworth, Director Vic Meline, Director Lee Tucker, Manager Stan Myers, and Malcolm Murray.

Manager Myers cautioned each participate to confine all discussion to the stated purpose of the Executive Session and stated that no formal action may be taken during Executive Session, and if at any point any participant believes the discussion is going outside of the proper scope of the Executive Session, please interrupt the discussion and make an objection. The Board President will close the Executive Session by saying the time and returning to the regular meeting.

No decisions or actions were taken in the Executive Session.

The Executive Session concluded at 5:23 p.m.

All present at the beginning of the Executive Session were present at the Adjournment of the Executive Session.

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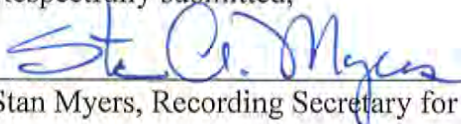
### ADJOURNMENT

There being no further business to come before the Board, and upon motion duly made by Director Seaworth and seconded by Director Meline the meeting was adjourned, by unanimous vote, at 5:25 p.m.

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The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Respectfully submitted,

  
Stan Myers, Recording Secretary for the Meeting

# RECORD OF PROCEEDINGS

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## MINUTES OF THE COORDINATED REGULAR MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD  
April 22, 2015

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a coordinated regular meeting, open to the public, at the Leeper Center, 3800 Wilson Avenue at 4:00 p.m. on Wednesday, April 22, 2015. Notice of the Meeting was duly posted.

ATTENDANCE:      Directors in Attendance:  
Ken Sampley, President  
Vic Meline, Treasurer  
George Reed, Secretary  
Lee Tucker, Director  
Richard Seaworth, Director

Also in Attendance:  
Stan Myers, Brendan Campbell, Jason Woolard and Crystal Bidwell;  
Pinnacle Consulting Group, Inc.  
Mark Peterson; Larimer County  
Andrea Faucett; Ayers Associates  
Robin Dornfest; Brierley Associates  
Larry Lorentzen, Town Administrator/Clerk; Town of Wellington  
Greg White; Authority Legal Counsel  
Malcolm Murray; Murray Dahl Kuechenmeister & Renaud LLP  
Dave White; Citizen

CALL TO ORDER                      The Meeting was called to order at 4:02 p.m. by Director Sampley, President, noting that a quorum was present.

AGENDA                      The Board reviewed the agenda. Director Reed requested to add a line item under Director Comments to include "SDA Membership". Upon motion duly made by Director Reed, seconded by Director Seaworth, and upon vote, it was unanimously

**RESOLVED** to approve the agenda as amended.

APPROVAL OF                      The minutes of the March 25, 2015 regular meeting were presented for the

## RECORD OF PROCEEDINGS

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### MINUTES

Board's consideration and approval. Following review and discussion, and upon motion duly made by Director Reed, seconded by Director Seaworth, and upon vote, it was unanimously

**RESOLVED** to approve the March 25, 2015 regular meeting minutes amended as follows:

- Page 7: Change "Gold" to "Golf"
  - Page 7: Change "The" to "They"
- 

### ELECTION OF OFFICERS

The Board affirmed the Town of Wellington's appointment of Director Seaworth to the Board and appointed Director Seaworth as Secretary for the Board of Directors. Upon motion duly made by Director Sampley and seconded by Director Meline, and following review and discussion, it was unanimously,

**RESOLVED** to affirm the Town of Wellington's appointment of Richard Seaworth, and appoint him as Secretary for the Board of Directors.

The Board determined to reverse the action of appointing Director Seaworth as Secretary due to Director Reed already being appointed to Secretary, and Director Reed expressed interest in continuing as Secretary. Upon motion duly made by Director Seaworth and seconded by Director Meline, and following review and discussion, it was unanimously

**RESOLVED** to rescind the previous decision of appointing Director Seaworth as Secretary for the Board of Directors.

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### CONSIDERATION OF AMENDED BYLAWS

Manager Myers presented the Amended Bylaws for the Board's consideration and approval. Greg White, Legal Counsel, explained Section 9 was added so that the Secretary shall be authorized to execute deeds, contracts, agreements, and other documents in the absence or unavailability of the President. The treasurer shall be authorized to execute deeds, contracts, agreements and other documents in the absence or unavailability of the President and Secretary. Upon motion duly made by Director Reed, seconded by Director Meline, and upon vote, it was unanimously,

**RESOLVED** to approve the Amended Bylaws, drafted April 10, 2015, as presented.

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## RECORD OF PROCEEDINGS

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PUBLIC  
COMMENT

There were no public comments brought before the Board.

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ITEMS FROM THE  
FINANCE  
DIRECTOR

Financial Report: Mr. Campbell presented the financial report as of December 31, 2014 and March 31, 2015 as they relate, including the cash position report; cash encumbrance report; work order status update; and the capital costs summary, broken out by project.

Mr. Campbell reported an adjustment to the Cash Position Report as the check to Phelps Atkinson in the amount of \$981.50 was not included on the Cash Position Report, and the actual current amount the Authority will have remaining in its accounts is \$680,426 once the checks are approved. The Cash Encumbrance Report was also adjusted to reflect the unencumbered cash amount as \$426,223, due to the check to Phelps Atkinson.

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ITEMS FROM  
AUTHORITY  
MANAGER

Anheuser-Busch (AB) Force Main and CR52 Box Culvert Conflict: Manager Myers is redoubling efforts to coordinate with Tim Seitz who is Resident Engineer with AB. Larimer County is preparing a response letter to the AB letter dated March 31, 2015.

AT&T Cable Relocation: Tom Jakse of Clearwater Consulting has reported that this work is now complete. As soon as the final invoices are paid they will reconcile the account. No further information is available until then.

Discussions with Doug Johnson: Manager Myers and Pat Schoenecker met on site with Doug and Greg Johnson on April 7<sup>th</sup> to review the site's irrigation constraints and address other concerns. This meeting resulted in design modifications for the grading as well as the piped irrigation system that crosses Boxelder Creek. The flowage easement is changing slightly due to the State Engineer's comments. This redesign should be completed in the next few days and will be reviewed with the Johnson's as the easement is finalized.

Design of Irrigation Modifications on the Day Parcel: Manager Myers and Director Seaworth met with Mitch Davee of Quality Well & Pump on site April 1<sup>st</sup> to review the modifications needed for the irrigation lines which feed the center pivot from the five wells on the Day Farm. These five wells are at the north end of the Day parcel just south of CR52. At the same time review of the design of the aerial crossing needed to convey the Home Supply and Storage Water from the golf course was completed. Ayres will supply all the CADD files needed for these two design projects.

Larimer Weld Canal Crossing Structure (LWCCS): Greg White has finalized the agreement with Butch Sommermeyer of the Larimer and Weld Canal

## RECORD OF PROCEEDINGS

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Company. This document has been forwarded to Mr. Sommermeyer for execution. Mr. Sommermeyer has provided some additional input to the bidding process and has been asked to provide a recommended list of contractors.

Mountain Vista Golf Course Coordination: The agreement with Deryle and Matt O'Dell (owners of Mountain Vista Golf Course) has now been fully executed. Manager Myers is collecting their input on the form liner for the headwall and wing walls to be installed on the north end of the proposed box culverts.

Review of Invoice from Lake Canal Reservoir Company: The Authority received a revised invoice which corrected previous totals from \$3,372.54 to \$3,775.04, resulting in a remaining balance of \$382.50. This issue will also be addressed with the payables at the end of the meeting.

ESDF Land Acquisitions and CWCB Funding: As a result of the recent possession hearing, the Authority has Orders of Possession for a portion of the Day Family Parcel and for flowage and construction easements on the Iodence and the Recreational Parcels. In addition, the Boxberger parcel has reached a negotiated settlement and the Griffin parcel was closed on March 30, 2015. Based on these orders and acquisitions Manager Myers and Brendan Campbell have moved forward with the document submittal needed for CWCB funds for the possession deposits and purchases.

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### CONSULTANT REPORTS

#### ENGINEER'S REPORT

Ms. Faucett presented the Engineer's report.

#### **On-Going Work**

Middle Basin/Larimer and Weld Canal Crossing Structure (LWCCS): Ms. Faucett met with Xcel representatives at the LWCCS project site to discuss the project impacts to the three Xcel power poles. Based on their field review they stated the poles will only need to be re-set, not relocated as they had previously thought. A prepared exhibit shows the depth of cut at each of the affected poles. Xcel will provide a new estimate for re-setting the poles. Once they have finished the design for re-setting the poles and determined a cost, they will provide the Authority with an invoice for re-setting the poles. The poles can then be re-set either before construction of LWCCS or during construction of LWCCS.

#### **ESDF**

Final Design Review by State Engineer: Ayres and Brierley have been working with the State Engineer to resolve their comments on the plans and specifications. The last outstanding issue is the design of a concrete cap for a

## RECORD OF PROCEEDINGS

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600 foot portion of CR 50 to withstand the Probable Maximum Flood. Ayres has been working with Larimer County to make sure that design will meet their current and future needs for CR 50 as well. Terracon will be boring 2 geotech borings on CR 50 on April 23rd. Once Ayres receives the geotech information Ayres can finalize the concrete pavement design and submit the final plans, specs and design report back to the State Engineer. The current schedule is to re-submit to State Engineer on April 29th. Jeremy Franz, the State Engineer, has promised a response within 2 weeks of the next submittal, as he is aware of the desire to put the project out to bid as soon as possible.

404 Permit Application: Ayres has not received the 401 certification from the State. Ms. Faucett received questions from the State about the project. Ms. Faucett is trying to work through those questions and concerns with the State, with the assistance of Andy Herb. This is the final permit holding up the 404 permit approval. After Ayres receives the 401 certification, Ken Sampley will need to sign the 404 permit and then the Corps of Engineers will sign it and the time clock will begin. The 404 permit is good for 2 years, meaning The Authority will have 2 years to construct the project.

Ms. Faucett noted that when an individual 404 permit is approved, it normally comes with special conditions. Just like the monitoring that was completed on the vegetation on Clark Reservoir, the Authority will have monitoring requirements for the wetland mitigation. This project impacts 0.34 acres of wetlands, and Ayres design plans include mitigating and/or re-growing 0.34 acres of wetlands in the project site, which can be done next to Boxelder Creek. Annually, for the next five years, the Authority will need to hire an ecologist to write a report to explain the status of the regrowth. Out of those five years, there will need to be a three year period in which the wetlands have been established and the Authority will not have to water them or treat them for invasive species or maintain them in any way that would encourage growth.

Director Tucker asked where the water would come from in order to water the wetlands. Ms. Faucett responded that the wetlands are adjacent to Boxelder Creek, which has plenty of water, and clarified, per the request of Director Reed, that water will not actually be taken out of the Boxelder Creek, but rather the current hydrology should be sufficient enough to support the wetland growth.

### CLOMR:

#### *City of Fort Collins:*

Ayres has addressed the City of Fort Collins comments and re-submitted the CLOMR to them on April 21st. Ayres is not expecting additional comments.

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### *Larimer County:*

Ayres re-submitted the CLOMR to Larimer County on April 21st, and does not expect additional comments. Ms. Faucett has not heard anything additional related to the warning system on CR 52. Ms. Faucett assumes this is being addressed between Director Sampley and Mr. Peterson.

### *FEMA:*

Once Ayres has received final approval from Larimer County and the City re-submittal will be made to FEMA.

County Road 52 Design: Manager Myers reported on the A-B line and the coordination with A-B.

Next Steps for ESDF: Ms. Faucett outlined the priorities for ESDF.

1st Priority: Obtain CLOMR approval from City of Fort Collins, Larimer County and FEMA.

2nd Priority: Obtain State Engineer Final Approval for plans, specs and design report.

3rd Priority: Bid ESDF and LWCCS.

Design Budgets: Based on the current level of design and current budget numbers, Ms. Faucett feels the design budget is on track.

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### LEGAL ITEMS

Director Reed moved to go into Executive Session in compliance with requisite statutory procedures under the Colorado Executive Session Laws, for the Board to discuss a strategy relative to negotiations, pursuant to C.R.S. § 24-6-402(4)(a) and (e). Director Meline seconded, and upon vote, it was unanimously

**RESOLVED** to convene an Executive Session, pursuant to C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers reported: "It is April 22, 2015, and the time is 4:50 p.m. I am the Manager for Boxelder Basin Regional Stormwater Authority. As required by the Colorado Open Meetings Law, this Executive Session of the Boxelder Basin Regional Stormwater Authority is being recorded."

Present at the Executive Session: Director Ken Sampley, Director Vic Meline, Director Lee Tucker, Director George Reed, Director Richard

## RECORD OF PROCEEDINGS

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Seaworth, Greg White, Andrea Faucett, and Manager Stan Myers.

This Executive Session is for the following purposes: C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402-4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers cautioned each participate to confine all discussion to the stated purpose of the Executive Session and stated that no formal action may be taken during Executive Session, and if at any point any participant believes the discussion is going outside of the proper scope of the Executive Session, please interrupt the discussion and make an objection. The Board President will close the Executive Session by saying the time and returning to the regular meeting.

The Executive Session concluded at 5:21 p.m.

All present at the beginning of the Executive Session were present at the adjournment of the Executive Session.

The Board reconvened in regular session at 5:24 p.m.

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OTHER MATTERS Approval of Payables: Manager Myers presented for consideration and approval, the Schedule of Payables dated April 16, 2015, in the amount of \$91,945.63, including checks 1210 through 1218.

Director Seaworth asked for clarification of the line item on Pinnacle Consulting Group Inc.'s bill, "Capital Asset Management". Manager Myers responded by stating that is the time Jason Woolard, from Pinnacle Consulting Group, has spent on the bidding process.

Manager Myers requested the Board consider the additional amount still due to Phelps Atkinson in the amount of \$382.50 as explained earlier, regarding the Lake Canal and Reservoir Company. The Board deferred the request to the next regular board meeting on May 27, 2015.

Upon motion duly made by Director Meline, seconded by Director Seaworth, and upon vote, it was unanimously

**RESOLVED** to approve the April Schedule of Payables, in the amount of \$91,945.63 including the check numbers listed above. The invoices approved for payment are as follows:

- Ayres Associates - \$35,012.86
- Clayton and Company, Inc. - \$9,500



## RECORD OF PROCEEDINGS

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- Greg A. White, Attorney - \$3,510
- Lake Canal Reservoir Company - \$1,570.80
- Murray Dahl Kuechenmeister & Renaud LLP - \$16,388.44
- Phelps Atkinson - \$981.50
- Pinnacle Consulting Group, Inc. – \$15,752.03
- Poysti & Adams, LLC - \$2,130
- Shannon & Associates - \$7,100

Manager Myers presented the payment to Land Title Guarantee Company in the amount of \$337,517.70 that was paid at the time of closing for the Griffin property, for the Boards ratification of approval. Upon motion duly made by Director Seaworth, seconded Tucker by Director, and upon vote, it was unanimously

**RESOLVED** to approve the payment to Land Title Guarantee Company in the amount of \$337,517.70, as presented.

Consideration of Pinnacle Addendum for Bidding Phase and Construction Permitting Services: Jason Woolard, Pinnacle Consulting Group Inc. made a short presentation regarding the Pinnacle Addendums. Mr. Woolard explained that Addendum No. 6 covers bidding and contract services for the LWCCS, in the amount of \$11,362, and Addendum No. 7 covers bidding and contract services for the ESDF and County Road 52, in the amount of \$26,496. The Addendums total \$37,858, however, the requests also include \$5,000 that were previously authorized by the Board, which results in a total additional request of \$32,858. Manager Myers pointed noted that the previous \$5,000 was authorized by the Board but the cooresponding document was not executed, which is why it is being included in the addendum. Upon motion duly made by Director Seaworth, seconded by Director Reed, and upon vote, it was unanimously,

**RESOLVED** to approve Addendum No. 6 and Addendum No.7, in the amounts noted above, as presented.

Consideration of Work Order from Ayres for Bidding Phase and Construction Permitting Services: Ms. Faucett presented the Work Order for engineering services required for bidding and construction permitting services in the amount of \$27,755. The Work Order includes \$5,000 which was previously authorized, which results in a total additional request of \$22,755. Upon motion duly made by Director Sampley, seconded by Director Reed, and upon vote, it was unanimously,

**RESOLVED** to approve Work Order No. 24 for bidding and construction permitting services, in the amount noted above, as presented.

## RECORD OF PROCEEDINGS

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Consideration of Proposal from Brierley for Sand and Gravel Evaluation: Manager Myers and Robin Dornfest from Brierley Associates, presented the proposal and invoice for the mineable sand and gravel evaluation and preparation for testimony at the Day Possession Hearing in the amount of \$2,788. Upon motion duly made by Director Reed, seconded by Director Meline, and upon vote, it was unanimously,

**RESOLVED** to approve the proposal and invoice for sand and gravel evaluation, in the amount note above, as presented.

Consideration of Change Order from Brierley: Mr. Dornfest presented a Change Order in the amount of \$9,683.01 from Brierley Associates for the additional geotechnical design, which resulted from a change in design criteria by the State Engineer for the ESDF embankment design. There was some discussion and Director Reed commented that this type of expense should be brought up before the expense is incurred, rather than after that fact. Upon motion duly made by Director Sampley, seconded by Director Meline, and upon vote, it was,

**RESOLVED** to approve the Change Order from Brierley Associates, in the amount noted above, by a 3-1 vote with Director Tucker opposed, and Director Seaworth abstaining from vote.

Mountain Vista Golf Course Rendering Services: Manager Myers presented a request, from the owners of the Mountain Vista Golf Course, for the Authority to pay for a rendering of what the revised fairway will look like. Rick Phelps, Consultant for Mountain Vista Golf Course, calculated the cost to be \$1,200 to produce the rendering. Upon motion duly made by Director Seaworth, seconded by Director Reed, and upon vote, it was unanimously,

**RESOLVED** to authorize payment for the production of a fairway rendering, in an amount not to exceed \$1,200.

Directors Comments: Director Reed addressed the Board and spoke about his experience at the Special District Association (SDA) conference last year. Director Reed stated that he felt the conference was a very positive experience and asked that the Authority consider purchasing an SDA membership. Following discussion, Manager Myers was directed to put together costs for an SDA membership and as well as the cost for the Board to attend the SDA conference this fall. It was noted that the conference dates are September 23-25, 2015 in Keystone, Colorado.

## RECORD OF PROCEEDINGS

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### ADJOURNMENT

There being no further business to come before the Board, and upon motion duly made by Director Reed, seconded by Director Tucker, and upon unanimous vote, the meeting was adjourned at 6:20 p.m.

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The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Respectfully submitted,



Stan Myers, Recording Secretary for the Meeting

# RECORD OF PROCEEDINGS

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## MINUTES OF THE COORDINATED REGULAR MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD  
May 27, 2015

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a regular meeting, open to the public, at the Leeper Center, 3800 Wilson Avenue at 4:00 p.m. on Wednesday, May 27, 2015. Notice of the Meeting was duly posted.

ATTENDANCE:     Directors in Attendance:  
Ken Sampley, President  
Vic Meline, Treasurer  
George Reed, Secretary  
Lee Tucker, Director  
Richard Seaworth, Director

Also in Attendance:  
Stan Myers, Brendan Campbell, and Shana Morgan; Pinnacle Consulting Group, Inc.  
Mark Engemoen; Larimer County  
Andrea Faucett and Chris Pletcher; Ayers Associates  
Larry Lorentzen, Town Administrator/Clerk; Town of Wellington  
Tim Singewald, Town of Wellington Trustee  
Travis Harless, Town of Wellington Trustee  
Greg White; Authority Legal Counsel  
Dave White; Citizen

CALL TO ORDER             The Meeting was called to order at 4:03 p.m. by Director Sampley, President, noting that a quorum was present.

AGENDA             The Board reviewed the agenda. Upon motion duly made by Director Meline, seconded by Director Seaworth, and upon vote, it was unanimously

**RESOLVED** to approve the agenda as amended to add items V.B, "Consideration of Larimer Weld Irrigation Agreement, and V.C., "Consideration of Johnson Easement Agreement".

APPROVAL OF       The minutes of the April 15, 2015 special meeting were presented for the

## RECORD OF PROCEEDINGS

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### MINUTES

Board's consideration and approval. Following review and discussion, and upon motion duly made by Director Seaworth, seconded by Director Meline, and upon vote, it was

**RESOLVED** to approve the April 15, 2015 special meeting minutes amended as follows: Page 4, remove "Director George Reed" from the list of those present during the executive session, by a 4-0 vote with Director Reed abstaining.

The minutes of the April 22, 2015 regular meeting were presented for the Board's consideration and approval. Following review and discussion, and upon motion duly made by Director Reed, seconded by Director Meline, and upon vote, it was unanimously

**RESOLVED** to approve the April 22, 2015 regular meeting minutes amended as follows: Page 3, change "CR50" to "CR52" and page 9, change the vote from "3-2" to "3-1".

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### PUBLIC COMMENT

Mr. Singewald, Town of Wellington Trustee, addressed the Board and provided a handout. Mr. Singewald stated the meeting with the Town of Fort Collins representatives was productive and there was agreement to try and resolve the issues. Mr. Singewald stated that through the discussions it was discovered that there is a difference in the way Fort Collins and the Town of Wellington are reporting Development Fees with respect to the year reported and the timing of the commercial properties. Mr. Singewald will be meeting with representatives from Larimer County on June 11<sup>th</sup> at 3:30 p.m. and requested a representative from Pinnacle to be present.

Mr. Singewald next outlined the responsibilities of the Authority from the IGA and stated that the Town of Wellington Trustees feel that the Authority is charged with accounting functions, establishing the fees and outlining a financial plan, which includes having knowledge of how much impervious space is within the drainage area.

Mr. Singewald stated that he questions the changes that have been made to the Master Plan and would like to know how the changes were made and requests that there are no further amendments without unanimous vote by all of the Members. He also requested that if the current projects go over budget an approval is obtained by all of the Members before moving forward.

Mr. Singewald discussed the recent CORA request that was submitted to the Authority by the Town of Wellington's attorney, Lyons and Gaddis, and stated that he felt as a member of the Authority they should not have to

## RECORD OF PROCEEDINGS

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submit a CORA request for records nor be charged a fee for records.

Greg White, Authority legal counsel, stated that the CORA policy allows for the Authority to charge any one making a request for information, including Members (City of Fort Collins, Larimer County and the Town of Wellington), based on the current policy.

Director Sampley stated that he feels the information recently requested by the Town should be provided to the Town of Wellington.

Director Reed stated that he feels the Board has a responsibility to fee payers to spend the funds on public safety projects and the Members need to understand that assembling records takes time. Director Reed stated that he questions whether the Authority should pay for the records requests or the individual entity, but also stated that he wants to be reasonable.

Director Seaworth stated that through the discussions with the Town of Wellington and the City of Fort Collins, the City found \$29,000 and thanked the Town for bringing the discrepancy to their attention.

Director Sampley stated that the amount Director Seaworth was referring to was \$9,000 not \$29,000 and after further research additional properties were found that should have been paying but there were also properties found that should not have been paying. Director Sampley stated that if audits were performed by each entity discrepancies would be found to the benefit and detriment of each entity.

Director Seaworth stated that he would like to make it right and sees no reason why a member should have to pay in order to get information. Director Seaworth stated that he feels amendments happened to the IGA and Master Plan and they have gotten confused, and wants to be clear on the process for amendments going forward. Director Seaworth also stated that he has concerns regarding the impervious space calculations in Larimer County.

Travis Harless addressed the Board and stated that his desire is not to spend money frivolously but doesn't feel that the recent information request contained anything out of the ordinary regarding how fees are being billed and wishes to resolve the issues without the involvement of attorney's. Mr. Harless expressed his frustration regarding the recent CORA request and stated that this may be a painful process, but is necessary, and feels the impervious space areas should be re-evaluated every two years.

Director Sampley clarified that Mr. Harless was referring to commercial properties. Mr. Harless confirmed that his comments were related to

## RECORD OF PROCEEDINGS

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commercial properties.

Director Sampley stated that he feels the Authority should provide the information requested by the Town of Wellington.

The Board agreed to discuss amending the CORA Policy later in the meeting.

ITEMS FROM THE  
FINANCE  
DIRECTOR

Financial Report: Mr. Campbell presented the financial report as of April 30, 2015 including the balance sheet, general fund and capital fund report, revenue by member, cash position report, cash encumbrance report, and the capital costs summary, broken out by project. Mr. Campbell noted that the management line item is trending over budget due to additional meetings and records requests. Mr. Campbell also noted that the CWCB funds have been received.

Director Seaworth asked questions regarding revenue differences between pages 19 & 20 and Mr. Campbell explained that they are different revenue streams and are located in different funds because of the nature of the revenue; capital versus operations.

Mr. Campbell left the meeting at 4:53

ITEMS FROM  
AUTHORITY  
MANAGER

Meeting with Founding Entities and Timnath: Manager Myers reported that on May 6<sup>th</sup> a meeting was held with representatives of the City of Fort Collins, Town of Wellington, Larimer County and Town of Timnath. Commissioner Gaiter called the meeting and he and Commissioner Johnson were in attendance. The agenda for this meeting included an opportunity for each entity to state their position on the Authority and how projects and revenues are proceeding. At the meeting, Manager Myers gave a brief update on the status of the East Side Detention Facility (ESDF), the Larimer Weld Canal Crossing Structure (LWCCS) and the County Road 52 Improvements. Each entity then gave a brief report on their revenue collections on behalf of the Authority. Representatives of the Town of Wellington expressed their concerns with some inconsistencies in the City of Fort Collins and Larimer County fee collections. Subsequent follow up meetings were committed to in order to address these concerns. All agreed to a similar meeting of the entities and Timnath should be scheduled for November 2015.

Larimer Weld Canal Crossing Structure (LWCCS) and Negotiation: Manager Myers reported that a meeting was held on May 14<sup>th</sup> with Butch Sommermeyer, Tim Dow and Brad Anderson representing of the Larimer and Weld Irrigation Company (LWIC). Manager Myers, Director Sampley, Director Seaworth, Andrea Faucett and Greg White represented the

## RECORD OF PROCEEDINGS

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Authority. The meeting discussed contractor selection, schedule and maintenance responsibilities. Consensus was reached on an approach to selecting a contractor through a well-defined set of qualifications and LWIC input into this selection. Butch and Tim also agreed that the long term maintenance of the LWCCS improvements should be a LWIC responsibility. Mr. White was asked to prepare a final draft of the agreement based on this understanding. This draft will be presented for Board consideration later in the meeting.

Anheuser-Busch (AB) Force Main and CR52 Box Culvert Conflict: Manager Myers reported that new information was received this afternoon and AB has agreed to move their line and pay for the work. They are moving forward to hire an engineer and amend the construction plans to move their line over Thanksgiving.

AT&T Cable Relocation: Manager Myers reported that Tom Jakse of Clearwater Consulting has reported that this work is now complete. As soon as final invoices are paid the will reconcile account.

Discussions with Greg Johnson: Manager Myers reported that he has been working closely with Greg Johnson who now appears to be taking the lead in helping the family negotiate this right-of-way and flowage easement. The adjacent area to be graded has been regraded again to help them with a low area they have has trouble flood irrigating. This appears to be the last issue they were concerned about. Sean Rutledge (their attorney) and Greg White are working to develop the final language for the easement agreement.

Design of Irrigation Modifications on the Day Parcel: Manager Myers reported that Mitch Davee, of Quality Well & Pump, should have the irrigation modifications by the end of the week.

Bidding Update: Manager Myers reported that based on the latest coordination with Ayres, the two bid packages, one for LWCCS and the other for ESDF and County Road 52 Improvements, are still targeted to go out to bid on May 26 with Bid Openings set for June 12<sup>th</sup>. Manager Myers extended an invitation for no more than two Board members to attend the interviews with the contractors. Directors Meline and Seaworth stated that they would like to attend.

Open Records Resolution: Manager Myers presented the Colorado Open Records Act (CORA) Resolution to the Board noting that the current policy lies within the Annual Administrative Matters Resolution and for clarity Manager Myers recommends that the Authority adopt a stand-alone policy. Continuing with earlier discussions regarding exempting the Members of the Authority from the CORA policy, Mr. White reported that the Board could amend the policy as they saw fit but asked the Board to consider adding specifics as to the timing of the fulfilling the records requests. Director Reed



## RECORD OF PROCEEDINGS

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stated that he believed the current statute stated that requests must be met within in 72 hours, and Mr. White confirmed and outlined the exceptions that are allowed under CORA. Mr. Harless addressed the Board and stated that he felt the records were similar to his own filing cabinet at home and felt that the Members should be allowed to obtain documents without any stipulations. Upon motion duly made by Director Tucker, seconded by Director Seaworth, and upon vote, it was unanimously

**RESOLVED** to approve the CORA Resolution as amended, adding in a provision to waive the fee for member entities and to direct the Manager to waive fees associated with the current records request.

SDA Membership and Conference Pricing: Manager Myers presented the requested information from last month regarding SDA Membership fees and annual conference pricing. Director Reed reported that SDA is offering a half day workshop in Fort Collins on June 23<sup>rd</sup> for \$30 per person. Director Sampley polled the Board regarding the SDA membership and annual conference. The Board determined to send two members to the 2015 SDA Annual Conference and to add a line item to the budget for 2016 for an annual SDA membership.

Revised Schedule for September Board Meeting: Manager Myers requested that the September Board meeting be rescheduled to September 30<sup>th</sup>. The Board agreed.

### ENGINEER'S REPORTS

Middle Basin or Larimer and Weld Canal Crossing Structure (LWCCS): Ms. Faucett reported that Xcel is working on their design for re-setting the 3 poles which will be impacted with the construction of the LWCCS project. Coordination continues with Shayne Hubbard and Gerald Muniz with Xcel on this issue, with the intent of the 3 poles being re-set prior to the construction of the LWCCS.

### **ESDF**

Final Design Review by State Engineer: Ms. Faucett reported that Ayres and Brierley have re-submitted their Final Design Report, Final Construction Plans and Technical Specifications back to the State Engineer for approval. Jeremy Franz has indicated that he will be notifying us the week of June 1<sup>st</sup> with final instructions. Ms. Faucett reported that she is comfortable bidding the project without the final comments from the SEO, as significant design changes are not anticipated.

404 Permit Application: Ms. Faucett and Andy Herb had a conference call

## RECORD OF PROCEEDINGS

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with the State regarding our 401 certification which is the only remaining approval holding up our Individual 404 permit from the Corps of Engineers. The State was concerned about the length of our culvert through the dam and its impact on Boxelder Creek water quality and habitat. A detailed explanation was provided as to how we arrived at our current design and what is controlling the length of our spillway, which includes the side slopes of dam (which are required by State Engineer), and the goal of eliminating any overtopping of CR 50. The verbal explanation was followed up with memo. Following the receipt of the 401 certification, a Board member will need to sign the 404 permit and then the Corps of Engineers will sign it and the time clock will begin. The 404 permit is good for 2 years, meaning we will have 2 years to construct the project. As noted during last month's meeting, the wetland mitigation will require 5 years of observation by a wetland ecologist verifying the wetland growth areas and submittal of an annual report to the Corps of Engineers. In order for the Authority to receive final sign off from the Corps of Engineers for the Individual 404 permit, the Authority must prove that the wetland have successfully survived without irrigation or any other supplemental care for 3 consecutive years.

### **CLOMR**

#### *City of Fort Collins:*

Ms. Faucett reported that final approval was received from the City of Fort Collins, with one minor correction.

#### *Larimer County:*

Ms. Faucett reported that final approval was received from Larimer County

#### *FEMA:*

Ms. Faucett reported that the CLOMR was re-submitted to FEMA and they have asked for 1 minor correction on the floodplain delineation. They have told us they will not be providing any more comments. The final correction was made and Ayers is awaiting final instructions for gaining approval.

#### Next Steps for ESDF:

1<sup>st</sup> Priority: CLOMR approval from FEMA

2<sup>nd</sup> Priority: Obtain State Engineer Final Approval for plans, specs and design report

3<sup>rd</sup> Priority: Bid ESDF and LWCCS

Bidding: Ms. Faucett reported that Ayers has been coordinating with Pinnacle on the bidding process for ESDF and LWCCS. The bid notifications were posted for both projects on May 21<sup>st</sup>. Ayres has finalized the bid tab (Engineers Estimate) for both projects and have included in our

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Technical Specifications. All of the design information including plans, specs and geotechnical reports will be made available to the contractors prior to the pre-bid meeting will be held at Pinnacle offices on Friday May 29<sup>th</sup>, with final bids due on June 12<sup>th</sup>. Director Meline asked about bidding before full approval is received from the State. Ms. Faucett noted that construction will not begin without approved plans. Director Meline stated that he does not want to see a change order. Ms. Faucett stated that she understood and is working to control the risk and still move forward.

Design Budgets: Ms. Faucett reported that based on our current level of design, and where we are with our budgets, she feels the design effort is in good shape in terms of budget tracking.

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### LEGAL ITEMS

Director Reed moved to go into Executive Session in compliance with requisite statutory procedures under the Colorado Executive Session Laws, for the Board to discuss a strategy relative to negotiations, pursuant to C.R.S. § 24-6-402(4)(a) and (e). Director Meline seconded, and upon vote, it was unanimously

**RESOLVED** to convene an Executive Session, pursuant to C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers reported: "It is May 27, 2015, and the time is 5:37 p.m. I am the Manager for Boxelder Basin Regional Stormwater Authority. As required by the Colorado Open Meetings Law, this Executive Session of the Boxelder Basin Regional Stormwater Authority is being recorded."

Present at the Executive Session: Director Ken Sampley, Director Vic Meline, Director Lee Tucker, Director George Reed, Director Richard Seaworth, Greg White, Andrea Faucett, and Manager Stan Myers.

This Executive Session is for the following purposes: C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402-4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers cautioned each participate to confine all discussion to the stated purpose of the Executive Session and stated that no formal action may be taken during Executive Session, and if at any point any participant

## RECORD OF PROCEEDINGS

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believes the discussion is going outside of the proper scope of the Executive Session, please interrupt the discussion and make an objection. The Board President will close the Executive Session by saying the time and returning to the regular meeting.

The Executive Session concluded at 5:47 p.m.

All present at the beginning of the Executive Session were present at the adjournment of the Executive Session.

The Board reconvened in regular session at 5:48 p.m.

OTHER MATTERS Ratification of Payables: Manager Myers presented for consideration and ratification of the Schedule of Payables dated April 28, 2015, in the amount of \$1,043,559, including checks 1219 through 1222.

Upon motion duly made by Director Seaworth, seconded by Director Meline, and upon vote, it was unanimously

**RESOLVED** to ratify the April 28, 2015 Schedule of Payables, in the amount of \$1,043,559 including the check numbers listed above. The invoices ratified are as follows:

- Boxberger Family Trust - \$420,000
- Larimer County District Court - \$32,831.00
- Larimer County District Court - \$4,000
- Larimer County District Court - \$586,728.00

Approval of Payables: Manager Myers presented for consideration and approval of the Schedule of Payables dated April 30, 2015, in the amount of \$78,928.99, including checks 1223 through 1232.

Upon motion duly made by Director Reed, seconded by Director Meline, and upon vote, it was unanimously

**RESOLVED** to approve the April 30, 2015 Schedule of Payables, in the amount of \$78,928.99 including the check numbers listed above.

- Ayres Associates - \$47,472.49
- Brierley Associates - \$3,253.75
- Greg A. White, Attorney - \$2,430
- HOA Online Resources - \$300.00
- Lake Canal Reservoir Co. - \$382.50
- Land Title Guarantee Co. - \$247.00
- Murray Dahl Kuechenmeister & Renaud LLP - \$6,054.75
- Uthmann Enterprises - \$200.00

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- Pinnacle Consulting Group, Inc. – \$18,588.50

Larimer and Weld Irrigation Agreement: Manager Myers presented the Larimer and Weld Irrigation Agreement for the Boards consideration. Upon motion duly made by Director Sampley, seconded by Director Reed, and upon vote, it was unanimously

**RESOLVED** to approve current version of the Larimer Weld Irrigation Company Agreement, giving Manager Myers and legal counsel Greg White authority to make minor changes as needed.

Johnson Easement Agreement: Manager Myers presented the Johnson Easement Agreement for the Boards consideration. Upon motion duly made by Director Sampley, seconded by Director Reed, and upon vote, it was unanimously

**RESOLVED** to approve the easement agreement with H. Gordon Johnson, for a settlement amount of \$28,000.

Directors Comments: Director Reed suggested a Secretary's Report be added to the agenda in 2016. He would like to meet with Pinnacle staff to review the record keeping procedures based on the fact that the by-laws stated that the Secretary has oversight of these records. Everyone was in agreement with this approach and agreed that a simliar Treasurer's Report was not needed.

Director Reed also pointed out the published notice in the Coloradoan regarding FEMA floodplain changes. This notification refered questions to Marsha Hilmes-Robinson of the City of Fort Collins, Eric Tracy of Larimer County and Don Taranto of Timnath. Director Sampley explained that the notfication was a additional requiriement of the CLOMR process, in addition, to the individual notices that were sent out.

Director Seaworth asked for an update from Director Sampley on the meeting held with Larimer County Flood Water Board regarding the warning system to be required along County Road 52. Director Sampley said that they agreed that the warning could be limited to a unautomated signage cautioning drivers to not drive into a flooded roadway. The exact configuration of this system is to be determined but it will be limited to signage.

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### ADJOURNMENT

There being no further business to come before the Board, and upon motion duly made by Director Tucker, seconded by Director Reed, and upon unanimous vote, the meeting was adjourned at 6:06 p.m.

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The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Respectfully submitted,



Shana L. Morgan, Recording Secretary for the Meeting

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## MINUTES OF THE COORDINATED SPECIAL MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD  
June 30, 2015

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a special meeting, open to the public, at 200 West Oak, 2<sup>nd</sup> Floor, Room 233, Fort Collins, Colorado at 3:00 p.m. on Tuesday, June 30, 2015. Notice of the Meeting was duly posted.

ATTENDANCE:     Directors in Attendance:  
Ken Sampley, President  
George Reed, Secretary (arrived at 3:09 p.m.)  
Vic Meline, Treasurer  
Lee Tucker, Director  
Richard Seaworth, Director

Also in Attendance:  
Stan Myers, Brendan Campbell, Kirsten Starman, Jason Woolard, and Shana Morgan; Pinnacle Consulting Group, Inc.  
Greg White; Authority Legal Counsel  
Robin Dornfest; Brierley Associates  
Andrea Faucett and Chris Pletcher; Ayers Associates  
Eric Fuhrman; TST, Inc.  
Marty Tuckwieller; Fiore & Sons, Inc.  
Malcolm Murray; Murray Dahl Kuechenmeister & Renaud LLP  
(arrived at 3:45 p.m.)  
Tim Singewald; Town of Wellington Trustee  
Travis Harless; Town of Wellington Trustee (arrived at 3:51 p.m.)  
Mark Engemoen; Larimer County  
Eric Sutherland

CALL TO ORDER           The Meeting was called to order at 3:08 p.m. by Director Sampley, President, noting that a quorum was present with four of five Board members in attendance. With Director Reed's arrival at 3:09 p.m. five of five Board members were in attendance.

AGENDA           The Board reviewed the agenda. Upon motion duly made by Director Sampley, seconded by Director Meline, and upon vote, it was unanimously

**RESOLVED** to approve the agenda as amended, changing

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“Consideration of Bids...” to “Presentation of Bids...” and removing items IV. D., E., and F. from the agenda.

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### APPROVAL OF MINUTES

The minutes of the May 27, 2015 regular meeting were presented for the Board’s consideration and approval. Following review and discussion, and upon motion duly made by Director Seaworth, seconded by Director Meline, and upon vote, it was unanimously

**RESOLVED** to approve the May 27, 2015 regular meeting minutes as amended to clarify the “members” as the “member entities of the Boxelder Basin Regional Stormwater Authority” as it relates to the CORA fee exemptions.

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### PUBLIC COMMENT

Eric Sutherland addressed the Board stating that he checked the status on the civil case regarding the Day property and found that the Judge had issued an amendment to his previous orders regarding moving material from the Day property and wanted to make the Board aware of the new order.

Attorney White noted that this item would be discussed in executive session.

There were no other comments brought before the Board.

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### ITEMS FROM THE FINANCE DIRECTOR

Financial Report: Mr. Campbell presented the financial report dated June 17, 2015 including the balance sheet, general fund and capital fund report, revenue by member, cash position report, cash encumbrance report, and the capital costs summary, broken out by project. Mr. Campbell noted that the Authority had received \$228,160.73 from Larimer County.

Director Seaworth asked for clarification as to what year the fees representing the \$228,160.73 were collected. Mr. Campbell stated that the funds received in 2015 are for 2014 fees.

Director Sampley asked if the fees from the Town of Wellington were received. Mr. Campbell stated that, to date, funds from the Town of Wellington had not been received.

Director Seaworth asked about delinquent accounts from Larimer County. Mr. Campbell stated that there was an approximate 10% delinquency rate and that those were collected through the property taxes and expects to receive those in July or August.



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Director Seaworth asked how the System Development Fees will be collected by the Authority. Mr. Campbell stated that they will be collected through the building permit process by Larimer County.

ITEMS FROM  
AUTHORITY  
MANAGER

Colorado Open Records Act (CORA) Requests from the Town of Wellington: Manager Myers reported that he has responded to the latest request for information from the Town of Wellington regarding information on waivers and fee credits. No further information requests have been received.

Director Reed noted that he attended a training presented by the Special District Association of Colorado with legal counsel from Collins Cockrel & Cole, P.C. Director Reed stated that he asked representatives from Collins about CORA and they suggested the use of a "CORA Request Form". Director Sampley stated that the current policy requires that requests be made in writing but asked Manager Myers to present an example "form" for the Boards review.

Larimer Weld Canal Crossing Structure (LWCCS) and Negotiation: Manager Myers reported that Butch Sommermeyer and Tim Dow have agreed to the latest version of the agreement approved by the Board at the May Board Meeting. Two copies of the executed agreement have now been forwarded to the Larimer and Weld Irrigation Company (LWIC) for final signature.

Anheuser-Busch (AB) Force Main and CR52 Box Culvert Conflict: Manager Myers reported that he has been working with Mark Peterson of Larimer County and has set up a follow up meeting with Budweiser to discuss the design and coordination of the effluent line lowering. This meeting will be held on July 10th and will be reported on at the Regular July Board Meeting.

Discussions with Johnson Family: Manager Myers reported that the Johnson Family and Sean Rutledge have agreed to the latest version of the agreement approved by the Board at the May Board Meeting. Two copies of the executed agreement have now been forwarded to the Johnson Family for their final signature.

Design of Irrigation Modifications on the Day Parcel: Manager Myers reported that he has continued to track the design of the irrigation modifications with Mitch Davee of Quality Well & Pump. They have contracted this design out and have been met with various delays due to their overall workload but will continue to follow up with them.

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Bidding Update: Manager Myers stated that Mr. Woolard would report on the bid results later in the meeting.

Based on a question from Director Tucker, Mr. Campbell clarified the total capital costs to date, as written on page 13 of the Board packet, noting that the costs included the land acquisition costs.

### ENGINEER'S REPORTS

Middle Basin or Larimer and Weld Canal Crossing Structure (LWCCS): Ms. Faucett reported that Xcel is only outstanding issue and continues to follow up with them as to the status of the three poles being re-located.

Final Design Review by State Engineer (ESDF): Ms. Faucett reported that the final approval letter was received from the State Engineers office.

404 Permit Application: Mr. Pletcher reported that final conditions were received from the State regarding the 401 certification. Mr. Pletcher noted that Boxelder Creek is not listed as an impaired stream through the project area; however the conditions appear to reflect a concern by the state that it could be impaired by the project. It also appears that the state is using this project to gather additional data to determine stream impairment and future mitigation conditions. The 401 conditions present a measure of risk for ongoing monitoring and mitigation. Mr. Pletcher stated that the State is not likely to grant an exemption from the condition and suggested the Authority go beyond the 401 conditions, which only require a single monitoring point downstream of the project, to also include a second sample site upstream of the project so the project impacts are separated from the background conditions. Mr. Pletcher also suggested the Board consider additional data collection based on the second test site results.

Director Seaworth noted that the location of the testing sites would be critical since the Boxelder Creek is more of a conveyance ditch, rather than a creek, and as such the flows change. Director Seaworth stated that the upper test location should be as close to our project as possible but below the location where the Grey Lakes come out. Director Seaworth stated that he felt the Authority should collect independent data.

Director Sampley stated that he felt it would be prudent for the Authority to conduct a more detailed analysis early and suggested the Board consider approving the additional testing at the next Board meeting.

CLOMR: Ms. Faucett reported that final approval from FEMA has been received. FEMA will put documents together and provide to each entity detailing what the CLOMR is approving.

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Director Reed expressed concern regarding the LOMR moving forward before the final CLOMR approval is received. Ms. Faucett stated that this should be a fairly simple LOMR and does not expect modifications will be necessary. Director Reed stated that he felt the majority of people would not understand that the approval is conditional. Manager Myers noted that all maps are stamped "subject to final FEMA approval" and Director Sampley stated that some slight changes will be made regarding elevation, etc., but are expected. Ms. Faucett noted that the letters sent to each property owner stating that the maps were "estimates".

County Road 52 Design: Ms. Faucett reported that the three priorities from last month have been completed.

Design Budgets: Mr. Pletcher stated that based on the current level of design and where budgets are he feels the design and bidding effort is in good shape in terms of budget tracking. Mr. Pletcher noted that monitoring will take place to ensure the contractors are achieving what they should be and reported on some of the technology that will be used in order to provide oversight, per State requirements.

Ms. Faucett reported that she is retiring and is currently working part-time as needed, and that Chris Pletcher will be handling construction management.

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### CAPITAL MATTERS

Mr. Woolard reported that Pinnacle administered the public bid process. ESDF and County Road 52 were bid as one project and LWCCS was bid separately. A pre-bid meeting was held and there were a dozen contractors at each meeting. Three bids were received on each project on June 19<sup>th</sup> and contractor interviews were held June 25 and June 26, along with follow-up.

Mr. Woolard presented the bidding results for ESDF/CR 52 to the Board noting that for Fiore and Dietzler were the two lowest bidders. They were each given a list of questions and were interviewed by the team.

Mr. Woolard presented the bidding results for LWCCS to the Board noting that the same process used for ESDF/CR 52 was used for this project. Connell and Crossfire were the two lowest bidders.

Mr. Woolard noted that the Board packet included proposals for construction services from Ayers, Brierley, and Pinnacle but the construction contracts will need to be approved first. Mr. Woolard reported that a competitive bid process was completed for the initial survey work and Coffey was selected as the preferred contractor.

Director Meline pointed out that the construction observation plan must be

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received by the State Engineer 30 days before construction. .

Mr. Woolard, Mr. Dornfest and Mr. Pletcher outlined what the standard was and stated that the 30 day timeline might be flexible but it would need the Boards attention as soon as a decision was made to move forward with construction.

Mr. Harless asked if construction management services were included in the original budget for the projects. Director Sampley stated that management services were included in the original budget.

Mr. Harless asked about the plan to address the Member Entities. Director Sampley stated that the Member Entities would be informed of the results of the bid process.

### LEGAL ITEMS

Director Reed moved to go into Executive Session in compliance with requisite statutory procedures under the Colorado Executive Session Laws, for the Board to discuss a strategy relative to negotiations, pursuant to C.R.S. § 24-6-402(4)(a) and § 24-6-402(4) (e). Director Meline seconded, and upon vote, it was unanimously

**RESOLVED** to convene an Executive Session, pursuant to C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers reported: "It is June 30, 2015, and the time is 4:45 p.m. I am the Manager for Boxelder Basin Regional Stormwater Authority. As required by the Colorado Open Meetings Law, this Executive Session of the Boxelder Basin Regional Stormwater Authority is being recorded."

Present at the Executive Session: Director Ken Sampley, Director Vic Meline, Director Lee Tucker, Director George Reed, Director Richard Seaworth, Greg White, Andrea Faucett, Robin Dornfest, Malcolm Murray, Chris Pletcher, Jason Woolard, Brendan Campbell, and Manager Stan Myers.

This Executive Session is for the following purposes: C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers cautioned each participate to confine all discussion to the

## RECORD OF PROCEEDINGS

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stated purpose of the Executive Session and stated that no formal action may be taken during Executive Session, and if at any point any participant believes the discussion is going outside of the proper scope of the Executive Session, please interrupt the discussion and make an objection. The Board President will close the Executive Session by saying the time and returning to the regular meeting.

The Executive Session concluded at 6:59 p.m.

All present at the beginning of the Executive Session were present at the adjournment of the Executive Session except Malcolm Murray.

The Board reconvened in regular session at 6:59 p.m.

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OTHER MATTERS Approval of Payables: Manager Myers presented for consideration and approval of the Schedule of Payables dated June 1, 2015 through June 16, 2015, in the amount of \$60,984.68, including checks 1233 through 1236.

Upon motion duly made by Director Reed, seconded by Director Seaworth, and upon a four to one vote, it was

**RESOLVED** to approve the June 1, 2015 through June 16, 2015 Schedule of Payables, in the amount of \$60,984.68 including the check numbers listed above and broken down as follows:

- Ayres Associates - \$42,212.64
- Greg A. White, Attorney - \$2,475.25
- Murray Dahl Kuechenmeister & Renaud LLP - \$1,577.75
- Pinnacle Consulting Group, Inc. – \$14,719.04

Special Board Meeting: The Board scheduled a Special Board meeting for July 8, 2015 at 3:00 p.m. to be held at the office of Ayers Associates.

Directors Comments: Director Reed presented several items from the SDA workshop for the Board members to review.

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### ADJOURNMENT


There being no further business to come before the Board, and upon motion duly made by Director Meline, seconded by Director Tucker, and upon unanimous vote, the meeting was adjourned at 7:04 p.m.

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The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

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Respectfully submitted,   
Shana L. Morgan, Recording Secretary for the Meeting

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## MINUTES OF THE COORDINATED SPECIAL MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD  
July 8, 2015

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a special meeting, open to the public, at Ayers Associates, 3665 John F. Kennedy Pkwy., Fort Collins, Colorado at 3:00 p.m. on Wednesday, July 8, 2015. Notice of the Meeting was duly posted.

ATTENDANCE: Directors in Attendance:  
Ken Sampley, President  
George Reed, Secretary  
Vic Meline, Treasurer  
Lee Tucker, Director  
Richard Seaworth, Director

Also in Attendance:  
Stan Myers, Brendan Campbell, and Kammy Tinney; Pinnacle Consulting Group, Inc.  
Jason Woolard; Pinnacle Consulting Group Inc. (arrived at 3:21 p.m.)  
Greg White; Authority Legal Counsel  
Chris Pletcher; Ayers Associates  
Lance Heyer; Brierley Associates  
Don Taranto; Town of Timnath  
Eric Fuhrman; TST, Inc.  
Tim Singewald; Town of Wellington Trustee (arrived at 5:05 p.m.)  
Travis Harless; Town of Wellington Trustee  
Mark Engemoen; Larimer County (arrived at 5:03 p.m.)  
Eric Sutherland

CALL TO  
ORDER

The Meeting was called to order at 3:05 p.m. by Director Sampley, President, noting that a quorum was present with five of five Board members in attendance.

AGENDA

The Board reviewed the agenda. Upon motion duly made by Director Meline, seconded by Director Tucker, and upon vote, it was unanimously

**RESOLVED** to approve the agenda as presented.

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### PUBLIC COMMENT

Eric Sutherland addressed the Board and stated that he feels the Town of Timnath's use of Tax Increment Financing is wrong. Mr. Sutherland relayed a greeting by Margaret Griffin. Mr. Sutherland stated that he feels the projects will never be built and that the Authority does not have the authority to create debt.

Travis Harless address the Board with questions from the Town of Wellington regarding the amended order from the Judge in the Day case. Director Sampley stated that the case was sent back to another judge who will hear the case. Mr. Harless asked about the course of action if the judge's decision was not reversed and the dirt cannot be removed. Director Sampley stated that the project would have to be re-designed. Mr. Taranto stated that the discussion is regarding the ownership of the dirt and if the Authority would be required to pay for the dirt separate from the land purchase.

### LEGAL ITEMS

Director Reed moved to go into Executive Session in compliance with requisite statutory procedures under the Colorado Executive Session Laws, for the Board to discuss a strategy relative to negotiations, pursuant to C.R.S. § 24-6-402(4)(e). Director Meline seconded, and upon vote, it was unanimously

**RESOLVED** to convene an Executive Session, pursuant to C.R.S. 24-6-402(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Don Taranto requested to be a part of the Executive Session. Attorney White denied his request. Director Sampley noted that only consultants providing information to the Board would be allowed to attend the Executive Session.

Manager Myers reported: "It is July 8, 2015, and the time is 3:15 p.m. I am the Manager for Boxelder Basin Regional Stormwater Authority. As required by the Colorado Open Meetings Law, this Executive Session of the Boxelder Basin Regional Stormwater Authority is being recorded."

Present at the Executive Session: Director Ken Sampley, Director Vic Meline, Director Lee Tucker, Director George Reed, Director Richard Seaworth, Greg White, Chris Pletcher, Lance Heyer, Brendan Campbell, Kammy Tinney and Manager Stan Myers.

This Executive Session is for the following purposes: C.R.S. 24-6-402-4)(e), determining positions relative to matters that may be subject to negotiations;



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developing strategy for negotiations; and instructing negotiators.

Manager Myers cautioned each participant to confine all discussion to the stated purpose of the Executive Session and stated that no formal action may be taken during Executive Session, and if at any point any participant believes the discussion is going outside of the proper scope of the Executive Session, please interrupt the discussion and make an objection. The Board President will close the Executive Session by saying the time and returning to the regular meeting.

Jason Woolard joined the meeting at 3:21 p.m.

The Executive Session concluded at 4:57 p.m.

All present at the beginning of the Executive Session were present at the adjournment of the Executive Session, in addition to Mr. Woolard.

Director Sampley noted that there would be a 5 minute recess.

The Board reconvened in regular session at 5:03 p.m.

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### CAPITAL MATTERS

East Side Detention Facility and County Road 52 Improvements: The Board reviewed the bid sheet which reflected the new bids from Fiore and Deitzler based on an updated geotechnical report. Upon motion duly made by Director Reed, seconded by Director Meline, and upon vote, with Directors Sampley, Seaworth, Meline and Reed voting "Aye" and Director Tucker voting "Nay", it was

**RESOLVED** that Dietzler Construction's July 7, 2015 bid was the lowest responsible bid, and approve the bid from Dietzler Construction for the ESDF and County Road 52 projects, as a lump sum bid, in the amount of \$7,550,000.

The Board directed staff to prepare a contract for the ESDF and County Road 52 project for the Boards review at the July 22, 2015 meeting.

Larimer Weld Canal Crossing Structure (LWCCS): The Board reviewed the bid sheet for the LWCCS project. Upon motion duly made by Director Seaworth, seconded by Director Meline, and upon vote, it was unanimously

**RESOLVED** that the lowest responsible bid was received from Crossfire and approve the bid, in the amount of \$616,072, from Crossfire for the LWCCS project.

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The Board directed staff to prepare a contract for the LWCCS project for the Boards review at the July 22, 2015 meeting.

The Board directed the Management team to present a summary letter regarding the ESDF & CR 52 and LWCCS projects to each Member Entity, The Town of Timnath, and to each Board member.

Ayers Work Order – 401 Certification: This item was tabled until the July 22, 2015 regular Board meeting.

### OTHER MATTERS

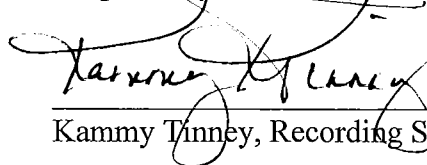
Directors Comments: Director Seaworth stated that he spent time researching how the Day matter was handled and found that “adversarial” was a common term used. Director Seaworth also stated that he has concerns as to why so few bids were received and contacted some of the interested firms that did not bid the project. Director Seaworth stated that the firms told him that they felt the project was over engineered, they knew about the County not collecting certain fees, they knew about the Town of Wellington not yet having paid their fees, and that the block selected for the Larimer and Weld Canal Crossing Structure was the most expensive block. Director Seaworth expressed his concern regarding perceptions of the ability of the Board to manage the Authority and “toxic” relationships and encouraged the Board to do a better job of communicating and working with the parties involved. Director Seaworth requested that the Board become more “user friendly” and work with the member entities.

### ADJOURNMENT

There being no further business to come before the Board, and upon motion duly made by Director Tucker, seconded by Director Meline, and upon unanimous vote, the meeting was adjourned at 5:27 p.m.

The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Respectfully submitted,



Kammy Tinney, Recording Secretary for the Meeting

# RECORD OF PROCEEDINGS

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## MINUTES OF THE REGULAR MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD  
July 22, 2015

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a regular meeting, open to the public, at the Leeper Center, 3800 Wilson Avenue at 4:00 p.m. on Wednesday, July 22, 2015. Notice of the Meeting was duly posted.

ATTENDANCE:      Directors in Attendance:  
Ken Sampley, President  
Vic Meline, Treasurer  
George Reed, Secretary  
Lee Tucker, Director  
Richard Seaworth, Director

Also in Attendance:  
Stan Myers, Brendan Campbell, Jason Woolard, Kirsten Starman, Lindsey Dowswell, and Shana Morgan; Pinnacle Consulting Group, Inc.  
Rusty McDaniel; Larimer County  
Chris Pletcher; Ayres Associates  
Larry Lorentzen, Town Administrator/Clerk; Town of Wellington  
Tim Singewald, Town of Wellington Trustee  
Greg White; Authority Legal Counsel  
Don Taranto; Town of Timnath  
Bob Rae, Auditor; Poysti & Adams, LLC (departed at 4:40 p.m.)  
Dan Dietzler, John Dietzler, and Martin Gliszewski; Dietzler Construction  
Larry Noland; Town of Wellington Trustee  
Malcolm Murray; Murray Dahl Kuechenmeister & Renaud LLP  
Robin Dornfest and Lance Heyer; Brierley (departed at 4:44 p.m.)

CALL TO ORDER                      The Meeting was called to order at 4:05 p.m. by Director Sampley, President, noting that a quorum was present with five Board members in attendance.

AGENDA                      The Board reviewed the agenda. Following review and discussion, upon motion duly made by Director Seaworth, seconded by Director Meline and, upon vote, with Directors Reed and Sampley voting "Aye" and Director Tucker voting "Nay", it was

**RESOLVED** to approve the agenda as presented.

## RECORD OF PROCEEDINGS

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### APPROVAL OF MINUTES

The minutes of the June 30, 2015 special meeting were presented for the Board's consideration and approval. Following review and discussion, and upon motion duly made by Director Seaworth, seconded by Director Reed, and upon unanimous vote, it was

**RESOLVED** to approve the June 30, 2015 special meeting minutes amended as follows: Page 4 of the meeting minutes, add language clarifying Director Seaworth's comments about the Boxelder Creek being more of a conveyance ditch rather than a creek, and that the testing sites should be close to the project but below the Gray Lakes.

The minutes of the July 8, 2015 special meeting were presented for the Board's consideration and approval. Following review and discussion, and upon motion duly made by Director Meline, seconded by Director Tucker, and upon unanimous vote, it was

**RESOLVED** to approve the July 8, 2015 special meeting minutes amended as follows: Page 4 of the meeting minutes, adding language to Director Seaworth's comments regarding the firms he contacted stating that the project was over engineered, that they knew about the Town of Wellington not yet having paid their fees and Larimer County not having collected fees, and that the blocks selected for the Larimer Weld Canal Crossing Structure were the most expensive blocks.

### PUBLIC COMMENT

Mr. Singewald, Town of Wellington Trustee, addressed the Board and distributed a letter written by the Town of Wellington's special counsel. Mr. Singewald noted that on March 25, 2014 the Town of Wellington notified the Authority that they would not pay for any cost overruns and the Timnath Development Authority became involved to assist with the costs. Mr. Singewald requested the Authority meet with the Town on the cost breakdown for the projects.

Mr. Singewald also commented that the Town of Wellington believes it is "unprofessional" to continue moving forward with the project before the court case regarding the inclusion or exclusion of the dirt on the Day property easement is resolved, because of the risk of further cost overruns or even project failure.

## RECORD OF PROCEEDINGS

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ITEMS FROM THE  
FINANCE  
DIRECTOR

Financial Report: Mr. Campbell presented the financial report as of June 30, 2015 including the balance sheet, general fund and capital fund report, revenue by member, cash position report, cash encumbrance report, and the capital costs summary, broken out by project. Mr. Campbell noted that the majority of delinquent fees for 2013 had been received from Larimer County. Director Seaworth asked if the Town of Wellington had paid their fees for 2014. Mr. Campbell stated that to-date funds had not been received from the Town of Wellington.

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2014 AUDIT

Mr. Rae of Poysti & Adams, LLC, presented the draft 2014 audit to the Board noting that the audit was an unmodified, clean opinion. Mr. Rae referred the Board to the management letter, which states that management was cooperative and did not try and sway the audit opinion in any way.

Upon motion duly made by Director Seaworth, seconded by Director Tucker, and upon unanimous vote, it was

**RESOLVED** to approve the 2014 Audit as presented and direct Poysti & Adams to file the final draft with the State Auditor by the July 31, 2015 deadline.

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LEGAL ITEMS

Director Reed moved to go into Executive Session in compliance with requisite statutory procedures under the Colorado Executive Session Laws, for the Board to discuss a strategy relative to negotiations, pursuant to C.R.S. § 24-6-402(4)(a) (except where a member of the governing body has a personal interest in the transaction) and (e). Director Seaworth seconded, and upon vote, it was unanimously

**RESOLVED** to convene an Executive Session, pursuant to C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers reported: "It is July 22, 2015, and the time is 4:44 p.m. I am the Manager for Boxelder Basin Regional Stormwater Authority. As required by the Colorado Open Meetings Law, this Executive Session of the Boxelder Basin Regional Stormwater Authority is being recorded."

Present at the Executive Session: Director Ken Sampley, Director Vic Meline, Director Lee Tucker, Director George Reed, Director Richard Seaworth, Greg White, Chris Pletcher, Malcolm Murray, Brendan Campbell,

## RECORD OF PROCEEDINGS

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Jason Woolard, and Manager Stan Myers.

This Executive Session is for the following purposes: C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402-4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers cautioned each participant to confine all discussion to the stated purpose of the Executive Session and stated that no formal action may be taken during Executive Session, and if at any point any participant believes the discussion is going outside of the proper scope of the Executive Session, please interrupt the discussion and make an objection. The Board President will close the Executive Session by saying the time and returning to the regular meeting.

The Executive Session concluded at 5:47 p.m.

All present at the beginning of the Executive Session were present at the adjournment of the Executive Session.

Director Sampley called a five minute recess.

The Board reconvened in regular session at 5:52 p.m.

### CAPITAL MATTERS

#### Discussion Regarding Budget:

2015 Amended Budget Hearing: Director Sampley opened the 2015 Amended Budget Hearing. Mr. Myers reported that the notice of the hearing had been published on July 17, 2015 in accordance with state budget law. Mr. Campbell reviewed the budget and answered questions.

Director Sampley asked for public comment. There being no comments, the public hearing portion of the budget hearing was closed.

2015 Amended Budget Resolution: Following review and discussion, upon motion duly made by Director Reed, seconded by Director Meline and, upon vote, with Director Sampley voting "Aye" and Directors Tucker and Seaworth voting "Nay", it was

**RESOLVED** to approve the Resolution to Amend the 2015 Budget and appropriate funds.

#### Construction Contract – Dietzler Construction – East Side Detention Facility

## RECORD OF PROCEEDINGS

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(ESDF) and County Road 52: Mr. Woolard requested the Board consider approving a Construction Contract with Dietzler Construction in a lump sum amount of \$7,550,000 for the ESDF and CR 52 projects. Director Seaworth stated that he felt the Board needed to review the contract before approving and was concerned that the Authority's legal counsel had not reviewed. Mr. Woolard stated that Mr. White had drafted the contract and sent the contract to Dietzler for their review and had just reviewed the redlines received from Dietzler. Director Seaworth asked what the Authority's exposure was if Dietzler began construction but then had to stop working due to an unfavorable ruling by the court related to the dirt on the Day property. Mr. White stated that the contract contains a termination clause and that the Authority could terminate the contract at any time for any reason and would be responsible to pay a portion of the mobilization costs and the value of work performed up to the termination date. Following review and discussion, upon motion duly made by Director Reed, seconded by Director Meline and, upon vote, with Director Sampley voting "Aye" and Directors Tucker and Seaworth voting "Nay", it was

**RESOLVED** to approve the Construction Contract with Dietzler Construction for the ESDF and CR 52 projects in the amount of \$7,550,000, subject to final revisions by legal counsel.

Construction Contract – Crossfire – Larimer Weld Canal Crossing Structure (LWCCS): Mr. Woolard requested the Board consider approving a Construction Contract with Crossfire in the amount of \$616,071.93 for the LWCCS project. Following review and discussion, upon motion duly made by Director Reed, seconded by Director Meline and, upon vote, with Director Sampley voting "Aye" and Directors Tucker and Seaworth voting "Nay", it was

**RESOLVED** to approve the Construction Contract with Crossfire in the amount of \$616,071.93, subject to final revisions by legal counsel.

Work Order #25 – Ayres – ESDF, CR 52 and LWCCS: Mr. Woolard requested the Board consider approving Work Order No. 25 with Ayres Associates for construction phase services for the ESDF, CR 52 and LWCCS projects. Director Seaworth questioned the need for so many engineers to be involved in the construction review. Manager Myers explained that the State Engineer's Office requires the Engineer-of-Record to certify construction compliance to the approved plans. Mr. Pletcher explained that Ayres is the civil engineer-of-record and Brierley is the geotechnical engineer-of-record. Following further discussion and review, upon motion duly made by Director Sampley, seconded by Director Reed and, upon vote, with Director Meline voting "Aye" and Directors Tucker

## RECORD OF PROCEEDINGS

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and Seaworth voting “Nay”, it was

**RESOLVED** to approve Work Order No. 25 with Ayres Associates.

Work Order #26 – Ayres – 401 Certification: Mr. Woolard requested the Board consider approving Work Order No. 26 with Ayres Associates for Boxelder Creek aquatic monitoring for the 401 certification. Following review and discussion, upon motion duly made by Director Reed, seconded by Director Sampley and, upon vote, with Directors Meline and Seaworth voting “Aye” and Director Tucker voting “Nay”, it was

**RESOLVED** to approve Work Order No. 26 with Ayres Associates.

Addendum #8 – Pinnacle Consulting Group – LWCCS: Mr. Woolard requested the Board consider approving Addendum No. 8 with Pinnacle Consulting Group for construction phase services for the LWCCS project. Following review and discussion, upon motion duly made by Director Meline, seconded by Director Reed and, upon vote, with Director Sampley voting “Aye” and Directors Tucker and Seaworth voting “Nay”, it was

**RESOLVED** to approve Addendum No. 8 with Pinnacle Consulting Group.

Addendum #9 – Pinnacle Consulting Group – ESDF and CR 52: Mr. Woolard requested the Board consider approving Addendum No. 9 with Pinnacle Consulting Group for construction phase services for the ESDF and CR 52 projects. Following review and discussion, upon motion duly made by Director Reed, seconded by Director Meline and, upon vote, with Director Sampley voting “Aye” and Directors Tucker and Seaworth voting “Nay”, it was

**RESOLVED** to approve Addendum No. 9 with Pinnacle Consulting Group.

Professional Services Agreement – Brierley Associates – ESDF, CR 52 and LWCCS: Mr. Woolard requested the Board consider approving a professional services agreement with Brierley Associates for construction phase services for the ESDF, CR 52 and LWCCS projects. Director Seaworth asked what the hazard classification for the ESDF dam was. Mr. Pletcher responded that it was classified “High Hazard,” the SEO’s highest classification. Following further discussion and review, upon motion duly made by Director Reed, seconded by Director Sampley and, upon vote, with Director Meline voting “Aye” and Directors Tucker and Seaworth voting “Nay”, it was



## RECORD OF PROCEEDINGS

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**RESOLVED** to approve the Professional Services Agreement with Brierley Associates.

Professional Services Agreement – Coffey Engineering and Surveying – ESDF and CR 52: Mr. Woolard requested the Board consider approving a professional services agreement with Coffey Engineering and Surveying for pre-construction staking services for the ESDF and CR 52 projects. Following review and discussion, upon motion duly made by Director Meline, seconded by Director Reed and, upon vote, with Director Sampley voting “Aye” and Directors Tucker and Seaworth voting “Nay”, it was

**RESOLVED** to approve the Professional Services Agreement with Coffey Engineering and Surveying for the ESDF and CR 52 projects.

Professional Services Agreement – Coffey Engineering and Surveying – LWCCS: Mr. Woolard requested the Board consider approving a professional services agreement with Coffey Engineering and Surveying for pre-construction staking services for the LWCCS project. Following review and discussion, upon motion duly made by Director Sampley, seconded by Director Seaworth and, upon unanimous vote, it was

**RESOLVED** to approve the Professional Services Agreement with Coffey Engineering and Surveying for the LWCCS project.

Capital Organizational Chart: Mr. Woolard presented an organizational chart detailing the team members’ roles and responsibilities as they relate to the capital projects.

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ITEMS FROM  
AUTHORITY  
MANAGER

Anheuser-Busch (AB) Force Main and CR52 Box Culvert Conflict: Manager Myers, Chris Pletcher of Ayres, Mark Peterson and Erich Purcell of Larimer County met with Tim Seitz and Dennis Wallisch of AB on July 10<sup>th</sup>. AB has hired CH2MHill (the original engineer) to design the lowering of the line in CR52 and hope to have plans complete by the end of September. They are in the process of putting together a list of contractors to bid this work. Mr. Wallisch will function as the contact person for the design and construction effort. AB will forward 30% and 60% drawings to Ayres and Mr. Purcell for review as the design progresses. Director Seaworth questioned why the Authority is paying for Pinnacle and Ayres to coordinate this project as it is an issue with Larimer County. Manager Myers explained that scheduling needs to be closely coordinated around the Thanksgiving holiday when the line is being switched over, and that road closures with Larimer County also need to be coordinated.

## RECORD OF PROCEEDINGS

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Another coordination meeting will be initiated by AB with Ayres and Manager Myers in mid to late August.

Update on Johnson Easement Agreement and Larimer Weld Irrigation Company Agreement: The Johnson Easement agreement has been signed by the Johnson family and an executed copy was received by Attorney White on the afternoon of July 22<sup>nd</sup>. The agreement with the Larimer Weld Irrigation Company has been delayed because the Company President is out of town. Manager Myers has been told by Tim Dow, legal counsel for the Company that the signed agreement, that the agreement will be sent in the next few days.

Design of Irrigation Modifications on the Day Parcel: Manager Myers received a quote from Mitch Davee of Quality Well & Pump for the aerial crossing installation and is continuing to assemble costs for the well piping modifications from the wells along CR52 to Schnorr's center pivot. Manager Myers intends to work with Director Seaworth to evaluate opportunities to reduce the costs of this quote.

Notice of Meeting regarding NRCS Dam Spillway Modification: Manager Myers, Director Seaworth, Director Tucker, and Director Meline attended an initial informational meeting regarding the reclassification of NCRS Dams B1 and B2 north of Wellington. The meeting was held at ARDEC on July 21<sup>st</sup> at 3:00 p.m. and consisted of a presentation by Steve Rogers of Golder Associates. Manager Myers reported that the presentation outlined a long process regarding the modification of the spillways for these dams, and that the extent and cost of the spillway modifications would not be determined soon. Mr. Pletcher has confirmed with the SEO office that any change to these spillways will not affect the spillway for ESDF. Manager Myers will notify Board members of any further developments on this issue.

Draft Budget for 2016: Manager Myers and the Pinnacle staff will begin work on next year's budget following the Boards decisions on the capital projects today. A work session before the August board meeting may be necessary to review the draft budget.

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### ENGINEER'S REPORTS

LWCCS: Mr. Pletcher stated that Xcel has completed the design for the re-setting of the 3 poles which will be impacted with the construction of the LWCCS project and expects that 3 poles will be re-set prior to the construction of the LWCCS.

Mr. Pletcher noted that the project is ready for construction.

**ESDF:**

## RECORD OF PROCEEDINGS

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Final Design Review by State Engineer: Mr. Pletcher stated that formal copies of the approved plans have been returned to the State Engineer and the project is approved for construction. He met with the State Engineer on 7/16 to review the alternate embankment section proposed by Dietzler as part of their bid and received favorable direction from the State Engineer with formal submittal requirements to address this issue as an addendum to the project. Re-analysis of the geotechnical design basis will be required prior to submittal of the addendum information, and this is expected to take approximately 2 - 4 weeks. Turnaround from the State Engineer is approximately 2 weeks as well. Based on the meeting, the State Engineer has indicated that we can proceed with the project at our own risk (minimal as Dietzler will start with the concrete work) and have the addendum wrapped up before earthwork fill begins. The project is permitted to move forward with construction while this addendum is worked out.

404 Permit Application: Now that the work order is approved, Ayres will provide the required 401 response, which will complete the outstanding items on the 404 Wetland permit.

### **CLOMR:**

#### *City of Fort Collins:*

Mr. Pletcher reported that the final approval was received from the City of Fort Collins.

#### *Larimer County:*

Mr. Pletcher reported that the final approval was received from Larimer County

#### *FEMA:*

Mr. Pletcher reported that FEMA's review is complete and are waiting on final paperwork from the FEMA contractor. Mr. Pletcher stated that he believes we are essentially approved but do not have the written approval at this time but expect it shortly.

County Road 52 Design: Ayres attended a meeting with Manager Myers and A-B staff on July 10th. A-B is beginning their design of the lowering and relocation of the effluent line in County Road 52 and is coordinating with the ESDF / CR 52 project schedule. We are expecting 60% and 90% review drawings during August and September. The relocation is on track and the design is moving forward.

Design Budgets: Ayres Associates has been able to utilize the remaining design budgets to accommodate the value engineering process between

## RECORD OF PROCEEDINGS

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bidding and award. Based on the recent review meeting with the State Engineer, our budgets appear to be sufficient to bridge the gap between bidding and this board meeting. If the value engineering process continues prior to award, an additional fee may be necessary.

### **Bidding and Construction Update:**

ESDF: Value Engineering – Mr. Pletcher stated that Dietzler proposed an alternative embankment section that would be more efficient for them to construct, by using higher quality clay material for the core of the embankment and lesser quality granular material for the shell. As this is a different embankment material composition than the original homogeneous embankment, Brierley will need to review the design calculations to verify key design parameters requested by the State Engineer. We expect those reviews to affirm the suitability of the alternate embankment section. The paperwork on the revised embankment section can be submitted to the SEO while we are starting construction on the incidental items on the project (box culverts). Therefore, this project can proceed to construction with the approved plans.

Mr. Pletcher stated that Ayres recommendation is that the ESDF project and Dietzler's approach move forward to begin construction August 1 to take advantage of good weather.

LWCCS: Mr. Pletcher stated that following the bid opening, Ayres reviewed the erosion control submittals provided by Crossfire, based on concern that their prices appeared lower than expected. The submitted products all met the spec, and most were the exact product specified. No further concerns with Crossfire's bid were identified. Ayres recommendation is that the LWCCS project and Crossfire's approach move forward to begin construction as soon as the ditch stops running around mid-October.

OTHER MATTERS Approval of Payables: Mr. Campbell presented for consideration and approval of the Schedule of Payables dated July 22, 2015, in the amount of \$236,269.97, including checks 1237 through 1247. Mr. Campbell noted that check number 1246 was voided. Manager Myers reported that the checks to Lake Canal Reservoir Company and Mountain Vista Greens Golf Course were stipulations as a part of the respective contracts.

Upon motion duly made by Director Meline, seconded by Director Reed, and upon vote, with Director Sampley voting "Aye" and Directors Tucker and Seaworth voting "Nay", it was

**RESOLVED** to approve the July 22, 2015 Schedule of Payables, in

## RECORD OF PROCEEDINGS

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the amount of \$236,269.97 including the check numbers listed above. The invoices ratified are as follows:

- Ayres Associates - \$13,240.90
- CDPHE - \$150.00
- Fort Collins Coloradoan - \$302.96
- Greg A. White, Attorney - \$2,655.00
- Murray Dahl Kuechenmeister & Renaud LLP - \$5,759.00
- Phelps Atkinson - \$1,194.80
- Pinnacle Consulting Group, Inc. – \$29,472.31
- Randy L. Williams - \$695.00
- Lake Canal Reservoir Company - \$40,000.00
- Mountain Vista Greens Golf Course - \$142,800.00

Directors Comments: The Board directed Manager Myers and Mr. White to respond to the letter from the Town of Wellington by the close of business on Monday, July 27, 2015.

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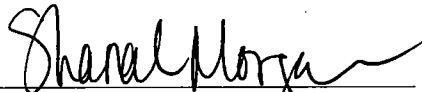
### ADJOURNMENT

There being no further business to come before the Board, and upon motion duly made by Director Tucker, seconded by Director Meline, and upon unanimous vote, the meeting was adjourned at 7:06 p.m.

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The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Respectfully submitted,



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Shana L. Morgan, Recording Secretary for the Meeting

# RECORD OF PROCEEDINGS

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## MINUTES OF THE COORDINATED SPECIAL MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD  
August 19, 2015

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a special meeting, open to the public, at Ayers Associates, 3665 John F. Kennedy Pkwy., Fort Collins, Colorado at 2:30 p.m. on Wednesday, August 19, 2015. Notice of the Meeting was duly posted.

ATTENDANCE: Directors in Attendance:  
Ken Sampley, President (arrived at 2:46)  
George Reed, Secretary  
Vic Meline, Treasurer  
Lee Tucker, Director  
Richard Seaworth, Director

Also in Attendance:  
Stan Myers, Brendan Campbell, Jason Woolard, and Lindsey Dowswell;  
Pinnacle Consulting Group, Inc.  
Tim Singewald; Town of Wellington Trustee  
Eric Sutherland

CALL TO ORDER The Meeting was called to order at 2:37 p.m. by Director Reed, Secretary, noting that a quorum was present with four of five Board members in attendance.

AGENDA The Board reviewed the agenda. Manager Myers added Item III. C, Executive Session, to the agenda, noting that Attorney Murray would join the meeting via teleconference or in person depending on when he arrives from Holyoke for the Executive Session.

Director Reed asked the Board if there were any further changes to the agenda, and Director Tucker requested the postponement of the meeting because of improper posting. Director Tucker explained that he had visited the Wellington Town Hall, the Leeper Center, and the Wellington Post Office to verify that correct notices had been posted, and he found that there were no postings or postings with incorrect times at those locations.

Manager Myers responded that to his knowledge, notice of the meeting was

## RECORD OF PROCEEDINGS

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posted correctly. Ms. Dowswell commented that the language on the hard copy of the agenda that was handed out to Board members at the meeting had been copied from the notice, and had the correct time listed. Manager Myers informed the Board that he would make a phone call to attempt to confirm correct posting. Director Reed asked if Director Tucker's comments about posting could wait until Item III. A, Director's Comments. Manager Myers responded that the meeting may not be able to continue if Director Tucker is requesting postponement. Director Tucker noted that he remembered postponement of a meeting taking place one other time in the Authority's history.

Manager Myers stepped out of the meeting to phone Pinnacle's administrative staff to confirm that the posting had been done correctly.

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PUBLIC  
COMMENT

Mr. Sutherland addressed the Board, commenting that in his opinion the Board could continue with the meeting as listed on the agenda, but could not convene an Executive Session unless it was "duly convened" according to open meetings rules.

Director Reed addressed Mr. Sutherland, noting that the Board appreciates his opinion and is recording the comments from the public. Director Reed offered Mr. Sutherland the opportunity to begin his public comment again, and gave him 3 minutes to do so.

Mr. Sutherland addressed the Board, noting that he would like to re-emphasize that if the Board decides to go into Executive Session without convening a meeting according to Open Meeting Law, he would be requesting to listen to the recording of the Executive Session.

Director Sampley arrived at this time, and apologized for being late. Director Reed relinquished leadership of the meeting to Director Sampley in his role as Board President. Director Reed informed Director Sampley of Director Tucker's objection to the meeting and the discussion that had taken place before Director Sampley's arrival about the meeting notice posting.

After further discussion and the return of Manager Myers to the meeting, Manager Myers informed the Board that he confirmed that the meeting notice was posted, but acknowledged that there could have been some miscommunication between Pinnacle's administrative staff and Larry Lorentzen's staff who physically post the notice.

During the aforementioned discussion, Mr. Sutherland was allowed to make his public comment. In those comments he stated that in his opinion the

## RECORD OF PROCEEDINGS

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Board actions are “moot” at this point, since he believes Director Sampley and Director Meline were never duly approved by the City Council of the City of Fort Collins.

Director Sampley thanked Mr. Sutherland for his comment. Director Sampley noted that a review process of the legal authority of the City Manager of Fort Collins to appoint Board members was determined by the City Attorney around 2008. The City Attorney’s office came to the decision that the City Manager did have the authority to appoint the Directors to the Board.

Mr. Sutherland responded that he believes it is a Boxelder issue because Boxelder was the petitioner in the condemnation case.

Director Sampley stated that he does not want to get into a debate, but he is not convinced that the appointment issue is a Boxelder issue and not a City of Fort Collins issue. Director Sampley thanked Mr. Sutherland for his additional comment. Director Seaworth asked if Director Sampley could get documentation to the Board “so that we can move on,” and Director Sampley agreed.

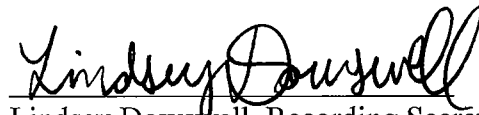
Following further discussion, the Board decided to postpone and reschedule this Board meeting. After consulting the Board Members’ schedules and meeting room availability, this meeting was rescheduled for Monday, August 24, 2015 at 3:00 p.m. at the offices of Ayres Associates in Fort Collins.

The meeting concluded at 3:11 p.m.

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The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Respectfully submitted,



Lindsey Dowsell, Recording Secretary for the Meeting



# RECORD OF PROCEEDINGS

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## MINUTES OF THE SPECIAL MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD  
August 24, 2015

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a special meeting, open to the public, at Ayres Associates, 3665 John F. Kennedy Parkway, Fort Collins, at 3:00 p.m. on Monday, August 24, 2015. Notice of the Meeting was duly posted.

ATTENDANCE:        Directors in Attendance:  
Ken Sampley, President  
Vic Meline, Treasurer  
George Reed, Secretary  
Lee Tucker, Director  
Richard Seaworth, Director

Also in Attendance:  
Stan Myers, Brendan Campbell, and Lindsey Dowswell; Pinnacle Consulting Group, Inc.  
Tim Singewald, Town of Wellington Trustee  
Greg White; Authority Legal Counsel  
Malcolm Murray; Murray Dahl Kuechenmeister & Renaud LLP (via teleconference, arrived at 4:45 p.m.)

CALL TO ORDER        The Meeting was called to order at 3:05 p.m. by Director Sampley, President, noting that a quorum was present with five Board members in attendance.

AGENDA        The Board reviewed the agenda. Following review and discussion, upon motion duly made by Director Meline, seconded by Director Reed and, upon unanimous vote, it was

**RESOLVED** to approve the agenda as presented.

REVIEW OF POSTING LOCATION AND PROCEDURE        Manager Myers reviewed Resolution No. 2009-1 Designating Location to Post Notice with the Board, noting that the resolution designates Wellington Town Hall as the sole posting location. Manager Myers added that Pinnacle staff also customarily posts notice on the Boxelder Basin Regional Stormwater Authority's website.

## RECORD OF PROCEEDINGS

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After some discussion, Director Sampley suggested that the Board amend Resolution 2009-1 to state that the posting locations are Wellington Town Hall, the Authority's website, and the Larimer County Clerk & Recorder. Director Tucker commented that he approved of the amendment as long as further locations in Wellington are considered at a later time and all references to the Authority as a "District" are removed from the Resolution.

Following further review and discussion, and upon motion duly made by Director Reed, seconded by Director Seaworth, and upon unanimous vote, it was

**RESOLVED** to amend Resolution No. 2009-1 Designating Location to Post Notice to state that the Authority's website and the Larimer County Clerk & Recorder are additional posting locations, and to remove all incorrect references to the Authority as a "District" in the Resolution.

PUBLIC  
COMMENT

Mr. Singewald, Town of Wellington Trustee, addressed the Board. Mr. Singewald explained that the Town of Wellington Board was made aware by Mr. Campbell of Larimer County's payment of approximately 80% of the fees due to the Authority from the County. Mr. Singewald reported that the Wellington Board will discuss the impact of this information on their willingness to forward to the Authority the fees due from Wellington.

Mr. Singewald asked if the legal issue regarding the dirt on the Day parcel have been resolved. Director Sampley responded that the issue had not yet been resolved, and Manager Myers noted that a response to the motion for clarification was received from the Days' attorney, and that the Authority's counsel would be filing a response today. Manager Myers commented that the judge's ruling could come at any time after the Authority's response is filed.

Mr. Singewald also commented that Wellington is concerned that the Authority does not have enough money to cover what has become a "multi-year obligation," and that the IGA does not give the Authority the ability to obligate its members to contribute to a multi-year commitment. Mr. Singewald expressed Wellington's preference that the Authority request additional funding from Timnath or other entities.

## RECORD OF PROCEEDINGS

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There followed a brief discussion of the soils issue on the Day property but Manager Myers noted that the legal issues facing the Authority would be discussed in more detail during the Executive Session.

ITEMS FROM THE  
FINANCE  
DIRECTOR

Ratification of General Liability Insurance Renewal Premium Payment: Manager Myers presented for ratification a General Liability insurance premium renewal payment to Glatfelter Insurance Group. Manager Myers noted that individual Board members had indicated approval of the payment via email.

Following review and discussion, upon motion duly made by Director Meline, seconded by Director Reed, and upon unanimous vote, it was

**RESOLVED** to ratify the General Liability insurance renewal premium payment made on July 29, 2015 to Glatfelter Insurance Group in the amount of \$2,981.00.

Ratification of Johnson Easement Payment: Manager Myers presented for ratification a payment to H. Gordon Johnson for the Johnson easement. Manager Myers noted that individual Board members had previously indicated approval of the payment via email.

Following review and discussion, upon motion duly made by Director Seaworth, seconded by Director Tucker, and upon unanimous vote, it was

**RESOLVED** to ratify the payment made on August 13, 2015, to H. Gordon Johnson, in the amount of \$28,000.00.

PROPOSED 2016  
BUDGET

Manager Myers reviewed the capital project costs with the Board, noting that the documentation of project costs that was given to the Town of Wellington at their request matches the internal project cost documentation. Manager Myers reminded the Board that the CLOMR costs will be incurred in 2016, and that the costs for the Day parcel irrigation modification will also be incurred in 2016. Manager Myers then reviewed the proposed Pinnacle management budget for 2016, explaining that costs will likely drop in the second half of the year after construction is completed and the number of required board meetings drops.

Mr. Campbell reviewed the proposed 2016 budget with the Board. Mr. Campbell reported that the main takeaway from the budget is that the Authority will be able to cover its operational costs, debt service, and known

## RECORD OF PROCEEDINGS

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construction costs for the year, and will still have an additional \$474,801 of funds remaining for unforeseen construction costs or additional debt service.

This summary was followed by a brief discussion of the \$100,000 estimate for System Development Fee revenue in 2016, and whether or not this figure was conservative enough if there was an economic downturn. Director Reed thought that the \$100,000 was appropriate. The Board agreed to make a decision about the System Development Fees estimate at the end of the budget discussion.

Mr. Campbell noted that the increase in Operations & Maintenance costs in 2016 is due to the Authority taking over fee billing for the unincorporated areas of Larimer County.

Mr. Campbell noted that the interest accrued on loans during construction will be paid after completion in 2016, and that Timnath will pay 25% of the interest.

Mr. Campbell reported that \$585,000 of 2016 fees have been allocated for capital expenses. Mr. Campbell clarified that the project costs that the Authority has contractually committed to so far are covered by cash currently on hand, current year revenues, loans, and existing funding agreements. Mr. Campbell explained that even though the Authority does expect 2016 revenues to pay for a portion of the capital projects, it has not contracted or committed to amounts in excess of currently available funding, and therefore has not created a multi-fiscal-year obligation by committing future year revenue to current contracts.

Director Reed asked if the fees collected in 2017 will be received in time to make the 2017 loan payment. Mr. Campbell responded that the 2016 fees collected in 2017 are expected to be collected in time for the loan payment date, which is anticipated to be in April or May of 2017, one year after the projected construction completion of the projects.

Director Seaworth asked about the legal budget trend in 2015 and what that might indicate for the 2016 legal budget. Manager Myers responded that legal is trending high, with about \$17,000 in costs expected for 2015. Attorney White commented that while the trend is high for 2015, he expects at this time that the \$15,000 budgeted for 2016 will be sufficient.

Mr. Campbell noted that the ending General Fund balance of \$40,079 for 2015 will carry over to 2016 to ensure that the Authority will have the ability to pay its O&M expenses before fees are collected in 2016. Director Seaworth asked what the end balance for the capital fund in 2016 is expected

## RECORD OF PROCEEDINGS

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to be, and Mr. Campbell responded that the balance will be \$0 since any additional funds will either be used for unforeseen construction costs or transferred to the Debt Service Fund.

Director Seaworth re-opened the issue of the \$100,000 estimate for System Development Fees, and recommended reducing it to \$50,000. Director Reed expressed his view that the \$100,000 estimate should stand. Director Sampley commented that if the estimate is reduced and then fees above \$50,000 are received, the Board will have to amend the budget to re-appropriate those funds. Director Seaworth agreed that, since he believes it is likely that the budget will be amended upward in any case, the \$100,000 estimate could stand.

Director Tucker asked when the Authority is expected to repay the initial member contributions received from the member entities. Mr. Campbell responded that the Authority expects to pay back the entities the year after the CWCB loan is paid, which will be in approximately 15 years. Director Tucker commented that Larimer County might forgive the debt. Director Sampley noted that the contributions were FEMA grant matching contributions, and that the entities may choose to forgive the debt.

Director Seaworth asked if the Authority has the ability to certify delinquent fees billed to fee payors in unincorporated Larimer County with property taxes when the Authority is performing the billings in 2016. Director Sampley responded affirmatively, noting that Attorney White would work with Larimer County to get delinquent fees included in taxes. Director Seaworth asked if the Authority will have the ability to put liens on property and send property to tax sale, if necessary. Attorney White responded that delinquent properties could go to tax sale, and the buyer would have to pay the delinquent fee at the time of purchase. Director Seaworth noted his concern that the process of recovering delinquent fees could take two years or more. Director Seaworth expressed his concern that the change from Larimer County performing the billing directly to Pinnacle billing on behalf of the Authority will mean that less money is collected, and asked that the issue be discussed further at a later time.

This concluded the discussion of the draft budget for 2016.

### PAYABLE PROCESS

Manager Myers informed the Board that due to schedule conflicts Jason Woolard would discuss this matter at the Regular Meeting on August 26, 2015.

Director Sampley called a five minute recess at 4:40 p.m.

## RECORD OF PROCEEDINGS

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### LEGAL ITEMS

Director Sampley moved to go into Executive Session in compliance with requisite statutory procedures under the Colorado Executive Session Laws, for the Board to discuss a strategy relative to negotiations, pursuant to C.R.S. § 24-6-402(4)(a) (except where a member of the governing body has a personal interest in the transaction) and (e). Director Meline seconded, and upon vote, it was unanimously

**RESOLVED** to convene an Executive Session, pursuant to C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers reported: "It is August 24, 2015, and the time is 4:45 p.m. I am the Manager for Boxelder Basin Regional Stormwater Authority. As required by the Colorado Open Meetings Law, this Executive Session of the Boxelder Basin Regional Stormwater Authority is being recorded."

Present at the Executive Session: Director Ken Sampley, Director Vic Meline, Director Lee Tucker, Director George Reed, Director Richard Seaworth, Greg White, Malcolm Murray (via teleconference), and Manager Stan Myers.

This Executive Session is for the following purposes: C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402-4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers cautioned each participant to confine all discussion to the stated purpose of the Executive Session and stated that no formal action may be taken during Executive Session, and if at any point any participant believes the discussion is going outside of the proper scope of the Executive Session, please interrupt the discussion and make an objection. The Board President will close the Executive Session by saying the time and returning to the regular meeting.

Attorney Murray left the meeting at 5:08 p.m.

The Executive Session concluded at 5:09 p.m.

All who were present at the beginning of the Executive Session were present

## RECORD OF PROCEEDINGS

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at the adjournment of the Executive Session, with the exception of Attorney Murray.

The Board reconvened in regular session at 5:09 p.m.

### OTHER MATTERS Directors Comments:

Director Seaworth informed the Board that he had received an email from Eric Sutherland accusing him of having a conflict of interest related to his position on the Board. Mr. Sutherland's accusation is that Director Seaworth is pushing the Authority's project forward so that Wellington grows and Director Seaworth can sell more water to the town. Director Seaworth reported that he sent the email to the Town of Wellington attorney and mayor to ask if they would like to consider removing him from the Board, and that neither the Wellington attorney nor the mayor agreed with Mr. Sutherland's assessment that Director Seaworth has a conflict of interest. Attorney White agreed with the assessment that Director Seaworth does not have a conflict of interest.

Director Seaworth also informed the Board that he had retrieved and brought to this meeting the Meeting Notice for August 19, 2015 that was posted at Wellington Town Hall. Director Seaworth noted that the Meeting Notice did, in fact, have an incorrect time listed for the meeting.

Director Reed read the following statement: "At the time when the Authority was established, Wellington Town government signed the IGA (a contract) and opted to collect the stormwater fees for the Authority. Wellington has, with their monthly utility bill, accomplished that and when all the proceeds of the calendar year are in, usually after the following January, then faithfully forwarded the accumulated funds to the Authority. This has been the pattern for about eight years. So far in 2015 Wellington has not forwarded the 2014 fees collected on behalf of the Authority. The Authority has been patiently waiting for seven months. Wellington's integrity as a collection agent appears questionable. I propose the President of the BBRSA Board instruct the Manager to prepare a letter to the Town of Wellington requesting the stormwater fees collected in 2014 be forwarded to the Authority within the next 30 days."

Director Sampley commented that Wellington is taking up the issue of forwarding its stormwater fees at their next meeting, so it would be prudent to wait until after their meeting to consider any further action. Director Seaworth commented that Wellington was satisfied by the quick and accurate response they received from their last information request, and that this may prompt them to pay. Director Seaworth added that "creating more toxicity"

## RECORD OF PROCEEDINGS

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would not be a positive approach. Director Reed noted that the Wellington Board reviews the Authority's meeting minutes at their meetings, and expressed his desire that the minutes reflect his full statement. Director Meline commented that unless Larimer County and the other entities have a schedule that they must follow, it is not appropriate to ask Wellington to pay by a certain date. Attorney White noted that the IGA does not specify a deadline. No action was taken on this issue.

Director Sampley reported that the issue of the City of Fort Collins appointing representatives to boards has come up previously, and that the legal conclusion has been that the City Council appointment requirement only applies to City Council members and Board Commission members. The IGA forming the Authority does not specify an appointment process, and leaves appointment to the discretion of the entities. The IGA does state that one appointment be coordinated between the City of Fort Collins and Larimer County, but does not specify a process for such coordinated appointment. Director Sampley noted that the City of Fort Collins has both Council and administrative appointments. The City Manager's duties as administrative manager include "proper management of all affairs of the city," including appointments. Since the City Manager was not instructed not to appoint representatives to the Authority Board, and the City Council did not choose to appoint representatives to the Authority Board, the City Manager's appointment of representatives to the Authority Board was appropriate. Attorney White noted that the IGA states that the City shall "select" representatives, not "appoint," and leaves the process up to individual members.

Attorney White commented that Eric Sutherland raised an issue regarding whether the Authority's project went through "location extent review" as required by the Larimer County Planning Commission. Attorney White noted that Larimer County did not require the Authority to go through the location extent review process, and has no interest in requiring the review or overturning its authorization to complete the project at this time.

November and December Board Meetings: Manager Myers asked the Board to consider changing the dates of the November and December Board meetings to better accommodate the monthly payable process. Following review and discussion, the Board agreed to change the dates of the meetings from November 11<sup>th</sup> to November 23<sup>rd</sup>, and from December 9<sup>th</sup> to December 21<sup>st</sup>. The Board requested that Manager Myers determine whether the rescheduled meetings could be held at 4:00 p.m. at the Leeper Center, or whether another location would have to be secured.



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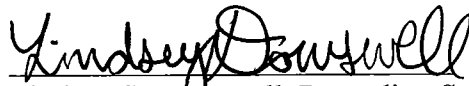
### ADJOURNMENT

There being no further business to come before the Board, and upon motion duly made by Director Seaworth, seconded by Director Reed, and upon unanimous vote, the meeting was adjourned at 5:27 p.m.

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The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Respectfully submitted,



Lindsey S. Dowswell, Recording Secretary for the Meeting

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## MINUTES OF THE REGULAR MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD  
August 26, 2015

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a regular meeting, open to the public, at the Leeper Center, 3800 Wilson Avenue at 4:00 p.m. on Wednesday, August 26, 2015. Notice of the Meeting was duly posted.

ATTENDANCE:      Directors in Attendance:  
Ken Sampley, President  
Vic Meline, Treasurer  
George Reed, Secretary  
Lee Tucker, Director  
Richard Seaworth, Director

Also in Attendance:  
Stan Myers, Brendan Campbell, Jason Woolard, Lindsey Dowswell, and Shana Morgan; Pinnacle Consulting Group, Inc.  
Chris Pletcher; Ayres Associates  
Tim Singewald, Town of Wellington Trustee  
Mark Peterson, Larimer County  
Dave White

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CALL TO ORDER              The Meeting was called to order at 4:03 p.m. by Director Sampley, President, noting that a quorum was present with five Board members in attendance.

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AGENDA              The Board reviewed the agenda. Following review and discussion, upon motion duly made by Director Seaworth, seconded by Director Reed and, upon vote, it was

**RESOLVED** to approve the agenda as presented.

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APPROVAL OF MINUTES              The minutes of the July 22, 2015 regular meeting were presented for the Board's consideration and approval. Following review, and upon motion duly made by Director Seaworth, seconded by Director Meline, and upon unanimous vote, it was

**RESOLVED** to approve the July 22, 2015 special meeting minutes, as presented.

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PUBLIC  
COMMENT

There were no public comments on non-agenda items.

Director Tucker asked for the Board to vote by saying “Yes” or “No” instead of “Yay” or “Nay,” since the latter words sound too similar. Following further discussion, Director Sampley suggested that the Board comply with Director Tucker’s request and vote by saying “Yes” or “No,” and the other Board members agreed.

Mr. Singewald, Town of Wellington Trustee, addressed the Board. Mr. Singewald reported that the Town of Wellington Board had met the previous evening, and that a resolution directing Wellington to forward its collected 2014 stormwater fees to the Authority was not passed contrary to his expectations. He reported that the Town of Wellington Board is planning to prepare a position statement to the Authority explaining the Town’s reasons for not forwarding its fees.

ITEMS FROM THE  
FINANCE  
DIRECTOR

Financial Report: Mr. Campbell presented the financial report as of July 31, 2015 including the balance sheet, general fund and debt service fund report, revenue by member, cash position report, and the capital costs summary, broken out by project.

Director Seaworth asked Mr. Campbell how much cash he recommends the Authority have on hand to cover operational costs. Mr. Campbell responded that his recommendation would be that the Authority keep enough cash on hand to cover the current year’s operations budget, in addition to funds sufficient to cover two months of the following year’s operations budget to account for the delayed cash flow of collected fees in the beginning of each year.

2016 BUDGET

2016 Budget Hearing: Director Sampley opened the 2016 Budget Hearing. Manager Myers reported that the notice of the hearing had been published on August 19, 2015 in accordance with state budget law.

Director Sampley asked for public comment. There being no comments, the public hearing portion of the budget hearing was closed.

Director Sampley noted that the Board had already reviewed the budget in detail in a work session. Mr. Campbell reviewed the budget and answered questions. Mr. Campbell noted that the Authority can fund all of its costs for 2016, and will have approximately \$474,000 remaining of “unallocated

## RECORD OF PROCEEDINGS

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contingency.” Director Sampley asked why the \$474,000 is not simply called “unallocated funds,” and Mr. Campbell responded that categorizing the funds as “contingency” allows them to be used as such if they are needed for unforeseen construction costs or debt service, without the need for re-appropriating the funds.

Director Seaworth commented that he is concerned that the budget may overestimate the fees that will be collected from Larimer County and the other income sources, and underestimate the contingency needs of the projects. Director Seaworth further noted that he believes the budget will be amended during 2016 in any case, so his concerns do not prevent him from approving the budget at this time.

2016 Budget Resolution: Following further review and discussion, upon motion duly made by Director Reed, seconded by Director Meline and, upon unanimous vote, it was

**RESOLVED** to approve the Resolution to Adopt the 2016 Budget and appropriate funds.

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### CAPITAL MATTERS

Mr. Woolard reviewed the capital payable process with the Board. This process was reviewed with the Board in previous Board meetings, but Mr. Woolard wanted to review it again now that a contractor has been hired and work on the East Side Detention Facility is progressing. After the invoices are compiled and reviewed, the project administration staff would like to meet with Manager Myers and a representative from the Board around the third Monday of the month in order to approve the payables and complete the documentation necessary to draw loan funds.

Mr. Woolard also discussed with the Board the possibility that there will be occasional vendor payments that fall outside of the normal payable process, such as an Xcel payment that Mr. Woolard is requesting approval for at the present meeting. Mr. Woolard explained that due to Xcel’s invoicing process, the invoice for pole relocation on the ESDF project has not been received yet. Mr. Woolard asked for the Board to designate a representative to approve the upcoming Xcel invoice in the amount of approximately \$30,000-\$35,000, and to authorize that same representative to sign a check to pay the invoice. Mr. Woolard noted that he expects the invoice amount to be under the budget estimate.

Mr. Woolard clarified that the Xcel payment he is asking the Board to approve at the present meeting is a special request outside of the payables process he is proposing, since a check will need to be released before the next

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meeting.

Director Sampley suggested that the Board designate two representatives to approve the invoice and sign the check for Xcel. Director Sampley commented that any of the Board members could be designated as representatives regardless of their Board office, and noted that he is also not generally available to be a designated representative.

Director Reed moved to appoint Director Meline as the Board representative for the purpose of approving the monthly capital payables and signing CWBC monthly loan draws. Director Tucker seconded the motion. Director Sampley moved to amend the motion to appoint Director Reed as the secondary representative and himself as the tertiary representative. Director Reed accepted Director Sampley's amendment, and Director Tucker seconded the amended motion.

Designation of Board representatives for monthly payable approval: Upon motion made by Director Reed, seconded by Director Tucker and, upon unanimous vote, it was

**RESOLVED** to appoint Director Meline as the primary Board representative, Director Reed as the secondary Board representative, and Director Sampley as the tertiary Board representative for the purpose of approving monthly project payables and signing loan documentation for monthly draws.

Director Sampley asked Director Meline and Director Reed to approve the upcoming Xcel invoice and sign the check for payment. Director Meline and Director Reed agreed to do so. Mr. Woolard noted that the invoice's arrival date is not yet known, but Pinnacle will work with the Directors to find a meeting time that works for both of them.

Director Seaworth asked if all of the Board members are authorized as check signers for the Authority's account, and Director Sampley responded affirmatively.

Director Meline asked what the Board can expect to see in the detailed payables report next month, and Mr. Woolard and Mr. Pletcher briefly reviewed what will be included in the report and how it will be produced.

Director Reed noted that he would make time to attend monthly payable approval meetings as the secondary Board representative to support Director Meline as the primary Board representative. Manager Myers responded that the Pinnacle team will contact both Director Meline and Director Reed to

## RECORD OF PROCEEDINGS

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schedule a regular time around the third Monday of every month for the payable approval meeting.

There followed a brief discussion of how to handle change orders. Mr. Pletcher of Ayres Associates recommended that the Board wait to approve change orders until all Board members can give their approval at a Board meeting. Mr. Woolard suggested that the Board allow approval of change orders via email. Director Sampley commented that contractors are used to moving forward with some risk for change orders in small dollar amounts.

Director Sampley suggested that the Board could approve change orders in the amount of \$15,000 or less by email, and wait to approve change orders for higher amounts at Board meetings. Director Sampley noted that if problems with this process arise, the Board could revisit it at a later time.

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### ITEMS FROM AUTHORITY MANAGER

**Manager's Report:** Manager Myers presented the Manager's Report for August.

Anheuser-Busch (AB) Force Main and CR52 Box Culvert Conflict: Manager Myers reported that Mr. Pletcher and Dietzler staff had a meeting with AB and Larimer County, and that the project is still on track for installation in November.

Preconstruction Meetings: Manager Myers reported that the major preconstruction meeting took place on August 10<sup>th</sup>, and Dietzler has begun work. A second preconstruction meeting was held with the golf course owners on August 14<sup>th</sup>.

Update on Johnson Easement Agreement and Larimer Weld Irrigation Company Agreement: Manager Myers reported that the executed agreement was received, and payment was made to H. Gordon Johnson.

Design of Irrigation Modifications on the Day Parcel: Manager Myers reported that Dan Dietzler met with Chris Schnorr about the proposed aerial irrigation design, and that Mr. Schnorr is now considering a possible siphon design.

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### ENGINEER'S REPORT

Mr. Pletcher reported that construction has begun, and Dietzler has moved machines on-site.

**ESDF:** Mr. Pletcher reported that CR50 is closed since construction has begun, and the only passage is an emergency bypass. If any Board members

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wish to visit the site, Mr. Pletcher recommended that they stop at the construction site and use a company truck to travel into the construction area.

Final Design Review by State Engineer: Mr. Pletcher informed the Board that Brierley submitted the design after both Ayres and Dietzler completed their reviews. The next step is waiting for state approval, and Mr. Pletcher stated that he is not concerned about any obstacles to approval.

404 Permit Application: Mr. Pletcher reported that the application has been resubmitted to the Army Corps of Engineers, and the next step is to wait for it to be approved and sent back. Director Seaworth asked if two samples had been taken of the water in Boxelder Creek, and Mr. Pletcher responded affirmatively, noting that both the upstream and downstream samples had poor results. Mr. Pletcher believes that the water is already degraded by irrigation flows, and since the initial results were already favorable for the Authority, more advanced testing was not necessary.

CLOMR: Mr. Pletcher reported that the FEMA review is complete, and final paperwork from FEMA is expected at the end of the month.

County Road 52 Design: Mr. Pletcher reported that Ayres coordinated a meeting between Dietzler, Larimer County, and AB staff. AB expects to have drawing from their engineer for review soon, and Ayres will coordinate any communication with Dietzler since Dietzler may bid on the project.

Design Budgets: Mr. Pletcher reported that there is only one design work order open, for handling property easement or acquisition issues.

Director Reed asked for a number that Board members can use to schedule tours of the site, and Mr. Pletcher gave him a phone number.

Director Reed commented that Eric Sutherland has raised an issue about the project not having completed "location review" by the Larimer County Planning Commission. Mr. Pletcher responded that Ayres will review the issue. Director Sampley asked Mr. Peterson if he had any comment on the issue, and he responded that he did not. Manager Myers commented that the issue will only cause problems if Larimer County chooses to pursue it, and his understanding is that they will not.

CR52: Mr. Pletcher reported that preconstruction meetings are taking place, but no construction activity is occurring at this time.

LWCCS: Mr. Pletcher reported that no construction activity is occurring at this time.

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OTHER MATTERS Approval of Payables: Mr. Campbell presented for consideration and approval of the Schedule of Payables dated August 19, 2015, in the amount of \$261,951.99, including checks 1251 through 1263. Mr. Campbell noted that check number 1262 was voided.

Director Seaworth asked if CR52 costs are being separated from ESDF costs, and Mr. Campbell directed him to the Pinnacle invoice with CR52 and ESDF costs separated. Mr. Campbell clarified that the percentage allocation for project administration is 80% for ESDF and 20% for CR52.

Following further discussion and review, upon motion duly made by Director Meline, seconded by Director Reed, and upon unanimous vote, it was

**RESOLVED** to approve the August 19, 2015 Schedule of Payables, in the amount of \$261,951.99 including the check numbers listed above. The invoices approved are as follows:

- AJ Field Services, LLC – \$2,400.00
- Ayres Associates – \$27,928.62
- CDPHE – \$490.00
- Dietzler Construction Corp. – \$169,812.50
- Fort Collins Coloradoan – \$46.32
- Gregory A. White, Attorney – \$6,750.00
- Murray Dahl Kuechenmeister & Renaud LLP – \$10,559.91
- North Poudre Irrigation Co. – \$1,000.00
- Phelps Atkinson – \$943.70
- Pinnacle Consulting Group, Inc. – \$27,376.12
- Poysti & Adams, LLC – \$4,424.89
- Public Service Company of Colorado (for Xcel) – \$10,219.93

### Directors Comments:

Director Reed raised the question of whether an Executive Session convened under C.R.S. 24-6-402(4)(b) might be useful at the next meeting, in order to discuss with Attorney White broad legal issues related to the Authority's funding. Director Sampley commented that since the Authority is now expecting a position statement from the Town of Wellington regarding its concerns about forwarding its collected stormwater fees, a regular agenda item for discussing that statement might be sufficient. Director Seaworth commented that he would like legal advice on how to provide the Town of Wellington with legal information relevant to their concerns without breaching the confidentiality of the Executive Sessions. After further discussion, the Board asked Manager Myers to have Malcolm Murray contact Jeffrey Kahn, counsel for Wellington, to clarify the status of items discussed



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in Executive Session in order to give the Wellington Trustees a clearer picture of items related to the construction of ESDF.

Director Seaworth asked for an agenda item at the next meeting to discuss the Authority's collection of Larimer County fees, and a possible collection fee. Director Seaworth suggested that an appropriate fee could incentivize timely collections and potentially cover the \$25,000 cost of fee billing. Director Sampley suggested that the agenda item should be a work session on the collection fee, but not an action item at this early stage of discussion. Director Seaworth agreed that a discussion item would be sufficient.

Director Sampley noted that he sent the Board members an email summarizing the views of the City of Fort Collins on the Board member appointment issue raised by Eric Sutherland, noting that the IGA states that member entities will "select" representatives, not "appoint" them.

The Board members briefly discussed having a tour of the ESDF construction site when construction has progressed to the point that a tour is worthwhile. This is not an issue as long as the tour is posted as a meeting of the Board. Manager Myers and Mr. Pletcher will determine when this tour should be conducted in September or October.

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### ADJOURNMENT

There being no further business to come before the Board, and upon motion duly made by Director Tucker, seconded by Director Meline, and upon unanimous vote, the meeting was adjourned at 5:41 p.m.

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The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Respectfully submitted,



Lindsey S. Dowswell, Recording Secretary for the Meeting

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## MINUTES OF THE SPECIAL MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD  
September 10, 2015

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a special meeting, open to the public, at Ayres Associates, 3665 John F. Kennedy Parkway, Fort Collins, at 10:30 a.m. on Thursday, September 10, 2015. Notice of the Meeting was duly posted.

ATTENDANCE:      Directors in Attendance:  
Ken Sampley, President  
Vic Meline, Treasurer  
George Reed, Secretary (via teleconference, arrived at 10:42 a.m.)  
Lee Tucker, Director  
Richard Seaworth, Director

Also in Attendance:  
Stan Myers; Pinnacle Consulting Group, Inc.  
Greg White; Authority Legal Counsel  
Malcolm Murray; Murray Dahl Kuechenmeister & Renaud LLP  
Chris Pletcher; Ayres Associates  
Tim Singewald; Town of Wellington Trustee

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CALL TO ORDER                      The Meeting was called to order at 10:40 a.m. by Director Sampley, President, noting that a quorum was present with four of five Board members in attendance.

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AGENDA                              The Board reviewed the agenda. Director Sampley noted that Item II. B., Consideration of Change Order, is being removed from the agenda. Following review, upon motion duly made by Director Seaworth, seconded by Director Meline and, upon unanimous vote, it was

**RESOLVED** to approve the agenda, as amended.

Director Reed arrived at the meeting via teleconference at 10:42 a.m.

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PUBLIC COMMENT                      There were no public comments.

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LEGAL ITEMS                              Director Sampley moved to go into Executive Session in compliance with

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requisite statutory procedures under the Colorado Executive Session Laws, for the Board to discuss a strategy relative to negotiations, pursuant to C.R.S. § 24-6-402(4)(a) (except where a member of the governing body has a personal interest in the transaction) and (e). Director Meline seconded, and upon vote, it was unanimously

**RESOLVED** to convene an Executive Session, pursuant to C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers reported: "It is September 10, 2015, and the time is 10:44 a.m. I am the Manager for Boxelder Basin Regional Stormwater Authority. As required by the Colorado Open Meetings Law, this Executive Session of the Boxelder Basin Regional Stormwater Authority is being recorded."

Present at the Executive Session: Director Ken Sampley, Director Vic Meline, Director Lee Tucker, Director George Reed (via teleconference), Director Richard Seaworth, Greg White, Malcolm Murray, Chris Pletcher, and Manager Stan Myers.

This Executive Session is for the following purposes: C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402-4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers cautioned each participant to confine all discussion to the stated purpose of the Executive Session and stated that no formal action may be taken during Executive Session, and if at any point any participant believes the discussion is going outside of the proper scope of the Executive Session, please interrupt the discussion and make an objection. The Board President will close the Executive Session by saying the time and returning to the regular meeting.

The Executive Session concluded at 12:11 p.m.

All who were present at the beginning of the Executive Session were present at the adjournment of the Executive Session.

The Board reconvened in regular session at 12:12 p.m.

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DIRECTOR  
COMMENTS

The Board members discussed their availability for future meetings in September. After discussion, the Board scheduled the following meetings:

- Special Meeting, Friday, September 18, 2015 at 2:00 p.m. at Ayres Associates offices in Fort Collins
- Special Meeting, Wednesday, September 23, 2015 at 3:00 p.m. at Ayres Associates offices in Fort Collins

Tim Singewald, Town of Wellington Trustee, addressed the Board with a public comment. Mr. Singewald reported that the Town of Wellington Board of Trustees has instructed their attorney, Jeffrey Kahn, to prepare an additional letter to the Authority for the Board of Trustees to review at their next meeting on September 22. This letter will state the remaining concerns the Board of Trustees has with the Authority's projects. Mr. Singewald also stated that the Board of Trustees is planning to vote on forwarding their fees to the Authority at the September 22 meeting, and that in Mr. Singewald's opinion it is highly likely that full payment of the fees will be approved.

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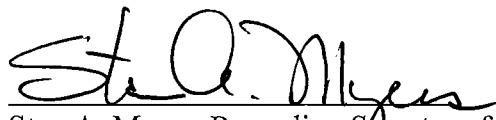
ADJOURNMENT

There being no further business to come before the Board, and upon motion duly made by Director Seaworth, seconded by Director Tucker, and upon unanimous vote, the meeting was adjourned at 12:20 p.m.

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The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Respectfully submitted,



Stan A. Myers, Recording Secretary for the Meeting

# RECORD OF PROCEEDINGS

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## MINUTES OF THE SPECIAL MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD  
September 23, 2015

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a special meeting, open to the public, at Ayres Associates, 3665 John F. Kennedy Parkway, Fort Collins, at 3:00 p.m. on Wednesday, September 23, 2015. Notice of the Meeting was duly posted.

ATTENDANCE:      Directors in Attendance:  
Ken Sampley, President  
Vic Meline, Treasurer  
George Reed, Secretary (via teleconference, arrived 3:12 p.m.)  
Lee Tucker, Director  
Richard Seaworth, Director

Also in Attendance:  
Stan Myers (via teleconference, arrived 3:12 p.m.) and Lindsey Dowswell;  
Pinnacle Consulting Group, Inc.  
Greg White; Authority Legal Counsel  
Malcolm Murray; Murray Dahl Kuechenmeister & Renaud LLP  
Chris Pletcher; Ayres Associates  
Eric Sutherland

CALL TO ORDER              The Meeting was called to order at 3:04 p.m. by Director Sampley, President, noting that a quorum was present with four of five Board members in attendance.

AGENDA              The Board reviewed the agenda. Director Seaworth asked the Board to add Item II. D., Review and Discussion of a Letter from the Town of Wellington. Upon motion duly made by Director Seaworth, seconded by Director Tucker and, upon unanimous vote of the four Board Members present, it was

**RESOLVED** to approve the agenda, as amended.

PUBLIC COMMENT              Eric Sutherland addressed the Board. He commented that all property owners who are fee payers within the Authority's jurisdiction have standing to seek remedy in court from what Mr. Sutherland considers the Authority's

## RECORD OF PROCEEDINGS

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unlawful demands of fee payment. He also expressed his opinion that an agreement with the Days cannot be executed without the approval of each of the Authority's member entities, and that he believes the member entities will not approve of an agreement since it would constitute a "multi-year commitment." Mr. Sutherland also noted that in his opinion the Authority has already made "multi-year commitments" in violation of the Authority's IGA and TABOR law. As such, Mr. Sutherland informed the Board that he is planning to file a TABOR lawsuit against the Authority. Mr. Sutherland then expressed his opinion that the Authority's projects are unlikely to ever be built, causing the CWCB to lose the money it has loaned the Authority.

Director Sampley thanked Mr. Sutherland for his comments.

Director Reed and Manager Myers arrived at the meeting via teleconference at this time (3:12 p.m.).

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### LEGAL ITEMS

Director Sampley moved to go into Executive Session in compliance with requisite statutory procedures under the Colorado Executive Session Laws, for the Board to discuss a strategy relative to negotiations, pursuant to C.R.S. § 24-6-402(4)(a) (except where a member of the governing body has a personal interest in the transaction) and (e). Director Seaworth seconded, and upon vote, it was unanimously

**RESOLVED** to convene an Executive Session, pursuant to C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Director Sampley reported: "It is September 23, 2015, and the time is 3:15 p.m. I am the Board President for Boxelder Basin Regional Stormwater Authority. As required by the Colorado Open Meetings Law, this Executive Session of the Boxelder Basin Regional Stormwater Authority is being recorded."

Present at the Executive Session: Director Ken Sampley, Director Vic Meline, Director Lee Tucker, Director George Reed (via teleconference), Director Richard Seaworth, Greg White, Malcolm Murray, Manager Stan Myers (via teleconference), Chris Pletcher, and Lindsey Dowsnell.

This Executive Session is for the following purposes: C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402(4)(e), determining

## RECORD OF PROCEEDINGS

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positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Director Sampley cautioned each participant to confine all discussion to the stated purpose of the Executive Session and stated that no formal action may be taken during Executive Session, and if at any point any participant believes the discussion is going outside of the proper scope of the Executive Session, please interrupt the discussion and make an objection. The Board President will close the Executive Session by saying the time and returning to the regular meeting.

The Executive Session concluded at 4:02 p.m.

All who were present at the beginning of the Executive Session were present at the adjournment of the Executive Session.

The Board reconvened in regular session at 4:02 p.m.

Attorney Murray left the meeting at this time.

### CONSIDERATION OF MOU

Mr. Pletcher of Ayres Associates reviewed with the Board a Memorandum of Understanding (“MOU”) with Dietzler Construction Corp. regarding value engineering. Mr. Pletcher explained that the intent of the MOU is to incentivize Dietzler to generate cost savings through value engineering. In order to do so, the MOU stipulates that any cost savings on the project that are generated by value engineering will be divided equally between Dietzler and the Authority.

Director Seaworth asked Mr. Pletcher to confirm that, as is stated in Recital #6 of the MOU, the Authority will not be paying Dietzler separately for their value engineering ideas, and Mr. Pletcher responded affirmatively that Dietzler does not get paid for their ideas, only for realized cost savings in accordance with MOU Recital #5. Mr. Pletcher also noted that Ayres Associates will not be billing the Authority for their additional value engineering work to date on the project. Director Seaworth questioned whether Ayres’ additional engineering was taking place during time that the Authority had already paid for, and Mr. Pletcher clarified that the additional engineering that Ayres has done has taken place within the budgeted level of effort during non-critical time on the project.

Mr. Pletcher noted that Exhibit A of the MOU, which lists potential value engineering cost savings identified to date, is a fluid document subject to frequent modification by Dietzler and Ayres. As such, Mr. Pletcher asked

## RECORD OF PROCEEDINGS

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the Board to approve the MOU with an Exhibit A that includes the statement that any additional cost savings resulting from value engineering design modifications will be shared in accordance with the terms of the MOU.

Following further review and discussion, upon motion duly made by Director Seaworth, seconded by Director Sampley and, upon a 4-1 vote, with Director Tucker voting “No,” it was

**RESOLVED** to approve the MOU regarding value engineering with Dietzler, as presented.

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### DIRECTOR COMMENTS

The Board discussed when it would be appropriate to notify Dietzler of the potential agreement with the Days so that Dietzler can proceed with construction according to the project design, which includes use of dirt from the Day property. Director Seaworth expressed concern about notifying Dietzler before an agreement with the Days is signed. Mr. Pletcher noted that Dietzler has already warned the Authority that the project will incur delay costs if construction does not proceed soon. Director Seaworth asked what the delay costs are expected to be, and Mr. Pletcher responded that continued delay could cost an estimated \$60,000 - \$100,000 per week. Director Reed expressed his opinion that Dietzler should be notified so that they can proceed as soon as possible. Director Meline commented that in his opinion verbal confirmation from Attorney Murray that an agreement is being finalized should be sufficient to notify Dietzler.

After further discussion, the Board determined that Mr. Pletcher should not notify Dietzler that they can proceed until he is told by Attorney White, Manager Myers, or Director Sampley that written confirmation of the agreement has been received from the Days or their attorney.

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### REVIEW AND DISCUSSION OF WELLINGTON LETTER

Attorney White reviewed a letter from the Town of Wellington’s attorney Jeffrey Kahn with the Board. Attorney White noted that Wellington’s primary concerns are that they believe the member entities are not being sufficiently involved in decisions, that the project costs are going to be over-budget, and that the Authority may be entering into “multi-year commitments” that would violate the IGA. Director Seaworth commented that it is his understanding that the Town of Wellington intends to vote to forward its collected fees to the Authority at its next meeting in two weeks, but that the Town remains deeply concerned about the issue of multi-year obligations.

The Board briefly discussed the language used in the letter to refer to the



## RECORD OF PROCEEDINGS

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Authority's position on Judge French's decision, and Attorney White commented that he will determine whether it is necessary to reply to the letter to clarify the Authority's position.

Director Seaworth asked Attorney White to clarify the extent to which Board members are personally liable for actions taken by the Board. Attorney White explained that as long as the Board members do not commit malfeasance or act against the advice of the Authority's attorneys, Board members are immune to personal liability.

Director Seaworth commented that the Town of Wellington has until November 1<sup>st</sup> to decide if they will collect their own stormwater fees next year or if the Authority will collect them on its behalf.

There followed a brief discussion about possible methods of measuring the Day property dirt for the purposes of the agreement with the Days. The Board agreed that further discussion of this issue will be more appropriate once an agreement is in place.

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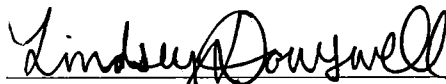
### ADJOURNMENT

There being no further business to come before the Board, and upon motion duly made by Director Tucker, seconded by Director Meline, and upon unanimous vote, the meeting was adjourned at 4:37 p.m.

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The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Respectfully submitted,



Lindsey S. Dowswell, Recording Secretary for the Meeting

# RECORD OF PROCEEDINGS

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## MINUTES OF THE REGULAR MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD  
September 30, 2015

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a regular meeting, open to the public, at the Leeper Center, 3800 Wilson Avenue at 4:00 p.m. on Wednesday, September 30, 2015. Notice of the Meeting was duly posted.

ATTENDANCE:     Directors in Attendance:  
Ken Sampley, President  
Vic Meline, Treasurer  
George Reed, Secretary  
Lee Tucker, Director  
Richard Seaworth, Director

Also in Attendance:  
Stan Myers, Peggy Dowswell, Kirsten Starman, and Lindsey Dowswell;  
Pinnacle Consulting Group, Inc.  
Chris Pletcher; Ayres Associates  
Malcolm Murray; Murray Dahl Kuechenmeister & Renaud LLP  
Greg White; Authority Legal Counsel  
Tim Singewald; Town of Wellington Trustee  
Travis Harless, Town of Wellington Trustee  
Larry Lorentzen, Town of Wellington Administrator  
Mark Peterson, Larimer County  
Robin Dornfest and Lance Heyer; Brierley Associates

CALL TO ORDER             The Meeting was called to order at 4:02 p.m. by Director Sampley, President, noting that a quorum was present with five Board members in attendance.

AGENDA             The Board reviewed the agenda. Manager Myers asked the Board to amend the agenda to move Item VII. A. Consideration of Payables to Item. V. C. Following review and discussion, upon motion duly made by Director Reed, seconded by Director Meline and, upon unanimous vote, it was

**RESOLVED** to approve the agenda, as amended.

Director Seaworth asked Attorney White when would be the appropriate time to state that he has a conflict of interest for the North Poudre Irrigation invoice agenda item. Attorney White responded that conflicts of interest can

## RECORD OF PROCEEDINGS

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be stated at the time of the item's discussion. Director Reed commented that he also has a conflict of interest for the North Poudre Irrigation item.

### APPROVAL OF MINUTES

The minutes of the August 19, 2015 and August 24, 2015 special meetings and the August 26, 2015 regular meeting were presented for the Board's consideration and approval.

Following review, and upon motion duly made by Director Seaworth, seconded by Director Reed, and upon unanimous vote, it was

**RESOLVED** to approve the August 19, 2015 special meeting minutes, as presented.

Director Seaworth asked that the August 24, 2015 minutes be amended to reflect that he brought to that meeting the Meeting Notice for August 19, 2015 that was posted at Wellington Town Hall in order to verify that it did, in fact, have an incorrect time listed for the meeting. Upon motion duly made by Director Seaworth, seconded by Director Meline, and upon unanimous vote, it was

**RESOLVED** to approve the August 24, 2015 special meeting minutes, as amended.

Director Seaworth commented that in the August 26, 2015 minutes Director Sampley stated that all of the Board members are authorized check signers. Director Seaworth noted that he does not believe he is an authorized check signer, and asked Pinnacle staff to verify which Board members are authorized check signers. Following review, and upon motion duly made by Director Meline, seconded by Director Seaworth, and upon unanimous vote, it was

**RESOLVED** to approve the August 26, 2015 special meeting minutes, as presented.

### PUBLIC COMMENT

Travis Harless, Town of Wellington Trustee, addressed the Board. Mr. Harless inquired about the Authority Board's review of the Dietzler contract. Director Sampley responded that the Authority's legal counsel and project staff thoroughly review all contracts, and the Board relies on their assessments. Mr. Harless asked if the Authority had the right to move forward with work on the Day property, and inquired of the potential cost to the East Side Detention Facility if the soils issue is not resolved. Director Sampley responded that the Authority believes that it has provided all of the

## RECORD OF PROCEEDINGS

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property and functionality required and that the soil issue should soon be resolved. Mr. Harless expressed his opinion that the Authority's handling of the Day issue showed bad judgment and irresponsible stewardship of the project.

Director Sampley thanked Mr. Harless for his comments.

Tim Singewald, Town of Wellington Trustee, addressed the Board. Mr. Singewald asked how the cost overruns for County Road 52 are accounted for and paid. Director Sampley responded that County Road 52 overrun costs are paid for under a separate agreement between Timnath, Fort Collins, and Larimer County. Mr. Singewald asked if costs are billed as they are incurred and paid immediately, because he is concerned that if costs are not reimbursed when they are incurred this would create a "multi-year obligation" for the Authority. Director Sampley commented that the timing of reimbursement would not constitute a financial obligation. Mr. Singewald asked for more clarity on the County Road 52 reimbursement process.

Director Sampley thanked Mr. Singewald for his comments.

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ITEMS FROM THE  
FINANCE  
DIRECTOR

Financial Report: Ms. P. Dowswell presented the financial report as of August 31, 2015, including the general fund report, revenue by member, cash position report, and capital costs summary broken out by project.

Ms. P. Dowswell noted that the Town of Wellington fees that have not yet been forwarded to the Authority may soon have an impact on the Authority's cash flow. Director Sampley asked if there is any update on whether the Town of Wellington has decided to forward its fees, and Manager Myers responded that he believes that Wellington will address the issue during its October 13 board meeting.

Director Seaworth commented that the Authority would not be able to pay its bills without receiving funding from CWCB, and Ms. P. Dowswell confirmed that the Authority does not expect to be able to pay project costs without the loan funding that was obtained for that purpose.

Director Sampley asked if the Authority would be restricted from paying its bills if all or part of the loan funding was not received. Attorney White responded that the Authority is not restricted from paying any of the bills that it has the cash flow to pay.

Review of Draft Fee Assessment Collection Policy and Procedure: Ms. P. Dowswell reviewed with the Board the draft Fee Assessment Collection

## RECORD OF PROCEEDINGS

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Policy and Procedure. Ms. P. Dowswell noted that the Authority's IGA is not specific about fee collection, so the Board has the ability to set policies that are driven by the Authority's cash flow needs.

Director Sampley asked how the proposed draft procedure compares with the timing of the current Larimer County fee collection procedure. Ms. P. Dowswell responded that the fee collection process in the proposed draft starts earlier in the year, which would help with cash flow for capital construction.

Director Seaworth asked for more explanation of "fee credits." Manager Myers responded that some areas were given fee credits as stipulated in the IGA, and noted that this issue needs to be revisited to clarify which areas are entitled to fee credits going forward. Director Seaworth asked if fee amounts in general are going to be re-assessed, and Manager Myers responded that the current amounts will likely be maintained. Director Seaworth asked how agricultural properties will be assessed, and Manager Myers responded that he will look into that issue and report back at a later meeting.

Director Sampley commented that the proposed 5% late fee may not be enough to incentivize on-time payment, and asked Pinnacle staff to research the highest percentage fee that the Authority could apply based on statutory limits.

Director Meline asked how the Authority can cause a lien to be placed on delinquent properties, and Ms. P. Dowswell responded that the collecting entity, in this case the Authority, can apply to the county to collect the delinquent fees through property taxes. If the property taxes (which would then include the delinquent fees) are not paid, the county can place a lien. Director Seaworth commented that fees and taxes are collected in arrears, and asked when delinquent fees collected through taxes would be received. Ms. P. Dowswell responded that such delinquent fees would be two years in arrears by the time they are collected. Director Sampley noted that the Authority's finances are based on collecting one year in arrears, so delinquent fees collected through taxes would only be one additional year in arrears. Director Sampley asked Mark Peterson of Larimer County how much of their fees have historically been delinquent, and Mr. Peterson responded that approximately 10-11% or \$35,000-\$38,000 in fees have been delinquent. Mr. Peterson also noted that most fee payers pay the fee once it has been added to their property taxes, since their properties would go to sale if they did not pay the full taxes including the stormwater fee. Director Seaworth noted that the current delinquent fees for Larimer County total approximately \$45,000.

Larry Lorentzen, Town of Wellington Administrator, commented that the

## RECORD OF PROCEEDINGS

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Town of Wellington currently does not calculate the “impervious surface” on properties, as would be required for Item #2 of the information requested from each member entity in the draft Fee Assessment Collection Policy and Procedure. Director Sampley thanked Mr. Lorentzen for his comment, and asked him to thoroughly review the draft Fee Assessment Collection Policy and send all of his comments to the Board so that any issues can be addressed. Director Sampley also invited the member entities to provide their comments on the draft Fee Assessment Collection Policy and Procedure.

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### CAPITAL MATTERS

There were no capital matters brought before the Board for consideration.

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### ITEMS FROM AUTHORITY MANAGER

**Manager’s Report:** Manager Myers presented the Manager’s Report for September.

ESDF: Manager Myers noted that Mr. Pletcher would discuss this item in further detail.

Consideration of North Poudre Irrigation Invoice: Manager Myers informed the Board that an invoice for County Road 7 bridge repairs was sent to the Authority by North Poudre Irrigation. When Manager Myers called Scott Hummer of North Poudre Irrigation to determine why the invoice was sent, Mr. Hummer informed Manager Myers that the invoice was a result of a conversation between Mike Blehm and Director Tucker. Manager Myers noted that several months ago Andrea Faucett of Ayres Associates met with Mr. Hummer and determined that the debris pile causing the bank to wash out was a maintenance issue that the Authority was not responsible for. The Board determined that Mr. Pletcher should perform a quick review of the County Road 7 bridge damage to determine if it is being caused by the design or if it is a maintenance issue. The Board members agreed to wait until they have more information to act on the North Poudre Irrigation invoice.

Day Agreement: Manager Myers noted that this item would be discussed further in Executive Session.

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### ENGINEER’S REPORT

LWCCS: Mr. Pletcher reported that this project is still not under construction, but that irrigation flows have stopped running and only drainage water remains. Mr. Pletcher noted that there has been a staff change at the general contractor Crossfire, and Ayres staff is working with the new staff member to make sure that the change does not affect the project. Mr. Pletcher noted that Xcel has scheduled work to relocate poles, but the work has not yet started.

## RECORD OF PROCEEDINGS

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**ESDF:** Mr. Pletcher reported that the three areas of embankment are under construction. Mr. Pletcher noted that a concrete pour the day before went well, and another is scheduled for Thursday.

Final Design Review by State Engineer: Mr. Pletcher informed the Board that coordination with the State Engineer is going well now that the process has been adjusted to ensure that Dietzler is ready for review when the State Engineer is scheduled to visit.

County Road 52 Design: Mr. Pletcher reported that Ayres reviewed 90% drawings of the A-B project this week.

The Board briefly discussed the timing of project construction in relation to City of Fort Collins road projects.

Director Seaworth requested additional detail about the project costs of County Road 52 construction. Mr. Pletcher and Ms. Starman responded that further detail will be provided at the next meeting.

Mr. Pletcher noted that Lance Heyer and Robin Dornfest of Brierley Associates have decided to start their own company. For the purposes of the Authority's projects, however, they will still work with Brierley under the Authority's contract, and no changes to the contract or the workflow will be necessary.

### CONSIDERATION OF PAYABLES

Approval of Payables: Ms. P. Dowswell presented for consideration and approval of the Schedule of General Payables dated September 21, 2015, in the amount of \$21,476.79, including checks numbered 1274 through 1276.

Following further discussion and review, upon motion duly made by Director Meline, seconded by Director Reed, and upon a 4-1 vote, with Director Tucker voting "No," it was

**RESOLVED** to approve the September 21, 2015 Schedule of General Payables, in the amount of \$21,476.79 including the check numbers listed above. The invoices approved are as follows:

- Fort Collins Coloradoan – \$32.02
- Gregory A. White, Attorney – \$855.00
- Pinnacle Consulting Group, Inc. – \$20,589.77

Ms. P. Dowswell presented for consideration and approval of the Schedule of Capital – ESDF Payables dated September 21, 2015, in the amount of \$701,536.99, including check number 1264 (payment to Public Service Co.

## RECORD OF PROCEEDINGS

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of Colorado), and checks numbered 1267 through 1273 and 1279. Ms. P. Dowswell noted that check number 1270 was voided.

Following further discussion and review, upon motion duly made by Director Meline, seconded by Director Reed, and upon unanimous vote, it was

**RESOLVED** to ratify the August 31, 2015 payment in the amount of \$32,803.95 to Public Service Co. of Colorado, and to approve the September 21, 2015 Schedule of Payables in the amount of \$668,733.04, for a total of \$701,536.99, including the check numbers listed above. The invoices approved are as follows:

- Public Service Co. of Colorado – \$32,803.95
- AJ Field Services, LLC – \$2,025.00
- Ayres Associates – \$32,160.59
- Brierley Associates – \$38,522.84
- Gregory A. White, Attorney – \$450.00
- Murray Dahl Kuechenmeister & Renaud LLP – \$6,689.71
- Pinnacle Consulting Group, Inc. – \$5,148.60
- Dietzler Construction Corp. – \$583,736.30

Ms. P. Dowswell presented for consideration and approval of the Schedule of Capital – CR52 Payables dated September 21, 2015, in the amount of \$70,770.85, including checks numbered 1265, 1266, and 1280.

Following further discussion and review, upon motion duly made by Director Seaworth, seconded by Director Meline, and upon unanimous vote, it was

**RESOLVED** to approve the September 21, 2015 Schedule of Capital – CR52 Payables, in the amount of \$70,770.85 including the check numbers listed above. The invoices approved are as follows:

- Ayres Associates – \$1,558.70
- Pinnacle Consulting Group, Inc. – \$1,287.15
- Dietzler Construction Corp. – \$67,925.00

Ms. P. Dowswell presented for consideration and approval of the Schedule of Capital – LWCCS Payables dated September 21, 2015, in the amount of \$931.50, including checks numbered 1277 through 1278.

Following further discussion and review, upon motion duly made by Director Sampley, seconded by Director Seaworth, and upon unanimous vote, it was

**RESOLVED** to approve the September 21, 2015 Schedule of Payables, in the amount of \$931.50 including the check numbers listed above. The invoices approved are as follows:



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- Ayres Associates – \$252.50
- Pinnacle Consulting Group, Inc. – \$679.00

LEGAL MATTERS Executive Session: Director Reed moved to go into Executive Session in compliance with requisite statutory procedures under the Colorado Executive Session Laws, for the Board to discuss a strategy relative to negotiations, pursuant to C.R.S. § 24-6-402(4)(a) (except where a member of the governing body has a personal interest in the transaction) and (e). Director Tucker seconded, and upon vote, it was unanimously

**RESOLVED** to convene an Executive Session, pursuant to C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers reported: “It is September 30, 2015, and the time is 5:35 p.m. I am the Manager for Boxelder Basin Regional Stormwater Authority. As required by the Colorado Open Meetings Law, this Executive Session of the Boxelder Basin Regional Stormwater Authority is being recorded.”

Present at the Executive Session: Director Ken Sampley, Director Vic Meline, Director Lee Tucker, Director George Reed, Director Richard Seaworth, Greg White, Malcolm Murray, Manager Stan Myers, and Chris Fletcher.

This Executive Session is for the following purposes: C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402-(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers cautioned each participant to confine all discussion to the stated purpose of the Executive Session and stated that no formal action may be taken during Executive Session, and if at any point any participant believes the discussion is going outside of the proper scope of the Executive Session, please interrupt the discussion and make an objection. The Board President will close the Executive Session by saying the time and returning to the regular meeting.

The Executive Session concluded at 6:04 p.m.

All who were present at the beginning of the Executive Session were present

## RECORD OF PROCEEDINGS

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at the adjournment of the Executive Session.

The Board reconvened in regular session at 6:04 p.m.

Discussion of the Day Stipulation: Director Reed moved to direct Attorney Murray to file a stipulation regarding the Day materials issue with the court. Director Meline seconded the motion. Director Seaworth proposed amending the motion to also include approving the \$100,000 payment to the Day Family Partnership that is outlined in the stipulation. Director Reed accepted Director Seaworth's amendment, and Director Meline re-seconded the motion.

Director Seaworth stated for the record that, in his opinion, the \$100,000 payment to the Day Family Partnership is a cost that fee payers have to pay as a direct result of the Authority's decision to move forward before the Day materials issue was resolved.

Upon a 3-0 vote, with Director Sampley, Director Reed, and Director Meline voting "Yes," and Director Seaworth and Director Tucker abstaining, it was

**RESOLVED** to direct Attorney Murray to file a stipulation regarding the Day materials with the court, and approve the \$100,000 payment to the Day Family Partnership outlined in the stipulation.

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OTHER MATTERS Directors Comments: In reference to Mr. Harless' public comment about the extent of the Board's review of the Dietzler Construction Corp. contract at the time it was signed, Director Meline commented that in his opinion it would be unreasonable to expect the Board to revisit the entire project design, which had taken months to finalize, at the time the contract was being approved.

Director Seaworth commented that he voted against the Dietzler contract in part because of a lack of opportunity for thorough review of the contract by the Board. Director Seaworth noted that it is his understanding that concerns about accepting a bid amount that was a reasonable estimation of project costs (and so less likely to run into cost overruns) led to last-minute contract preparations, and that meant the final contract was not available for Board review within sufficient time before the vote. Director Seaworth stated that in his opinion, this was not the proper way to do business.

Director Sampley commented that the \$100,000 payment to the Days represents a settlement amount paid in excess of property valuations, which is always a potential outcome of a negotiation process.

## RECORD OF PROCEEDINGS

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Director Seaworth commented that he would like to have access to the recordings of regular Board meeting sessions in order to occasionally review his own statements and how they are reflected in the minutes. Manager Myers responded that this would be possible, but coordination would be necessary to transmit the large audio files to Director Seaworth. Director Seaworth noted that he would contact Manager Myers to discuss this matter further.

Director Reed informed the Board that he had attended the Special Districts Association (“SDA”) annual conference. Director Reed noted that he had attended a presentation by the State Engineer’s Office (“SEO”) in which it was disclosed that the SEO had proposed legislation that would have required dry detention basins such as ESDF to have water rights. However, this legislation was vetoed by Governor Hickenlooper and is no longer a concern. Mr. Pletcher commented that he is aware of this legislation, and after a brief discussion it was concluded that there was no impact to ESDF. Director Reed concluded by noting that the SDA Conference was a great learning experience.

Manager Myers informed the Board that he is drafting a letter to update the member entities on the Authority’s projects. Manager Myers also commented that per discussion with the member entities at their last meeting together in May, the entities requested a meeting in November to review the Authority’s progress.

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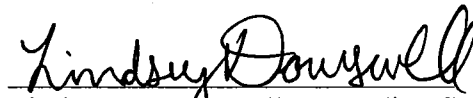
### ADJOURNMENT

There being no further business to come before the Board, and upon motion duly made by Director Reed, seconded by Director Tucker, and upon unanimous vote, the meeting was adjourned at 6:21 p.m.

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The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Respectfully submitted,



Lindsey S. Dowswell, Recording Secretary for the Meeting

# RECORD OF PROCEEDINGS

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## MINUTES OF THE REGULAR MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD  
October 28, 2015

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a regular meeting, open to the public, at the Leeper Center, 3800 Wilson Avenue at 4:00 p.m. on Wednesday, October 28, 2015. Notice of the Meeting was duly posted.

ATTENDANCE:      Directors in Attendance:  
Ken Sampley, President  
Vic Meline, Treasurer  
George Reed, Secretary  
Lee Tucker, Director  
Richard Seaworth, Director

Also in Attendance:  
Stan Myers, Brendan Campbell, Kirsten Starman, and Lindsey Dowswell;  
Pinnacle Consulting Group, Inc.  
Chris Pletcher; Ayres Associates  
Malcolm Murray; Murray Dahl Kuechenmeister & Renaud LLP  
Greg White; Authority Legal Counsel  
Larry Lorentzen, Town of Wellington Administrator  
Lisa Denke, Lisa Denke Engineering  
Jim Mokler, Developer

CALL TO ORDER                      The Meeting was called to order at 4:04 p.m. by Director Sampley, President, noting that a quorum was present with five Board members in attendance.

AGENDA                      The Board reviewed the agenda. Manager Myers asked the Board to amend the agenda to move Item VII. A. Consideration of Payables to Item V. B. Following review and discussion, upon motion duly made by Director Reed, seconded by Director Meline and, upon unanimous vote, it was

**RESOLVED** to approve the agenda, as amended.

APPROVAL OF MINUTES                      The minutes of the September 10, 2015 and September 23, 2015 special meetings and the September 30, 2015 regular meeting were presented for the Board's consideration and approval.

## RECORD OF PROCEEDINGS

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Following review, and upon motion duly made by Director Reed, seconded by Director Meline, and upon unanimous vote, it was

**RESOLVED** to approve the September 10, 2015 special meeting minutes, as presented.

Director Reed noted that there were several follow-up items from all three sets of minutes that he expects staff to comment on in the present meeting. Director Sampley suggested that subsequent meeting agendas could include an item titled "Follow-up Items from Previous Minutes," to ensure that all open items are revisited.

Following review, upon motion duly made by Director Reed, seconded by Director Meline, and upon unanimous vote, it was

**RESOLVED** to approve the September 23, 2015 special meeting minutes, as presented.

Director Sampley noted that he would like follow-up information on the late fee percentage limit discussed at the September 30<sup>th</sup> meeting, and Director Seaworth noted that he would like more detail about CR52 project costs as he requested at the September 30<sup>th</sup> meeting.

Director Sampley directed staff to correct the 3-0 vote on page 9 of the September 30<sup>th</sup> minutes to read "with Director Sampley, Director Reed, and Director Meline voting 'Yes'..."

Director Seaworth asked that the September 30<sup>th</sup> minutes be amended to reflect his comment during the discussion with Mark Peterson of Larimer County that Larimer County's current delinquent fees total \$45,000.

Following further review and discussion, and upon motion duly made by Director Meline, seconded by Director Reed, and upon unanimous vote, it was

**RESOLVED** to approve the September 30, 2015 regular meeting minutes, as amended.

PUBLIC  
COMMENT

Jim Mokler, resident and commercial developer, addressed the Board. Mr. Mokler explained that he has been involved in the development of areas near Mulberry (Highway 14) that have been affected by the floodplain designation. Mr. Mokler noted that he was part of the Boxelder Alliance, a precursor to the Authority, and is gratified to see the project coming to

## RECORD OF PROCEEDINGS

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fruition after many years of work. Mr. Mokler thanked the Board and the Authority for their work, and stated that he is looking forward to hearing from Manager Myers about when the impacted properties might be out of the floodplain and cleared to build.

Director Sampley thanked Mr. Mokler for his comments.

ITEMS FROM THE  
FINANCE  
DIRECTOR

Financial Report: Mr. Campbell presented the financial report as of September 30, 2015, including the general fund report, revenue by member, cash position report, and capital costs summary broken out by project.

Mr. Campbell informed the Board that since the Financial Report was written, Wellington remitted its outstanding fees. Director Seaworth asked about the \$73,116 variance in the budget for System Development Fees, and Mr. Campbell responded that the variance was related to Wellington fees and will be zeroed out now that Wellington's fees have been received.

Larimer County also sent another installment of delinquent fees, totaling approximately \$3,000-\$5,000. Mr. Campbell noted that the County is still collecting past-due fees from last year, and that payments due this year will be collected through December 1<sup>st</sup>, at which point they will be certified. Director Seaworth asked when delinquent properties would go to tax sale if they have not paid by December 1<sup>st</sup>, and Mr. Campbell responded that they would go to tax sale in the fall of 2016 if they had still not paid by then. Director Sampley asked if any of the delinquent properties in Larimer County have gone to tax sale thus far, and Manager Myers responded that he doesn't know of any that have. Director Reed asked if the buyer at a tax sale has to pay the delinquent fees, and Mr. Campbell responded affirmatively. Director Seaworth expressed his concern that any delinquent properties that go to tax sale will be three years in arrears by the time the delinquent fees are collected.

Director Seaworth asked if the approximately \$45,000 in delinquent Larimer County fees is comprised of 2015 collections alone, and Mr. Campbell responded that the delinquent fee total includes both 2015 and 2014 collections. Mr. Campbell noted that most of the delinquent fees from 2014 collections were received between February and July of 2015, when they were collected as part of property taxes. It is expected that much of the 2015 delinquent fees will be collected in the same way in February-July of 2016. Director Seaworth asked where the delinquent 2014 fees collected in 2015 property taxes had been tracked, and Mr. Campbell responded that they had been incorporated in the ongoing revenue by member report.

## RECORD OF PROCEEDINGS

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Update of Draft Fee Assessment Collection Policy and Procedure: Mr. Campbell noted that in response to Mr. Lorentzen's question about impervious area at the September 30<sup>th</sup> meeting, the Authority will only need impervious area calculated for non-residential properties.

With regard to late fees allowable per statute, Mr. Campbell reported that pursuant to C.R.S. 29-1-1102, regarding government delinquency charges, the maximum allowable late fee is the greater of \$15 or 5% per month up to 25%. This statute does not restrict the charging of interest or collection fees. Director Seaworth asked if the Authority would be required to send a bill every month for the five potential months that 5% may be added to a delinquent bill, and Mr. Campbell responded that he would have to check legal counsel to determine whether monthly bills would be required. Director Sampley suggested that the Board direct staff to include a 5% per month late fee up to 25% in the Authority's policy, and the other Board members agreed.

Director Seaworth asked about the fees that will be assessed for agricultural properties and properties that previously received fee waivers. Manager Myers briefly discussed the complexity of this issue with the Board. Manager Myers requested that the Board set a work session date to thoroughly discuss the agricultural property issues, fee waiver property issues, and Fee Assessment Collection Policy and Procedure. After further discussion, the Board scheduled a work session for November 10, 2015 at 3:00 pm at Ayres Associates' offices in Fort Collins.

Director Reed asked if it would be possible for member entities to make quarterly payments of its collected fees instead of annual payments, in order to improve the Authority's cash flow. Director Sampley responded that the member entities would be unlikely to agree to a quarterly payment schedule unless all of the member entities were also obligated to pay quarterly. Mr. Lorentzen, Town of Wellington Administrator, commented that he agreed with Director Sampley's point that no entity should be required to pay before any other entity.

Director Seaworth noted that Wellington voted to collect their own fees in 2016, and asked how the Authority plans to cover the cost of collecting Larimer County's fees in 2016. Director Sampley noted that late fees will not cover the cost of collecting Larimer County's fees, and added that the requirement that the Authority collect fees for member entities that do not wish to collect their fees is part of the IGA. Mr. Campbell noted that the cost estimate for collecting Larimer County's fees that was included in the 2016 budget was carefully calculated, and should cover the entire cost of

## RECORD OF PROCEEDINGS

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collection. Director Seaworth asked if the cost estimate includes the cost of certifying delinquent properties with the County, and Mr. Campbell responded affirmatively. Director Seaworth asked if the Authority is bonded in case a certification mistake is made, and Mr. Campbell responded that there would be a process to rectify any mistake and refund payment.

Engagement Letter with Poysti & Adams for 2015 Audit: Mr. Campbell commented that Poysti & Adams has provided good service in the past, and that he recommends the Board approve this engagement. Mr. Campbell noted that the fee has increased slightly this year, from \$6,500 to \$6,800. Director Reed noted that in his experience, \$6,800 is a very reasonable rate for an entity as complex as the Authority.

Following further review and discussion, and upon motion duly made by Director Reed, seconded by Director Meline, and upon unanimous vote, it was

**RESOLVED** to approve the engagement letter in the amount of \$6,800.00 with Poysti & Adams for the 2015 Audit.

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### CAPITAL MATTERS

Ms. Starman informed the Board that due to the scheduling of Xcel work, Crossfire, LLC was not able to begin work on LWCCS as planned on August 26. Ms. Starman requested that the Board sign a revised Notice to Proceed authorizing Crossfire, LLC to begin work on November 17. The Board did not have any objection to the Board President signing a revised version of the previously approved Notice to Proceed.

Ms. Starman noted that per the Board's request, Dietzler Construction Corp. included ESDF and CR52 project subtotals in their October pay application, and will continue to do so going forward so that the Board can track project costs. The Board briefly discussed the adjusted allocation of mobilization between the two projects, and the resulting project totals.

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### ITEMS FROM AUTHORITY MANAGER

**Manager's Report:** Manager Myers presented the Manager's Report for October.

Entity Meeting: Manager Myers informed the Board that a meeting of the member entities has been scheduled for November 18, 2015 at 6:00 pm at the Larimer County Courthouse Offices Building in Fort Collins.



## RECORD OF PROCEEDINGS

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Sutherland Motion to Intervene: Manager Myers invited Attorney Murray to update the Board on this matter. Attorney Murray reported that he filed a response to Mr. Eric Sutherland's Motion to Intervene, stating that since the law requires the petitioner to have an interest in the property to file such Motion, Mr. Sutherland has no standing to request to intervene. Attorney Murray noted that Mr. Sutherland called his office today to tell him that he filed a reply to Attorney Murray's response, but Attorney Murray has not yet had a chance to review Mr. Sutherland's reply. Attorney Murray informed the Board that he expects the judge to rule quickly.

Work Session: Per previous discussion, the Board has set a work session for November 10, 2015 at 3:00 pm at Ayres Associates' offices in Fort Collins.

Consideration of North Poudre Irrigation Invoice: Mr. Pletcher reviewed with the Board his memorandum regarding the Clark Reservoir Inlet Canal/County Road 7 crossing that is at issue. Mr. Pletcher reported that he retrieved the plans and visited the site, and saw no inconsistencies or improper construction that would lead him to expect unusual debris catching that might cause recurring damage. Director Tucker commented that the first year the modified design was in place, the north bank washed out, and that North Poudre Irrigation Company ("NPIC") was dissatisfied with the response of Ayres and the County. Manager Myers reiterated that Scott Hummer did not want the invoice in question for \$4,240 in repairs to become an issue between the Authority and NPIC.

The Board further discussed the damage that was repaired by North Poudre Irrigation and the parties that may bear responsibility for such damage, but did not reach a conclusion with regard to payment of the North Poudre Irrigation invoice. Director Sampley commented that he would set up a time to visit the site with Director Tucker so that he could obtain further information about the issue.

Confirmation of Board Members Authorized to Sign Checks: Manager Myers reported that Pinnacle staff verified that Director Sampley, Director Reed, Director Meline, and Director Tucker are authorized to sign checks, and Director Seaworth is not.

Entity Fee Collection Letters: Manager Myers noted that the Authority has received letters from both the City of Fort Collins and the Town of Wellington stating that they will collect their own fees in 2016.

Lake Canal and Reservoir Company ("LCRC"): Manager Myers reported that Rodney Nelson, President of LCRC, requested that the remaining

## RECORD OF PROCEEDINGS

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payments from the Authority to LCRC per the executed agreement be delayed until after December 1<sup>st</sup>. These remaining payments include \$25,000 for the hunting and fishing lease and approximately \$83,300 for the spillway improvements.

Shannon & Associates Proposal to Update Day & Iodence Appraisals: Manager Myers noted that Attorney Murray requested the appraisal updates for the potential evaluation hearings. Attorney Murray noted that this update to the appraisals will be the final update required. Director Sampley asked what might impact the final cost of the appraisal updates, since the cost range given is \$5,000 - \$11,500. Attorney Murray responded that the cost will depend on the number of recent sales that Shannon & Associates is required to compare.

Following further review and discussion, and upon motion duly made by Director Seaworth, seconded by Director Meline, and upon a 4-1 vote, with Director Sampley, Director Reed, Director Seaworth, and Director Meline voting "Yes," and Director Tucker voting "No," it was

**RESOLVED** to approve the Professional Services Agreement with Shannon & Associates in an amount not to exceed \$11,500 for an update of the Day & Iodence appraisals.

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### ENGINEER'S REPORT

LWCCS: Mr. Pletcher reported that as of today, Xcel has completed work and Crossfire can begin their work. Project kickoff is expected within the next two weeks, and mobilization is expected to begin mid-November. Mr. Pletcher noted that there has been a lot of drainage even though flows have stopped, and Ayres is currently working with Crossfire to find a cost-effective solution.

ESDF: Mr. Pletcher reported that fill is occurring in multiple areas, and coordination on that work is going well. Mr. Pletcher noted that Dietzler is communicating with the Days in order to be sensitive to their noise and dust concerns. Substantial completion is still expected by March 31, despite some recent rain delays.

Director Seaworth asked if Dietzler is having any de-watering problems, and Mr. Pletcher responded that Dietzler is handling the de-watering without any issues.

Director Sampley asked if samples had been taken of the materials from the Day property. Mr. Pletcher responded that samples have been taken, but have not been sent to the Days or their representatives. Attorney Murray noted that the Days are no longer concerned with differentiating the various materials

## RECORD OF PROCEEDINGS

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types, and are only concerned with the volume of material removed. Director Sampley requested that Mr. Pletcher send documentation regarding the material samples taken to the Days' attorney, Tim Goddard, in order to get the Days to agree that the samples are representative of the material quality. The Board directed Mr. Pletcher to send the requested documentation to Attorney Murray so that he can forward it to Tim Goddard.

County Road 52 Design: Mr. Pletcher reported that this project is on schedule to be completed in November. Director Seaworth asked if Dietzler uses the same employees for this project as they do for ESDF. Mr. Pletcher responded that they do use the same employees, with the exception of some sub-consultants related to the golf course work that are specific to County Road 52 work.

Director Tucker asked what was done with the dirt from the golf course, and Mr. Pletcher responded that it was incorporated into the Griffin embankment.

Mr. Pletcher informed the Board that Dietzler has won the contract to complete the Anheuser-Busch ("A-B") work, which will streamline the coordination between that project and the Authority's project. The A-B project is on schedule to be ready for switchover of the effluent line in County Road 52 during the Thanksgiving holiday. Director Tucker asked if any of the A-B project cost will be paid by Boxelder, and Mr. Pletcher responded that per A-B's agreement with Larimer County, A-B is required to pay the full cost of the project. Ayres will perform a cursory review of the project – not a full engineering review – to ensure that it does not have any negative impact on the Authority's project.

Director Tucker asked Mr. Pletcher for an update on the aerial irrigation crossing for the Schnorr property. Mr. Pletcher responded that Ayres will be presenting a design for a siphon to Dietzler for constructability review soon.

### CONSIDERATION OF PAYABLES

Approval of Payables: Mr. Campbell presented for consideration and approval of the Schedule of General Payables dated October 21, 2015, in the amount of \$15,958.48, including checks numbered 1286 through 1287. Mr. Campbell noted that checks 1282, 1283, and 1284 were voided.

Following further discussion and review, upon motion duly made by Director Reed, seconded by Director Meline, and upon unanimous vote, it was

**RESOLVED** to approve the October 21, 2015 Schedule of General Payables, in the amount of \$15,958.48 including the check numbers listed above. The invoices approved are as follows:

- Gregory A. White, Attorney -- \$765.00

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- Pinnacle Consulting Group, Inc. – \$15,193.48

Mr. Campbell presented for consideration and approval of the Schedule of Capital – ESDF Payables dated October 21, 2015, in the amount of \$613,625.52, including check number 1285 (payment to the Day Family Partnership), and checks numbered 1288, and 1295 through 1301.

Director Seaworth asked why two change order amounts had been entered into and deducted out of the ESDF finances in the project cost summary. Ms. Starman explained that the amounts were forecast based on potential change orders that have not yet been received, and were offset by some savings from value engineering. The net amounts were deducted from the project contingency.

Following further discussion and review, upon motion duly made by Director Sampley, seconded by Director Meline, and upon unanimous vote, it was

**RESOLVED** to ratify the October 6, 2015 payment in the amount of \$100,000 to the Day Family Partnership, and to approve the October 21, 2015 Schedule of Payables in the amount of \$513,625.52, for a total of \$613,625.52, including the check numbers listed above. The invoices approved are as follows:

- Day Family Partnership – \$100,000.00
- Ayres Associates Inc. – \$41,650.89
- Ayres Associates Inc. – \$2,427.50
- Brierley Associates – \$13,963.00
- Coffey Engineering & Surveying – \$1,260.00
- Dietzler Construction Corp. – \$440,670.33
- Gregory A. White, Attorney – \$2,025.00
- Murray Dahl Kuechenmeister & Renaud LLP – \$7,945.40
- Pinnacle Consulting Group, Inc. – \$3,682.80

Mr. Campbell presented for consideration and approval of the Schedule of Capital – CR52 Payables dated October 21, 2015, in the amount of \$70,334.70, including checks numbered 1291 through 1293.

Director Seaworth asked why certain general condition costs for ESDF-CR52 had not been split 80%-20% like the mobilization costs. Mr. Pletcher responded that those costs had been considered part of the ESDF project, since the facilities in question are located on the ESDF site. Director Seaworth requested that the Concrete Washout, Construction Fencing, Construction Entrance and Parking, Field Office Relocation and Setup, Field Offices, and Sanitary Facility line items be allocated to CR52 as well, since the same staff members who benefit from the facilities provided work on

## RECORD OF PROCEEDINGS

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both projects. Ms. Starman responded that staff will reallocate the costs as Director Seaworth requested.

Following further discussion and review, upon motion duly made by Director Meline, seconded by Director Sampley, and upon unanimous vote, it was

**RESOLVED** to approve the October 21, 2015 Schedule of Capital – CR52 Payables, in the amount of \$70,334.70 including the check numbers listed above. The invoices approved are as follows:

- Ayres Associates – \$4,747.50
- Dietzler Construction Corp. – \$64,666.50
- Pinnacle Consulting Group, Inc. – \$920.70

Mr. Campbell presented for consideration and approval of the Schedule of Capital – LWCCS Payables dated October 21, 2015, in the amount of \$1,214.00, including checks numbered 1289 through 1290.

Following further discussion and review, upon motion duly made by Director Seaworth, seconded by Director Meline, and upon unanimous vote, it was

**RESOLVED** to approve the October 21, 2015 Schedule of Payables, in the amount of \$1,214.00 including the check numbers listed above. The invoices approved are as follows:

- Ayres Associates – \$800.00
- Pinnacle Consulting Group, Inc. – \$414.00

Mr. Campbell noted that if the Board prefers, future payables can be presented, discussed, and approved all at once. Director Sampley requested that the payables be presented in this way starting at the next meeting.

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### LEGAL MATTERS

Executive Session: Director Reed moved to go into Executive Session in compliance with requisite statutory procedures under the Colorado Executive Session Laws, for the Board to discuss a strategy relative to negotiations, pursuant to C.R.S. § 24-6-402(4)(a) (except where a member of the governing body has a personal interest in the transaction) and (e). Director Meline seconded, and upon vote, it was unanimously

**RESOLVED** to convene an Executive Session, pursuant to C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

## RECORD OF PROCEEDINGS

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Manager Myers reported: "It is October 28, 2015, and the time is 6:11 p.m. I am the Manager for Boxelder Basin Regional Stormwater Authority. As required by the Colorado Open Meetings Law, this Executive Session of the Boxelder Basin Regional Stormwater Authority is being recorded."

Present at the Executive Session: Director Ken Sampley, Director Vic Meline, Director Lee Tucker, Director George Reed, Director Richard Seaworth, Greg White, Malcolm Murray, Manager Stan Myers, Lindsey Dowswell, and Chris Pletcher.

This Executive Session is for the following purposes: C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402-(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers cautioned each participant to confine all discussion to the stated purpose of the Executive Session and stated that no formal action may be taken during Executive Session, and if at any point any participant believes the discussion is going outside of the proper scope of the Executive Session, please interrupt the discussion and make an objection. The Board President will close the Executive Session by saying the time and returning to the regular meeting.

The Executive Session concluded at 6:19 p.m.

All who were present at the beginning of the Executive Session were present at the adjournment of the Executive Session.

The Board reconvened in regular session at 6:19 p.m.

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### OTHER MATTERS

Discussion of the Day Recreational Parcel Settlement: Attorney Murray asked the Board to consider approving an additional \$4,000 settlement for the two Day Recreational Parcels. Ownership of these two parcels includes Vic Day, Joan Day, Nancy Day, and the Day Family Partnership. Such settlement would include language allowing the above-referenced parties use of the property not inconsistent with the Authority's flowage easement.

Following further review and discussion, upon motion duly made by Director Reed, seconded by Director Meline and, upon unanimous vote, it was

**RESOLVED** to approve a settlement agreement regarding the Day Recreational Parcels, and to approve an additional \$4,000 payment to the Court as outlined in the settlement agreement.

## RECORD OF PROCEEDINGS

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Directors Comments: Director Seaworth expressed concern about the member entities appropriating sufficient funds to pay for the County Road 52 project, since the original estimate for the project was 1.048 million, and the project cost is now expected to be approximately \$300,000 more than that. Mr. Pletcher noted that the project bid was revised for the lump sum contract, and the allocation between ESDF and CR52 shifted while the total remained the same. Director Sampley noted that each entity has been made aware of the current project costs, and has appropriated funds or will appropriate funds accordingly. Manager Myers noted that the Authority is expecting to request funds from the member entities in January 2016.

The Board briefly discussed the scheduled dates for upcoming meetings, including the possibility that the January 2016 meeting may be scheduled for the fourth Wednesday of the month, January 27. No action was taken.

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### ADJOURNMENT

There being no further business to come before the Board, and upon motion duly made by Director Tucker, seconded by Director Meline, and upon unanimous vote, the meeting was adjourned at 6:27 p.m.

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The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Respectfully submitted,



Lindsey S. Dowswell, Recording Secretary for the Meeting

# RECORD OF PROCEEDINGS

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## MINUTES OF THE SPECIAL MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD  
November 10, 2015

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a special meeting, open to the public, at Ayres Associates, 3665 John F. Kennedy Parkway, Fort Collins, at 3:00 p.m. on Tuesday, November 10, 2015. Notice of the Meeting was duly posted.

ATTENDANCE:        Directors in Attendance:  
Ken Sampley, President  
Vic Meline, Treasurer  
George Reed, Secretary  
Lee Tucker, Director  
Richard Seaworth, Director

Also in Attendance:  
Stan Myers; Pinnacle Consulting Group, Inc.  
Greg White; Authority Legal Counsel  
Malcolm Murray; Murray Dahl Kuechenmeister & Renaud LLP  
Chris Pletcher and Andrea Faucett (arrived 3:56 p.m.); Ayres Associates  
Eric Sutherland (arrived 3:16 p.m., departed 3:48 p.m.)

CALL TO ORDER                The Meeting was called to order at 3:05 p.m. by Director Sampley, President, noting that a quorum was present with five of five Board members in attendance.

AGENDA                The Board reviewed the agenda. Following review, upon motion duly made by Director Tucker, seconded by Director Meline and, upon unanimous vote, it was

**RESOLVED** to approve the agenda, as presented.

PUBLIC COMMENT                There were no public comments.

PREVIOUS FEE CREDIT/WAIVERS AND COUNTY        Director Sampley asked Attorney White to clarify the difference between “fee credits” and “fee waivers.” Attorney White responded that it is his understanding that the terms have been used interchangeably, but that



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### BILLINGS

technically, for the Authority's purposes, a "credit" offsets a fee amount that is due, and a "waiver" is a release from owing a fee amount. Attorney White noted that in the First Amendment to the IGA, the term "credit" is intentionally used to make it clear that properties that are given "fee credits" are not exempt from owing fees in the future; they simply receive a credit to offset the amount due. Attorney White also commented that the language in the First Amendment to the IGA states that the Authority Board has the ability to review and revise the list of properties receiving fee credits on an annual basis. Attorney White noted that the Board does not have the ability to assess fees on any property not included within the Authority's official boundary. Attorney White also informed the Board that the language in the First Amendment to the IGA states that the Member entities allow the Authority to determine that individual properties are not tributary to the Boxelder Basin and remove them from the Services Area.

Manager Myers distributed a list of 375 properties that are not currently paying fees, for the Board's review. Manager Myers explained that he received the list from Larimer County, and then analyzed it based on the Authority boundary map and color-coded properties based on criteria that he established.

Manager Myers explained the different categories that he established. Manager Myers noted that the Authority's present official boundary is its original boundary, because the revised boundary suggested by Ayres Associates when they conducted a boundary study in (2010?) was not accepted by Larimer County. Manager Myers then explained the categories of property he isolated based on his analysis of the 375 and the previous boundary study. These were stipulated by color code as follows:

1. Yellow: Properties that are within the Authority's present boundary as well as the revised boundary.
2. Orange: Properties that are within the present boundary but drain away from Boxelder Creek (outside the revised boundary).
3. Blue: Properties that are within the present and revised boundaries, but drain to reservoirs which have adequate storage capacity allowing all areas draining into them to outfall at a two-year historic rate or less.
4. Red: Properties inside the present boundary that drain to a sump area which has no outfall to Boxelder Creek.
5. Green: Properties outside both the present and revised boundaries.
6. Purple: Properties which are outside the present boundary but inside the revised boundary.

Some properties are designated as half one color and half another color, meaning the property is bisected by a line which divides two categories.

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Mr. Sutherland arrived halfway through Manager Myers' explanation of the categories, and commented that he was present only to listen to the proceedings and did not have any comments.

Manager Myers commented that since the Authority does not have the ability to assess fees on properties that are outside of its present boundary, and since did not decide to change the boundary, Manager Myers asked for Board direction primarily on whether the Authority should start to bill the properties coded in yellow. Manager Myers also commented that billing the yellow properties would result in collecting approximately an additional \$5,700 a year in fees.

The Board conducted a general discussion about the property categories, the properties within the categories, the present and revised boundary lines, and the history of the fee credits granted by the Authority.

Ms. Andrea Faucett of Ayres Associates arrived at this time to provide further information to the Board about the property categorizations and the revised boundary study that was conducted under her tenure.

The Board continued its discussion of the list of properties that are not currently paying fees. Director Sampley noted that basing the determination of fee-paying properties on whether or not they drain into Boxelder Creek may be flawed, since all of the properties in the area will likely benefit from flood mitigation efforts; however, Director Sampley acknowledged that the First Amendment to the IGA states that the member entities currently wish for the Authority to consider whether properties drain into Boxelder Creek.

After further discussion, the Board directed Manager Myers and staff to bill the properties coded in yellow, and to bill the properties partially coded in yellow for 50% of the fee. The Board directed Manager Myers and staff not to bill the properties coded in orange, blue, red, green, or purple at this time.

Ms. Faucett left the meeting at this time.

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### LEGAL ITEMS

Director Reed moved to go into Executive Session in compliance with requisite statutory procedures under the Colorado Executive Session Laws, for the Board to discuss a strategy relative to negotiations, pursuant to C.R.S. § 24-6-402(4)(a) (except where a member of the governing body has a personal interest in the transaction) and (e). Director Tucker seconded, and upon vote, it was unanimously

## RECORD OF PROCEEDINGS

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**RESOLVED** to convene an Executive Session, pursuant to C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers reported: "It is November 10, 2015, and the time is 4:40 p.m. I am the Manager for Boxelder Basin Regional Stormwater Authority. As required by the Colorado Open Meetings Law, this Executive Session of the Boxelder Basin Regional Stormwater Authority is being recorded."

Present at the Executive Session: Director Ken Sampley, Director Vic Meline, Director Lee Tucker, Director George Reed, Director Richard Seaworth, Greg White, Chris Pletcher, Lindsey Dowswell, and Manager Stan Myers.

This Executive Session is for the following purposes: C.R.S. 24-6-402(4)(a), concerning the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest and C.R.S. 24-6-402(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers cautioned each participant to confine all discussion to the stated purpose of the Executive Session and stated that no formal action may be taken during Executive Session, and if at any point any participant believes the discussion is going outside of the proper scope of the Executive Session, please interrupt the discussion and make an objection. The Board President will close the Executive Session by saying the time and returning to the regular meeting.

The Executive Session concluded at 5:05 p.m.

All who were present at the beginning of the Executive Session were present at the adjournment of the Executive Session.

The Board reconvened in regular session at 5:05 p.m.

MOUNTAIN  
VISTA GOLF  
COURSE  
SCHEDULING

Manager Myers commented that he has received the direction he needed to pursue resolution of this issue, and no action from the Board is currently necessary.

## RECORD OF PROCEEDINGS

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EINARSEN  
STAGING AREA

Manager Myers noted that this issue has been resolved, and no longer needs to be discussed.

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DIRECTOR  
COMMENTS

There were no items brought before the Board for consideration.

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ADJOURNMENT

There being no further business to come before the Board, and upon motion duly made by Director Reed, seconded by Director Tucker, and upon unanimous vote, the meeting was adjourned at 5:06 p.m.

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The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Respectfully submitted,



Lindsey S. Dowswell, Recording Secretary for the Meeting



## RECORD OF PROCEEDINGS

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3. Director Sampley has not yet been able to set a time to view the inlet canal repair with Director Tucker. This will be attempted again in the next month.
4. As the Board directed, Chris Pletcher of Ayres Associates sent Day soils documentation to Attorney Murray, who forwarded it to the Day's attorney Tim Goddard.

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Manager Myers updated the Board on items discussed in the previous meeting:

5. Attorney White determined that there is no statutory requirement to send separate monthly billings to increase the late fee by 5% each month, up to 25%. The 5% per month increase must be stated on the first bill.
6. Judge Kaup denied Eric Sutherland's Motion to Intervene.
7. Director Sampley has not yet been able to set a time to view the inlet canal repair with Director Tucker. This will be attempted again in the next month.
8. As the Board directed, Chris Pletcher of Ayres Associates sent Day soils documentation to Attorney Murray, who forwarded it to the Day's attorney Tim Goddard.

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### APPROVAL OF MINUTES

The minutes of the October 28, 2015 regular meeting and the November 10, 2015 special meeting were presented for the Board's consideration and approval.

Director Seaworth asked Mr. Campbell about the current status of Larimer County's delinquent fees, and Mr. Campbell responded that he will discuss the delinquent fees in the financial report.

Director Seaworth asked if a determination had been made regarding how impervious surface will be calculated on agricultural properties. Mark Peterson of Larimer County addressed the Board and explained that per Board of County Commissioner instructions, Larimer County has been treating agricultural properties like residential properties for fee billing purposes. Mr. Peterson noted that photo documentation of the non-agricultural commercial properties has been digitized. Director Sampley asked if the agricultural properties have been billed at tiered fixed rates, and Mr. Peterson responded that they have been billed at tiered rates between \$60-\$97.

Director Seaworth noted that it will be a significant task to document and digitize the impervious surface on the agricultural properties. Manager Myers

## RECORD OF PROCEEDINGS

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agreed, and noted that Pinnacle's did not include this task in its quote for taking over Larimer County's billing in 2016. Director Tucker suggested that Larimer County should be responsible for paying Pinnacle to determine the impervious surface, since it is part of the requirements of turning their billing over to Pinnacle. The Board agreed to discuss this issue further in a work session.

Following review, and upon motion duly made by Director Reed, seconded by Director Meline, and upon unanimous vote, it was

**RESOLVED** to approve the October 28, 2015 regular meeting minutes, as presented.

Director Reed asked staff to add language on page 3 of the November 10, 2015 minutes to clarify that "billing the yellow properties would result in collecting approximately *an additional* \$5,700 a year in fees." Director Seaworth asked staff to add language on page 3 of the minutes to explain that "Properties coded in orange, blue, red, green, and purple will not be billed at this time."

Director Meline asked Manager Myers if the yellow properties had been updated to correctly reflect the designations of properties in the Adriel Hills area. Manager Myers responded that he had updated the properties designated yellow, which now total around 78 properties, based on the conversation he had with Andrea Faucett about the revised property map.

Following review, upon motion duly made by Director Reed, seconded by Director Meline, and upon vote, with Directors Sampley and Seaworth voting "Yes" and Director Tucker voting "No," it was

**RESOLVED** to approve the November 10, 2015 special meeting minutes, as amended.

PUBLIC  
COMMENT

There were no public comments.

ITEMS FROM THE  
FINANCE  
DIRECTOR

Financial Report: Mr. Campbell reviewed the financial report and answered questions. Mr. Campbell noted that Larimer County currently has approximately \$36,000 in delinquent fees.

Director Seaworth asked for clarification about the classification of Right of Way ("ROW") costs as "direct" or "indirect." Mr. Campbell explained that

## RECORD OF PROCEEDINGS

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the ROW costs are the costs required to acquire the properties needed to complete the Authority's projects. Direct ROW costs are construction costs, while indirect ROW costs include site inspection, engineering resident services, contract management, appraisal, and legal costs. Director Seaworth asked why the 2015 budget for ROW costs is larger than what has been spent so far this year, and Mr. Campbell responded that this is largely a timing issue related to when projected costs have been incurred.

Update of Draft Fee Assessment Collection Policy and Procedure: Mr. Campbell reviewed with the Board the updated Draft Fee Assessment Collection Policy and Procedure, noting that Item #5 on page 1 had been updated to reflect the Board's direction that the late fee should be the greater of \$15 or 5% per month up to 25%, and that Item #2 on page 2 had been updated to clarify that impervious area is only calculated for non-residential properties.

Director Seaworth asked for clarification of Item #9 on page 2, which discusses System Development Fee credits. Manager Myers explained that any property that is non-tributary to Boxelder Creek consequently is not assessed a system development fee.

Director Sampley asked if the March 15 service fee payment deadline in Item #5 on page 1 and March 15 system development fee payment deadline in Item #11 on page 2 are intended to apply to the member entities as well. Director Seaworth commented that he believes setting such a deadline for the member entities would constitute a change to the IGA. Attorney White commented that a change in the IGA would be required prior to assessing delinquency fees on the Members if they did not pay by March 15. Attorney White noted that the IGA states that a Member's payment shall be made no later than the date upon which payments by property owners would have been due if billed directly by the Authority. The March 15 date establishes a due date for property owners' payments to the Authority.

Director Seaworth requested that the next draft of the policy clarify that delinquency fees do not apply to Members.

The Board agreed to discuss the issues related to fee assessment and collection in more detail at a work session, which was tentatively scheduled for Wednesday, December 9, at 3:00 pm at the offices of Ayres Associates in Fort Collins.

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### ENGINEERING MATTERS

LWCCS: Mr. Pletcher reported that mobilization for this project is scheduled to begin on Monday, and the pre-construction meeting is scheduled for



## RECORD OF PROCEEDINGS

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Wednesday. Mr. Pletcher also noted that the Xcel vertical pole relocation has been completed, and that an agreement with Mr. Einarsen to use a portion of his property for project staging is in place.

ESDF: Mr. Pletcher reported that this project has struggled with delays due to wet weather and resulting mud, but significant progress has been made on recovering lost time. Dietzler is working as hard as possible while the weather conditions are favorable.

CR52: Mr. Pletcher reported that the golf course fairway is complete, and the Anheuser-Busch forcemain is installed. With regard to the water line that needed to be relocated, ELCO was very cooperative and coordinated with Dietzler in order to minimize the service interruption to the Iodence property to 45 minutes. The Iodence residence owners were informed in advance of the brief interruption, and no further outages are expected. Director Seaworth asked if ELCO should be required to pay for the cost of the relocation since their line was in a Larimer County right-of-way. Mr. Peterson confirmed that the line was located in the County right-of-way. Mr. Pletcher responded that he will follow up on this issue and report back.

Change Orders #1-9: Mr. Pletcher reviewed the purpose and cost of each of the nine change orders that the Board is being asked to ratify.

- Change Order #1: Due to a differing site condition, overexcavation of five feet of claystone bedrock is required. Cost - \$145,818.00.
- Change Order #2: Abandoning of the dewatering for the overexcavation. Cost - \$20,821.00.
- Change Order #3: The CR52 box culvert alignment was straightened, simplifying the design. Cost savings - \$17,179.51.
- Change Order #4: An embankment was revised by steepening the sides and moving it west in order to gain more natural elevation. The State Engineer approved this change. Cost savings - \$73,442.43.
- Change Order #5: Due to a design change, inlet wingwalls (and overexcavation for them) are no longer required for the CR50 box culvert. Cost savings - \$16,433.49.
- Change Order #6: Due to a design change, outlet wingwalls are also no longer required for the CR50 box culvert. Some matrix riprap was added. Cost savings - \$30,718.69.
- Change Order #7: Based on site conditions, it was determined that the groundwater cutoff wall was not needed. Cost savings - \$16,878.87.
- Change Order #8: This change order documents weather delays to the project, which will be documented in monthly change orders

## RECORD OF PROCEEDINGS

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when applicable. There is no cost associated with this change order.

- Change Order #9: Less sod than expected was needed for the golf course. Total cost savings are around \$35,000, but approximately \$23,000 of those savings have been reserved to offset costs that may be incurred later in the project. Current cost savings - \$11,986.01.

Mr. Pletcher noted that a potential change order #10 has been discussed with Dietzler, but has not yet been received or vetted by Ayres and project staff.

### CAPITAL MATTERS

Ratify Change Orders #1-9: Ms. Starman reviewed the ESDF-CR52 capital pay summary with the Board, noting how Change Orders #1-9 have impacted project costs. Ms. Starman noted that the ESDF project is currently \$74,715.88 over budget, but cost savings have been realized to keep the project within the original Dietzler contract amount. Manager Myers noted that some of the additional non-Dietzler project costs anticipated are the result of the lengthening of the construction timeline. Additional costs from the value engineering done by Ayres Associates and Brierley are also expected, but have not been received or vetted.

Director Seaworth expressed concern about the Authority having outstanding expenses for value engineering that have not been paid, and asked why those costs have not been billed. Mr. Pletcher responded that Ayres and Brierley cannot bill their value engineering costs until the Board has approved the change orders related to the value engineering, and noted that Ayres will bill their value engineering expenses within 30 days of the change orders' approval. Mr. Pletcher also noted that the Authority is not obligated to pay for the value engineering until it has approved the change orders, so both Ayres and Brierley chose to complete their value engineering at risk.

Manager Myers commented that additional Brierley costs related to the lengthening of the construction timeline are expected, and Ms. Starman noted that she hopes to provide the Board with a revised cost estimate from Brierley for their continued services through the end of construction at the December 21 Board meeting.

Following further review and discussion, and upon motion duly made by Director Reed, seconded by Director Meline, and upon unanimous vote, it was

**RESOLVED** to ratify Change Orders #1-9, as presented.

## RECORD OF PROCEEDINGS

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Additional Services – Phelps Atkinson: Ms. Starman presented an additional services request from Phelps Atkinson, noting that, due in part to extended conversations with the O'Dells, Phelps Atkinson is requesting that \$1,900 (totaling \$2,100 with expenses) be added to their contract amount. Director Tucker requested that Phelps Atkinson revise their additional services request to refer to the Authority as an "Authority," not a "District." Ms. Starman responded that she would request that change from Phelps Atkinson. Director Sampley commented that the additional amount seems reasonable since Phelps Atkinson was very helpful in communicating with the O'Dells.

Following further review and discussion, and upon motion duly made by Director Reed, seconded by Director Meline, and upon unanimous vote, it was

**RESOLVED** to approve the additional services request from Phelps Atkinson in an amount not to exceed \$2,100, including expenses.

ITEMS FROM  
AUTHORITY  
MANAGER

Manager's Report: Manager Myers presented the Manager's Report for November.

Authority Joint Entity Meeting: Manager Myers summarized the meeting, noting that it went well.

Response to Mr. Sutherland's Motion to Intervene: Manager Myers noted that Judge Kaup denied Mr. Sutherland's motion on November 20.

Fee Credit Research: Manager Myers noted that this issue will be discussed further at the work session tentatively scheduled for December 9 at 3:00 pm at Ayres Associates.

Mountain Vista Golf Course Settlement: Manager Myers reported that this agreement is close to being finalized.

North Poudre Irrigation Invoice: Manager Myers commented that this issue will be tabled for now, pending further information. Director Sampley noted that he will set up a time to look at the inlet canal soon. Director Seaworth commented that he had heard a different message from Scott Hummer of North Poudre Irrigation regarding whether he expects the invoice to be paid than the message Manager Myers reported hearing from Mr. Hummer. Director Seaworth requested that Manager Myers speak with Mr. Hummer again in order to clarify, and Manager Myers responded that he would do so.

## RECORD OF PROCEEDINGS

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### CONSIDERATION OF PAYABLES

Approval of Payables: Mr. Campbell presented for consideration and approval of the Schedule of General Payables dated November 17, 2015, in the amount of \$16,090.53, including checks numbered 1302 through 1303; the Schedule of Capital – ESDF Payables dated November 17, 2015, in the amount of \$1,324,070.58, including check numbers 1304 through 1309; the Schedule of Capital – CR52 Payables dated November 17, 2015, in the amount of \$164,534.92, including check numbers 1310 through 1313; and the Schedule of Capital – LWCCS Payables dated November 17, 2015, in the amount of \$3,518.25, including checks numbered 1314 through 1315.

Following further discussion and review, upon motion duly made by Director Meline, seconded by Director Reed, and upon unanimous vote, it was

**RESOLVED** to approve the November 17, 2015 Schedule of General Payables, in the amount of \$16,090.53; the November 17, 2015 Schedule of Capital – ESDF Payables, in the amount of \$1,324,070.58; the November 17, 2015 Schedule of Capital – CR52 Payables, in the amount of \$164,534.92; and the November 17, 2015 Schedule of Capital – LWCCS Payables, in the amount of \$3,518.25, including all of the check numbers listed above. The invoices approved are as follows:

- General
  - Gregory A. White, Attorney – \$1,125.00
  - Pinnacle Consulting Group, Inc. – \$14,965.53
- ESDF
  - Ayres Associates Inc. – \$43,531.48
  - Brierley Associates – \$41,144.01
  - Dietzler Construction Corp. – \$1,229,194.55
  - Gregory A. White, Attorney – \$450.00
  - Murray Dahl Kuechenmeister & Renaud LLP – \$6,247.14
  - Pinnacle Consulting Group, Inc. – \$3,503.40
- CR52
  - Ayres Associates – \$720.00
  - Dietzler Construction Corp. – \$159,379.15
  - Phelps Atkinson – \$3,559.92
  - Pinnacle Consulting Group, Inc. – \$875.85
- LWCCS
  - Ayres Associates – \$2,825.00
  - Pinnacle Consulting Group, Inc. – \$693.25

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### LEGAL MATTERS

There were no legal matters brought before the Board.

Manager Myers noted that a resolution has been reached with regard to the

## RECORD OF PROCEEDINGS

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Day Recreational Parcels.

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OTHER MATTERS Directors Comments: Director Meline asked for clarification regarding why some Board meetings are designated “Special” meetings rather than “Regular” meetings. Manager Myers responded that a meeting is determined to be “Special” whenever the meeting date, time, and/or location deviates from the meeting dates, times, and locations listed in the Annual Administrative Resolution.

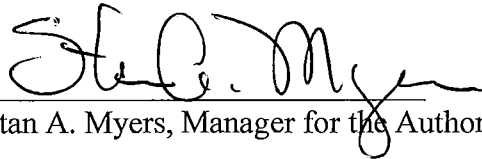
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ADJOURNMENT There being no further business to come before the Board, and upon motion duly made by Director Tucker, seconded by Director Meline, and upon unanimous vote, the meeting was adjourned at 5:54 p.m.

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The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Respectfully submitted,



Stan A. Myers, Manager for the Authority

# RECORD OF PROCEEDINGS

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## MINUTES OF THE SPECIAL MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD  
December 10, 2015

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a special meeting, open to the public, at Ayres Associates, 3665 John F. Kennedy Parkway, Fort Collins, at 2:00 p.m. on Thursday, December 10, 2015. Notice of the Meeting was duly posted.

ATTENDANCE:      Directors in Attendance:  
Ken Sampley, President  
Vic Meline, Treasurer  
George Reed, Secretary  
Lee Tucker, Director  
Richard Seaworth, Director (via teleconference)

Also in Attendance:  
Stan Myers, Kirsten Starman, and Lindsey Dowswell; Pinnacle Consulting Group, Inc.  
Greg White; Authority Legal Counsel  
Chris Pletcher; Ayres Associates  
Phil Ebersole, Edge Sports Center  
Steve Stoecker, CBRE  
Tim Singewald, Town of Wellington Trustee  
Eric Sutherland

CALL TO ORDER                      The Meeting was called to order at 2:04 p.m. by Director Sampley, President, noting that a quorum was present with five of five Board members in attendance.

AGENDA                      The Board reviewed the agenda. Attorney White noted that the change orders that will be discussed are not yet ready to be considered for approval. Following further review, upon motion duly made by Director Meline, seconded by Director Tucker and, upon unanimous vote, it was

**RESOLVED** to approve the agenda, as presented.

PUBLIC COMMENT                      Phil Ebersole, owner of Edge Sports, addressed the Board. Mr. Ebersole explained that he owns property within the current flood plain for which he has an interested buyer. However, the buyer, an auto shop which needs a

## RECORD OF PROCEEDINGS

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toxic materials permit, cannot obtain such permit until the property is removed from the flood plain. Mr. Ebersole asked the Board for information about the timeline on which his property could be expected to be removed from the flood plain. He specifically requested that, if possible, the Authority should submit a partial application to FEMA to revise the flood plain for the properties above Boxelder Creek's crossing under Interstate 25 when they are eligible, instead of waiting to submit all of the properties at once.

Director Sampley thanked Mr. Ebersole for his comment, and instructed Manager Myers to follow up with him about his request. Director Sampley asked Mr. Pletcher of Ayres Associates to comment on the current planned timeline for the FEMA application submittal, and Mr. Pletcher responded that the plan is to submit the complete LOMR application in August 2016, with a response expected by the end of 2016.

Eric Sutherland addressed the Board. Mr. Sutherland commented that in his opinion, the Authority's IGA does not allow the Authority to obligate the Timnath Development Authority ("TDA") to use their revenues for Authority project costs. Mr. Sutherland noted that in his opinion Timnath does not have revenue available to contribute to Authority project costs, and if the Authority requires the TDA to pay toward project costs it will unlawfully put Timnath in debt for 15 years. Mr. Sutherland expressed his opinion that Larimer County decided to turn their fee collection over to the Authority because they knew the fee was assessed illegally, and he noted that he believes Larimer County fee payers will be able to get their money back, especially since the County has a surplus this year. Finally, Mr. Sutherland criticized the legal basis of the Authority's actions and the Authority's legal counsel.

Director Sampley thanked Mr. Sutherland for his comment, and informed him that he had used his allotted three minutes. Mr. Sutherland left the meeting at this time.

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ESDF AND CR52  
DIETZLER  
CHANGE ORDERS

Ms. Starman briefly summarized for the Board the most recent Dietzler Construction Corp. change orders for ESDF/CR52:

- Change Order #10: work related to the ELCO waterline lowering
- Change Order #11: work related to the County Road 52 road detour
- Change Order #12: weather delays in November
- Change Order #13: work related to the abandonment of dewatering for the County Road 50 box culvert overexcavation

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LEGAL ITEMS

Director Reed moved to go into Executive Session in compliance with

## RECORD OF PROCEEDINGS

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requisite statutory procedures under the Colorado Executive Session Laws, for the Board to receive legal advice on specific legal questions and discuss a strategy relative to negotiations, pursuant to C.R.S. § 24-6-402(4)(b) and (e). Director Meline seconded, and upon vote, it was unanimously

**RESOLVED** to convene an Executive Session, pursuant to C.R.S. 24-6-402(4)(b), conferences with an attorney for the public entity for purposes of receiving legal advice on specific legal questions, and C.R.S. 24-6-402(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers reported: "It is December 10, 2015, and the time is 2:23 p.m. I am the Manager for Boxelder Basin Regional Stormwater Authority. As required by the Colorado Open Meetings Law, this Executive Session of the Boxelder Basin Regional Stormwater Authority is being recorded."

Present at the Executive Session: Director Ken Sampley, Director Vic Meline, Director Lee Tucker, Director George Reed, Director Richard Seaworth (via teleconference), Greg White, Chris Pletcher, Kirsten Starman, Lindsey Dowswell, and Manager Stan Myers.

This Executive Session is for the following purposes: C.R.S. 24-6-402(4)(b), conferences with an attorney for the public entity for purposes of receiving legal advice on specific legal questions, and C.R.S. 24-6-402(4)(e), determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Manager Myers cautioned each participant to confine all discussion to the stated purpose of the Executive Session and stated that no formal action may be taken during Executive Session, and if at any point any participant believes the discussion is going outside of the proper scope of the Executive Session, please interrupt the discussion and make an objection. The Board President will close the Executive Session by saying the time and returning to the regular meeting.

The Executive Session concluded at 3:47 p.m.

All who were present at the beginning of the Executive Session were present at the adjournment of the Executive Session. The Board adjourned for a short recess.

The Board reconvened in regular session at 3:54 p.m.



## RECORD OF PROCEEDINGS

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Mr. Pletcher left the meeting at this time.

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LARIMER  
COUNTY  
BILLING OF  
AGRICULTURAL  
PROPERTIES

Manager Myers presented additional research he compiled related to the issue of equitable billing of Larimer County agricultural properties.

1. Manager Myers noted that about 30 properties had been added to the eligible billing list due to a boundary correction in the Adriel Hills area. Director Seaworth asked Director Meline, who is an affected property owner in the Adriel Hills area, if he is comfortable with the boundary correction and its consequences, and Director Meline responded affirmatively.
2. Manager Myers reviewed with the Board a letter that was distributed to Larimer County fee payers along with the fee billings that were sent in April 2015. The letter notes that agricultural properties will be treated as Single Family Residential properties if they are used as residences. Director Seaworth and Director Sampley expressed concern about the fairness of treating agricultural properties as residential even if they are used for business purposes. Manager Myers noted that while this is a concern, it would be difficult to change the billing policy for the coming year since this letter to the fee payers already committed to assessing agricultural properties in a specific way.
3. Manager Myers presented several case studies of properties in the Authority's boundaries that illustrate the difficulty of determining the proper fee assessment amount using only aerial photographs of the visible buildings and impervious area.

The Board conducted a general discussion about potential methods for assessing fees equitably on residential, commercial, and agricultural properties, the feasibility and possible timing of changing the fee structure, the history of the Authority's fee assessment, and a future appeals process for fee payers. After this discussion, the Board directed Manager Myers and staff to bill the Larimer County properties in the manner described in the letter to fee payers for the 2015 fees. The Board agreed to further investigate and address the fee structure in 2016.

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UPDATED  
RESOLUTION  
ESTABLISHING  
FEE

Attorney White reviewed with the Board an updated draft of the Resolution Establishing Fee Assessment and Collection Policy, noting that the new draft incorporates some of Director Reed's comments as well as the Board's desired language clarifying that delinquent fees do not apply to the Member

## RECORD OF PROCEEDINGS

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ASSESSMENT  
AND  
COLLECTION  
POLICY

Entities, per the IGA. Attorney White asked the Board members to review the language regarding the information requested from the Member Entities to assist with efficient billing, and to offer their comments on that language at the next Board meeting. Manager Myers noted that the Board will be asked to vote on a final version of the Resolution at the next Board meeting.

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DIRECTOR  
COMMENTS

Director Seaworth commented that he is disappointed that staff and the engineering team did not know in advance that ELCO should have been required to cover the costs of relocating their water line.

Director Seaworth also noted that he is concerned that the engineering team may be in danger of getting hurt if they insist on inspecting the construction site when the contractor says it is unsafe. Director Sampley commented that he is worried about the contractor using safety concerns to avoid inspections by the engineering team. Manager Myers commented that the engineering team knows how to stay safe on a construction site.

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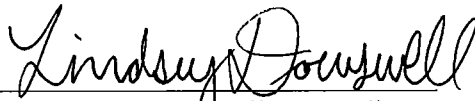
ADJOURNMENT

There being no further business to come before the Board, and upon motion duly made by Director Tucker, seconded by Director Reed, and upon unanimous vote, the meeting was adjourned at 4:55 p.m.

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The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Respectfully submitted,



Lindsey S. Dowswell, Recording Secretary for the Meeting

# RECORD OF PROCEEDINGS

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## MINUTES OF THE SPECIAL MEETING OF BOXELDER BASIN REGIONAL STORMWATER AUTHORITY

HELD  
December 21, 2015

The Board of Directors of the Boxelder Basin Regional Stormwater Authority held a special meeting, open to the public, at the Leeper Center, 3800 Wilson Avenue at 4:00 p.m. on Monday, December 21, 2015. Notice of the Meeting was duly posted.

ATTENDANCE:      Directors in Attendance:  
Ken Sampley, President  
Vic Meline, Treasurer  
George Reed, Secretary  
Lee Tucker, Director  
Richard Seaworth, Director (via telephone)

Also in Attendance:  
Stan Myers, Brendan Campbell, Jason Woolard, and Lindsey Dowswell;  
Pinnacle Consulting Group, Inc.  
Chris Pletcher; Ayres Associates  
Greg White; Authority Legal Counsel  
Mark Peterson; Larimer County  
Tim Singewald, Town of Wellington Trustee  
Don Taranto, TST Consulting, Town of Timnath

CALL TO ORDER                      The Meeting was called to order at 4:02 p.m. by Director Sampley, President, noting that a quorum was present with five Board members in attendance.

AGENDA                      The Board reviewed the agenda. Manager Myers asked the Board to amend the agenda to move Item V. E., Consideration of Payables, to Item IV. C. Following review and discussion, upon motion duly made by Director Meline, seconded by Director Tucker and, upon unanimous vote, it was

**RESOLVED** to approve the agenda, as amended.

## RECORD OF PROCEEDINGS

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FOLLOW-UP  
ITEMS FROM  
PREVIOUS  
MINUTES

Manager Myers noted that updates on items from the previous meeting will be addressed in the Manager's Report.

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APPROVAL OF  
MINUTES

The minutes of the November 23, 2015 special meeting were presented for the Board's consideration and approval. Following review, and upon motion duly made by Director Reed, seconded by Director Meline, and upon a 4-1 vote, with Directors Reed, Meline, Seaworth, and Sampley voting "Yes," and Director Tucker voting "No," it was

**RESOLVED** to approve the November 23, 2015 special meeting minutes, as presented.

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2016 MEETING  
SCHEDULE

Manager Myers reviewed with the Board the proposed 2016 Meeting Schedule. Manager Myers noted that after the expected completion of construction in April, the Board may consider meeting every other month and cancelling some of the meetings scheduled for later in the year. Director Tucker noted that he plans to resign before his term expires.

After further review and discussion, and upon motion duly made by Director Reed, seconded by Director Meline and, upon a 4-0 vote, with Directors Reed, Meline, Seaworth, and Sampley voting "Yes," and Director Tucker abstaining, it was

**RESOLVED** to approve the 2016 Meeting Schedule as presented, subject to the availability of the Leeper Center.

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PUBLIC  
COMMENT

There were no public comments.

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ITEMS FROM THE  
FINANCE  
DIRECTOR

Financial Report: Mr. Campbell reviewed the financial report and answered questions.

Director Tucker asked for confirmation that approximately \$4.5 million of the loan had been drawn so far, and Mr. Campbell answered affirmatively. Director Tucker asked why Timnath had not paid 25% of the \$4.5 million. Mr. Campbell explained that Timnath is currently paying 25% of the 10% loan match that the Authority is paying, and then Timnath will pay 25% of the loan repayment costs.

## RECORD OF PROCEEDINGS

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Consideration of Final Fee Assessment Collection Policy and Procedure: Mr. Campbell presented an updated version of the Fee Assessment and Collection Policy and Procedure to the Board.

Director Reed commented that he would like to add language to the note after Item #10 clarifying that the information the Authority is requesting from the Member Entities is intended to facilitate an accurate and cost-effective billing process. Director Reed also asked staff to look into the retention policy for such information obtained from the Member Entities. Attorney White suggested adding the following language to the end of the second sentence of the note after Item #10: “for cost-effective and accurate assessment of properties within the service area.”

Director Seaworth noted his concern that designating agricultural properties simply as “non-residential” and charging them commercial rates is unfair and not equitable. Director Sampley clarified that this Fee Assessment and Collection Policy does not modify the current fee structure, and does not prevent the Board from revisiting and adjusting the fee structure in 2016, if the Board should decide to do so.

The Board further discussed the items of information requested from the Member Entities in the note after Item #10. Director Sampley noted that the intent of listing the items of information requested was to clarify what the Authority would like to see from each Entity, but that if listing the items is more confusing, the list could be removed from the Fee Assessment Collection Policy and Procedure.

Director Reed noted that he is comfortable with the Fee Assessment Collection Policy and Procedure as it is written, with the addition of Attorney White’s language clarifying the purpose of the Authority’s request for information.

Upon motion duly made by Director Reed, seconded by Director Meline and, upon vote, with Directors Reed and Meline voting “Yes,” and Directors Tucker, Sampley, and Seaworth voting “No,” the motion to approve the Fee Assessment Collection Policy and Procedure with the addition of Attorney White’s language in the note after Item #10 failed.

Director Sampley proposed that the note after Item #10, including the paragraph beginning “While not required by the IGA...” and the subsequent list a) through e) be removed in its entirety from the Fee Assessment Collection Policy and Procedure.

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Upon motion duly made by Director Reed, seconded by Director Sampley, and upon a 3-2 vote, with Directors Reed, Sampley, and Meline voting "Yes," and Directors Tucker and Seaworth voting "No," it was

**RESOLVED** to approve the Fee Assessment Collection Policy and Procedure, subject to the removal of the note after Item #10.

### ENGINEERING MATTERS

LWCCS: Mr. Pletcher reported that Crossfire LLC has begun work on this project, including ditch cleaning and starting to clean the Boxelder Creek siphon. Mr. Pletcher commented that Crossfire is making private contacts for access and staging for the (south side of the?) project, and that the Einarsen property will still be used for staging on the north side of the project. Mr. Pletcher noted that Crossfire project manager Jared Garden has been replaced with project manager Robert Ramirez, but the change will have no impact on the project. Mr. Pletcher informed the Board that Crossfire is expected to submit their first application for payment at the end of the month. Mr. Pletcher also noted that there have been two weather delays on the project due to snow. Director Seaworth asked if the weather delays will affect the project completion date, and Mr. Pletcher responded that the project is still on target for the expected completion date at this time. Director Seaworth noted that the project site is an important agricultural area, and it is very important for the project to be finished on time.

ESDF: Mr. Pletcher reported that Dietzler has changed their on-site staff leadership for the third time. Due to further weather delays and challenges with getting dry material, the project schedule has been adjusted.

CR52: Mr. Pletcher reported that County Road 52 was paved on Sunday. Dietzler worked with Erich Purchell at Larimer County in order to bring in classified dry material. One area will need to be repaired near the ELCO line. Mr. Pletcher commented that the road is expected to open in mid-January once the golf course headwalls are complete. Mr. Pletcher also noted that dewatering at the CR50 box culvert overexcavation has been fully abandoned. Mr. Pletcher reported that Dietzler brought in their own geotechnical consultants to conduct off-the-record tests that will provide useful guidance to their compaction effort in building the embankments.

Mr. Pletcher noted that due to Dietzler schedule changes, Ayres and Brierley are spending more days on-site than originally anticipated. The need for additional on-site time is expected to continue into the spring. Mr. Pletcher commented that continuing to monitor the contractor on site as much as possible is advisable, since it offers the best protection for the Authority. Mr. Pletcher informed the Board that Ayres and Brierley will likely bring Change

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Orders to the next Board meeting to cover the extra monitoring effort.

Change Orders #10 and #12: Mr. Pletcher reviewed the purpose and cost of each of the two change orders that the Board is being asked to ratify.

- Change Order #10: costs related to the CR52 ELCO water line lowering.
- Change Order #12: 8 days of weather delay, which revise the date of substantial completion to April 20 and the date of final completion to May 20.

Mr. Pletcher noted that Change Order #11, requesting compensation for CR52 detour work, and Change Order #13, requesting additional compensation for CR52 dewatering, were not accepted.

Director Sampley asked if the contractor is liable for additional contractor fees caused by construction inefficiencies. Mr. Woolard responded that such liability is not built into the lump sum contract that was signed with Dietzler. Director Sampley asked if the weather delays were legitimate, considering the weather has not been unusual for the season. Mr. Pletcher responded that the weather delays that have been approved by Ayres were determined to be legitimate delays.

Don Taranto of TST and the Town of Timnath addressed the Board, and asked if the contractor is subject to any penalties for schedule delays. Mr. Woolard commented that there is no liquidated damages clause in the lump sum contract. Mr. Taranto asked the purpose of the weather delay Change Orders, and Mr. Woolard responded that the Change Orders serve to track the weather delays and adjust the contractual completion date. Mr. Woolard noted that productivity on days worked is a more pressing issue than weather delays. Mr. Pletcher commented that the contractor is contractually obligated to meet the contract completion date, but that there is no financial penalty if they do not. Mr. Woolard noted that the reduction in profits that would result from having to continue work past the contract completion date serves as a financial penalty for the contractor.

Ayres Work Order #27: Mr. Pletcher reviewed Ayres Work Order #27, Value Engineering, which the Board will be asked to approve. Mr. Pletcher reminded the Board that the Work Order is for Ayres' contribution to the value engineering work, which ultimately resulted in approximately \$395,000 in savings for the ESDF/CR52 projects. Director Sampley asked if the Work Order covers all of Ayres' value engineering to date, and Mr. Pletcher responded affirmatively, noting that Ayres does not expect any more value engineering to occur on the projects.

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### CAPITAL MATTERS

Ratify Change Orders #10 and #12: Mr. Woolard reviewed Change Orders #10 and #12 with the Board.

Director Seaworth asked who from Larimer County is signing off on the CR52 detour. Mark Peterson of Larimer County addressed the Board, commenting that the CR52 detour work was done under permit. Director Seaworth expressed his concern that Larimer County might decide at a later time that the asphalt has to be redone. Mr. Woolard commented that the asphalt will be inspected when substantial completion is requested, and Dietzler's work is subject to a two-year warranty after completion. Mr. Pletcher noted that conditions for properly laying the asphalt were met, and any necessary corrections will have to be made before the work is accepted.

Following further review and discussion, and upon motion duly made by Director Reed, seconded by Director Meline, and upon 4-1 vote, with Directors Reed, Meline, Sampley, and Seaworth voting "Yes," and Director Tucker voting "No," it was

**RESOLVED** to ratify Change Orders #10 and #12, as presented.

Additional Services – Ayres Associates: Mr. Woolard presented Ayres Work Order #27, requesting \$9,781.00 for value engineering, to the Board. Following review and discussion, and upon motion duly made by Director Sampley, seconded by Director Reed, and upon unanimous vote, it was

**RESOLVED** to approve Ayres Work Order #27, as presented.

Mr. Woolard noted that Pinnacle will be submitting a revised expectation of the remaining work required to manage the ESDF/CR52 project, based on Dietzler's performance and schedule changes.

### CONSIDERATION OF PAYABLES

Approval of Payables: Mr. Campbell presented for consideration and approval the Schedule of General Payables dated December 16, 2015, in the amount of \$17,488.43, including checks numbered 1317 through 1318.

Following further discussion and review, upon motion duly made by Director Meline, seconded by Director Reed, and upon unanimous vote, it was

**RESOLVED** to approve the December 16, 2015 Schedule of General Payables, in the amount of \$17,488.43, including the check numbers listed above. The invoices approved are as follows:



## RECORD OF PROCEEDINGS

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- Gregory A. White, Attorney – \$1,710.00
- Pinnacle Consulting Group, Inc. – \$15,778.43

Mr. Campbell presented for consideration and approval the Schedule of Capital – ESDF Payables dated December 16, 2015, in the amount of \$404,385.18, including check number 1316 (payment to the Larimer County District Court for the Day Recreational Parcel settlement), and check numbers 1319 through 1325.

Director Seaworth asked if ESDF and CR52 costs could be separated more clearly on Brierley Associates and Dietzler Construction Corp. invoices, and Mr. Woolard responded that he would address this issue with the contractors.

Following further discussion and review, upon motion duly made by Director Meline, seconded by Director Reed, and upon unanimous vote, it was

**RESOLVED** to ratify the December 7, 2015 payment in the amount of \$4,000 to the Larimer County District Court for the Day Recreational Parcel Settlement and to approve the December 16, 2015 Schedule of Capital – ESDF Payables, in the amount of \$400,385.18, for a total of \$404,385.18, including the check numbers listed above. The invoices approved are as follows:

- Larimer County District Court - \$4,000.00
- Ayres Associates Inc. – \$53,133.31
- Brierley Associates – \$54,790.91
- Coffey Engineering & Surveying – \$960.00
- Dietzler Construction Corp. – \$285,457.68
- Gregory A. White, Attorney – \$180.00
- Murray Dahl Kuechenmeister & Renaud LLP – \$3,633.88
- Pinnacle Consulting Group, Inc. – \$2,229.40

Mr. Campbell presented for consideration and approval the Schedule of Capital – CR52 Payables dated December 16, 2015, in the amount of \$39,630.69, including check numbers 1326 through 1330.

Following further discussion and review, upon motion duly made by Director Meline, seconded by Director Tucker, and upon unanimous vote, it was

**RESOLVED** to approve the December 16, 2015 Schedule of Capital – CR52 Payables, in the amount of \$39,630.69, including the check numbers listed above. The invoices approved are as follows:

- Ayres Associates – \$13,062.35
- Dietzler Construction Corp. – \$24,025.50

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- Gregory A. White, Attorney – \$405.00
- Phelps Atkinson – \$1,580.49
- Pinnacle Consulting Group, Inc. – \$557.35

Mr. Campbell presented for consideration and approval the Schedule of Capital – LWCCS Payables dated December 16, 2015, in the amount of \$3,609.05, including checks numbered 1331 through 1332.

Following further discussion and review, upon motion duly made by Director Meline, seconded by Director Tucker, and upon unanimous vote, it was

**RESOLVED** to approve the December 16, 2015 Schedule of Capital – LWCCS Payables, in the amount of \$3,609.05, including the check numbers listed above. The invoices approved are as follows:

- Ayres Associates – \$2,892.80
- Pinnacle Consulting Group, Inc. – \$716.25

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ITEMS FROM  
AUTHORITY  
MANAGER

**Manager's Report:** Manager Myers presented the Manager's Report for November.

1. Fee Credit Research: Manager Myers reviewed the list of previously unbilled properties (pages 33-38 of the Board packet) with the Board. Manager Myers reminded the Board that about 30 additional Adriel Hills properties on the list have been coded in yellow as a result of a boundary correction. Manager Myers noted that the Board directed staff to bill the properties coded in yellow on the list for the fees due (and the properties partially coded in yellow for 50% of the fees), and not to bill properties coded in all other colors on the list. Manager Myers commented that the Board had effectively decided to grant fee credits to the properties not being billed, and asked the Board to formally vote to grant such fee credits in order to comply with the First Amendment to the Original IGA, Section 2.10, amended language section (d).

Director Tucker asked why Clark Lake properties were not included on the list. Manager Myers responded that it had been determined that since the Clark Lake properties drain to a reservoir as a result of the Authority's Clark Lake project, those properties should contribute fees to the Authority.

Director Sampley asked if the Board will be asked to vote to grant fee credits annually, and Manager Myers responded affirmatively. Director Reed asked if the Board has the authority to remove

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properties from the service area so that fee credits do not have to be granted annually. Attorney White responded that the Board has the authority to remove properties from the service area if it wishes to do so.

Upon motion duly made by Director Reed, seconded by Director Meline, and upon a 4-1 vote, with Directors Reed, Meline, Sampley, and Seaworth voting "Yes," and Director Tucker voting "No," it was

**RESOLVED** to grant 100% fee credits to the properties listed on pages 33-38 of the Board packet coded in any color other than yellow, and to grant 50% fee credits to the properties coded half yellow and half another color.

2. Agricultural Properties Research: Manager Myers reported that he had presented case studies related to the equity of agricultural property assessment at the December 10 Board work session. After discussion, the Board decided to bill properties according to the current IGA guidelines for 2015, and to revisit the issue of adjusting the fee structure in 2016.
3. Review of 2015 Stormwater Service Fees and 2016 System Development Fees: In order to conform to Section 5.02 of the Original IGA, Manager Myers requested that the Board formally approve the 2015 Stormwater Service Fees as stipulated below:

RESIDENTIAL	
Single Family Residence <sup>1</sup>	\$60
Mobile Home in Park	\$45
Mobile Home on Individual Lot	\$51
Duplex	\$60 per unit
Apartment/Condominium Complex	\$60 per unit
NON-RESIDENTIAL	\$0.03 per square foot of impervious area

Manager Myers also requested that the Board approve the 2016 System Development Fees to remain at \$0.20 per square foot of new impervious area.

Upon motion duly made by Director Sampley, seconded by Director Reed, and upon unanimous vote, it was

**RESOLVED** to continue the 2015 Stormwater Service Fees and the 2016 System Development Fees as stipulated above.

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4. Recreational Parcel Settlement: Manager Myers noted that the additional funds (\$4,000) required in the Stipulation regarding the Recreational Parcel Settlement were deposited, and the Court entered a Rule and Order granting the Authority a flowage easement and necessary construction easements over the parcels.
5. Flowage Easement on the Iodence Property Valuation Hearing: Manager Myers noted that June 27, 2016 is the date set for the valuation hearing regarding the flowage easement on the Iodence property. Manager Myers commented that an alternative appraisal has not yet been received from Tim Goddard, the Day Family attorney.
6. Mountain Vista Golf Course Settlement: Manager Myers discussed with the Board the Board's concerns regarding the completion date stipulated in the amendment to the agreement with the Mountain Vista Golf Course. Attorney White suggested that the amendment be revised to include the following language in Paragraph C: "all work will be complete by April 1, 2016, except sodding, completion of which will be dependent on weather conditions."

Upon motion duly made by Director Reed, seconded by Director Tucker, and upon unanimous vote, it was

**RESOLVED** to approve the amendment to the agreement with Mountain Vista Golf Course, subject to the inclusion of Attorney White's suggested language regarding the completion date.

7. North Poudre Irrigation Invoice: Director Sampley noted that he has not yet had time to visit the County Road 7 Bridge where the repairs took place. Directors Reed and Sampley noted that they would recuse themselves from any action taken on the invoice, since they are shareholders of North Poudre Irrigation. Director Sampley noted that he may have time to visit the site next week.
8. ELCO Waterline Relocation: Manager Myers noted that while ELCO may have known that they were required to pay for their waterline relocation, they were also very cooperative during the process of completing the relocation. As a result, Manager Myers has prepared a letter to ELCO requesting 50/50 cost sharing of the cost of the waterline relocation. Manager Myers noted that ELCO did not respond to the design locate request, and they were not legally required to do so. Director Seaworth noted that in his opinion ELCO

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should be paying the full cost, but he understands that given the circumstances it would be best for the Authority to get as much of the cost shared as possible.

After further review and discussion, and upon motion duly made by Director Seaworth, seconded by Director Tucker, and upon unanimous vote, it was

**RESOLVED** to approve the letter to ELCO requesting 50/50 cost sharing for their waterline relocation.

9. Property Status Requests: Manager Myers noted that he and Mr. Pletcher are receiving numerous requests from property owners for updates on the status of their properties with regard to the LOMR. After a brief discussion, the Board decided that Manager Myers and Mr. Pletcher should direct such property owners' requests to the relevant staff members at each Member Entity.
10. Tim Singewald Request: Manager Myers noted that Mr. Singewald requested that he provide a summary of how Pinnacle will bill Larimer County properties in the coming year. After discussion, the Board directed Manager Myers to provide Mr. Singewald with the letter that was sent to Larimer County Fee Payers regarding 2015 fees billed in 2016, as well as the list of previously unbilled properties contained on pages 33-38 of the Board packet so that he can review the properties coded in yellow that will be billed.
11. Day Family Partnership Property: Valuation Hearing Commissioners: Manager Myers reported that Malcolm Murray informed him that a preliminary list of commissioners – two attorneys, and one real estate professional – has been selected, and voir dire interviews will take place shortly. Director Tucker asked if a hearing date had been set, and Manager Myers responded that no date has been set.

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### OTHER MATTERS

Directors Comments: There were no items brought before the Board for consideration.

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### ADJOURNMENT

There being no further business to come before the Board, and upon motion duly made by Director Tucker, seconded by Director Meline, and upon unanimous vote, the meeting was adjourned at 6:19 p.m.

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The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

Respectfully submitted,

A handwritten signature in cursive script that reads "Lindsey Dowswell". The signature is written in black ink and is positioned above a horizontal line.

Lindsey S. Dowswell, Recording Secretary for the Meeting

## Appendix

### Larimer County Categorized Unbilled Property List

As Of 12/14/15



Acct_Num	PropOwner	PropDesignee	PARCEL_NO
1 BOX-0004	PETERS, THOMAS C/JANICE A	Trapper's Point	8702214003
2 BOX-0007	MANSOUR, MICHAEL/SUSAN M	Trapper's Point	8702314009
3 BOX-0008	SCANLAN, BARBARA H	Trapper's Point	8702314010
4 BOX-0009	TAFT, RICHARD K/LINDA S,	Trapper's Point	8702314011
5 BOX-0049	LAMBSPUN OF COLORADO, LLC	Ariel Hills	8706125002
6 BOX-0050	DREW, LARRY E	Ariel Hills	8706125003
7 BOX-0051	HANSEN, LYNNE LOUISE	Ariel Hills	8706125004
8 BOX-0052	SIMPSON, JESSAMINE M	Ariel Hills	8706125005
9 BOX-0053	TWAROGOWSKI, ROBERT J	Ariel Hills	8706125006
	JONES, CHRISTINE SARANT	Ariel Hills	8706128001
	COLE, JAMES O	Ariel Hills	8706128002
	Beavers, Robert D	Ariel Hills	8706128003
10 BOX-0059	CARLISLE, ANALENE B/BEST, FRANCES JEAN	Ariel Hills	8706128004
11 BOX-0061	LARSON, JOHN L	Ariel Hills	8706131001
12 BOX-0062	KIEL, CAROLE L, TESTAMENTARY TRUST	Ariel Hills	8706131002
13 BOX-0063	MATTHEWS, PETER B	Ariel Hills	8706131003
14 BOX-0064	SCHMUCKER, KATHRYN	Ariel Hills	8706131004
15 BOX-0065	ADAMS, THERESA J	Ariel Hills	8706131005
16 BOX-0066	WILLIAMS, LORRAINE E	Ariel Hills	8706131006
17 BOX-0068	SILHASEK, MARK A	Ariel Hills	8706132001
18 BOX-0069	BROWN, STEVEN K	Ariel Hills	8706132002
19 BOX-0070	ONEILL, JAMES B, II	Ariel Hills	8706132003
20 BOX-0071	PENDLAND, MATTHEW A	Ariel Hills	8706132004
21 BOX-0074	COOK, LUCILLE HOLLAND,	Ariel Hills	8706135001
22 BOX-0075	KEEN, MARY ELLEN	Ariel Hills	8706135003
23 BOX-0076	MILLER, KARIN	Ariel Hills	8706135004
24 BOX-0077	MILLER, JD	Ariel Hills	8706135005
25 BOX-0078	WIGDAHL, HELEN V	Ariel Hills	8706135006
26 BOX-0048	MEKELBURG, SHARONE	Ariel Hills	8706125001
27 BOX-0079	THOMPSON, ROSEMARIE	Ariel Hills	8706135007
28 BOX-0080	BATTERTON, KATHLEEN M	Ariel Hills	8706135008
29 BOX-0081	BRADY, JACQUELYN J,	Ariel Hills	8706135009
30 BOX-0082	HOHN, PHILLIP/SHIRLEY	Ariel Hills	8706135010
31 BOX-0083	KELLY, MARY L AND HAROLD L	Ariel Hills	8706135011
32 BOX-0084	SCHAEFER, WAYNE D	Ariel Hills	8706135012
33 BOX-0085	LOCKHART, MARCELINE D	Ariel Hills	8706135013
34 BOX-0086	TANKOVICH, WILLIAM	Ariel Hills	8706135014
35 BOX-0087	FINLAN, THOMAS P	Ariel Hills	8706135015
36 BOX-0088	RASMUSSEN, GENE A/VERA	Ariel Hills	8706135016
37 BOX-0089	SCHULTZ, KATHRYN A	Ariel Hills	8706135017
38 BOX-0090	OAKES, HELEN, TRUSTEE	Ariel Hills	8706135018
39 BOX-0091	CARLISLE, ANALENE B	Ariel Hills	8706135019
40 BOX-0092	SERTICH, ANTON S/DIANA D	Ariel Hills	8706135020
41 BOX-0095	WEITZ, JAMES R/MARGIE L	Ariel Hills	8706149001
42 BOX-0096	FLEMING, PETER A	Ariel Hills	8706149002
43 BOX-0097	REINAN, JERSOME M	Ariel Hills	8706149003
44 BOX-0098	LAHEY, KAREN K	Ariel Hills	8706149004
45 BOX-0101	WASHICHEK, ENA J	Ariel Hills	8706153004
46 BOX-0102	ROTH, JAROLD D	Ariel Hills	8706160002
47 BOX-0103	DAVIS, BARBARA A	Ariel Hills	8706160003
48 BOX-0104	FRIEDRICH, FRED L	Ariel Hills	8706160004
49 BOX-0105	GARRIGUES FAMILY TRUST,	Ariel Hills	8706160005
50 BOX-0106	JOHNSEN, RICHARD E	Ariel Hills	8706160006
51 BOX-0107	CHARLTON, SUE ELLEN M	Ariel Hills	8706160007
52 BOX-0108	CECIL, LAWRENCE L, JR	Ariel Hills	8706160008
53 BOX-0109	MOHR, ROBERT S	Ariel Hills	8706160009
54 BOX-0110	BANISTER, RICHARD E,	Ariel Hills	8706160010
55 BOX-0111	JOHNSON, LEWIS MELVIN/MARILYN JUNE	Ariel Hills	8706160011
56 BOX-0112	OLSEN, JEANNE	Ariel Hills	8706160035
57 BOX-0113	BROWN, CHRISTOPHER L	Ariel Hills	8706160036
58 BOX-0114	KEATING, VIRGINIA I,	Ariel Hills	8706160037
59 BOX-0115	PENNER, REGINALD G/SHIRLEY E	Ariel Hills	8706160038
60 BOX-0116	DEMEYER, FRANK R	Ariel Hills	8706161012
61 BOX-0117	MARTELL, DIANE J	Ariel Hills	8706161013



62	BOX-0118	GRAY, CLAYTON H/BETTY C		Ariel Hills	8706161020
63	BOX-0119	KEISS, ROBERT E/JULIA F		Ariel Hills	8706161021
64	BOX-0120	KLOOZ, ERMA J		Ariel Hills	8706161031
65	BOX-0121	MENSACK, RONALD W/PATRICIA L		Ariel Hills	8706161032
66	BOX-0122	TAYLOR, JOANNE		Ariel Hills	8706161033
67	BOX-0123	DOBLER, DONALD W/ELAINE C		Ariel Hills	8706161034
68	BOX-0124	BOCHNOWSKI, ALEX HJEANNE		Ariel Hills	8706162014
69	BOX-0125	OYER, MARY ANN, LIVING TRUST		Ariel Hills	8706162018
70	BOX-0126	HOBSON, JOHN W		Ariel Hills	8706162019
71	BOX-0127	LAITOS, WILLIAM ROBERT, TRUST		Ariel Hills	8706162022
72	BOX-0128	SEIZ, ROBERT C/JOANNE T		Ariel Hills	8706162023
73	BOX-0129	NELSON, MARTIN A		Ariel Hills	8706162024
74	BOX-0130	LANDSVERK, GEORGE R		Ariel Hills	8706162025
75	BOX-0131	BRUEN, ANITA,		Ariel Hills	8706162026
76	BOX-0132	BOES, DUANE C		Ariel Hills	8706162027
77	BOX-0133	HAYWORTH, MARY ANN		Ariel Hills	8706163015
78	BOX-0134	MELINE, VICTOR R, JR/ARVILLA E		Ariel Hills	8706163016
79	BOX-0135	LOEFFLER FAMILY TRUST/THE		Ariel Hills	8706163017
80	BOX-0136	PRATHER, BONNIE		Ariel Hills	8706163028
81	BOX-0137	GOULD, DICK, INC		Ariel Hills	8706163029
82	BOX-0138	BYMASTER, CLIFFORD T		Ariel Hills	8706163030
83	BOX-0143	BARKER, E H (.50)/EUGENE H (.28)/		Timberline/Mulberry	8708400002
84	BOX-0144	BARKER, EUGENE H		Timberline/Mulberry	8708400018
85	BOX-0145	KATSMAKIS, TONY		Timberline/Mulberry	8708400019
86	BOX-0259	CITIZEN PRINTING CO		N. of Vista Bonita	8710000001
87	BOX-0273			EXPIRED	8710000827
88	BOX-0285	MASON, KENNETH JOHN		Vista Bonita	8710408002
89	BOX-0286	MARTIN, WENDIE		Vista Bonita	8710408003
90	BOX-0287	ALLAN, BARBARA		Vista Bonita	8710408004
91	BOX-0288	PITTOCK, CHARLES M/ESTHER L		Vista Bonita	8710408005
92	BOX-0289	EINARSEN, DAVID H/DEBORAH K		Vista Bonita	8710408006
93	BOX-0290	MCCORMICK, H DUANE		Vista Bonita	8710408007
94	BOX-0291	DOYLE, CONNIE L/MATTHEW J		Vista Bonita	8710414012
95	BOX-0292	LEHFELDT, BRIAN		Vista Bonita	8710414013
96	BOX-0293	KASSAWARA, MATTHEW S		Vista Bonita	8710414014
97	BOX-0294	FOLBRECHT, KRISTINE A		Vista Bonita	8710414015
98	BOX-0295	SHERWIN, MARILYN		Vista Bonita	8710414016
99	BOX-0296	JOHNSON, RICK/ROBIN		Vista Bonita	8710414017
100	BOX-0297	JOSTAD, TORGER LLOYD		Vista Bonita	8710414018
101	BOX-0298	GILLETTE, JEFFREY STUART		Vista Bonita	8710414019
102	BOX-0299	GAVIN, RICHARD L/LINDY L		Vista Bonita	8710414020
103	BOX-0300	TURLEY, JERRY L/NANCY A		Vista Bonita	8710414021
104	BOX-0313	LACOCK, WILLIAM H		Vista Bonita	8710415013
105	BOX-0314	GORDON, SCOTT H/MARY V		Vista Bonita	8710415014
106	BOX-0315	VELDER, DARLENE ANN		Vista Bonita	8710415015
107	BOX-0316	BEAUDOIN, ANNE-MARIE/ANTOINE GERALD		Vista Bonita	8710415037
108	BOX-0317	MCBRIDE, MICHAEL/JANET		Vista Bonita	8710415038
109	BOX-0321	GARVEY, MICHAEL D/DANA M		Vista Bonita	8710415042
110	BOX-0322	WARREN, ALTON B/PAMELA L		Vista Bonita	8710415051
111	BOX-0330	WAITE, BRIAN A/CHRISTINA M		Vista Bonita	8710415059
112	BOX-0331	KLYM, NIKOLAY/YULIA		Vista Bonita	8710415060
113	BOX-0335	WAAG, DARRELL FRANK		N. of Vista Bonita	8711000030
114	BOX-0338	CW SUBTRUST (.217392)		NE of Prospect Intchg	8715000009
115	BOX-1153	TROUT, GAIL		Bee Lake NE	8805000016
116	BOX-1154	MARTIN, STEPHEN G		N.PoudreRes#5	8805000020
117	BOX-1157	CRAMER, GARY W/JULIE L		Bee Lake NE	8805005701
118	BOX-1162	JOHNSON, SUSAN R		N.PoudreRes#5	8805007702
119	BOX-1165	BROWN, YOLANDA E REVOCABLE TRUST		WindsorRes#8	8807000001
120	BOX-1166	FILLOON, JAMES G/DONNA D		WindsorRes#8	8807000003
121	BOX-1167	PINE BLUFF RANCH, LLC		WindsorRes#8	8807000006
122	BOX-1168	ROBINSON, JEROME L		WindsorRes#8	8807000008
123	BOX-1169	MCKEE, DUANE B/PAMELA J		WindsorRes#8	8807000009
124	BOX-1170	AGUILA AND CASTORES TRUST		WindsorRes#8	8807000012
125	BOX-1171	EAST LARIMER COUNTY WATER DISTRICT		WindsorRes#8	8807000905
126	BOX-1172	HAGEMAN, EDWARD		N.PoudreRes#6	8808000001



127	BOX-1176	REEVES, BIBIANA M		N.PoudreRes#6	8808005702
128	BOX-1180	REILLY, CHRISTOPHER B		N.PoudreRes#6	8808307002
129	BOX-1184	MILLER, DOUGLAS E/CAROL M		N.PoudreRes#6	8808307006
130	BOX-1190	REED, CAROLYN A		N.PoudreRes#6	8808405001
131	BOX-1191	PORTER, ROBERT MORRIS, JR		N.PoudreRes#6	8808405002
132	BOX-1193	GLANZ, ROGER E/JOAN D		N.PoudreRes#6	8808405004
133	BOX-1287	JAGELER, JACK/KRIS		Cobb Lake	8813000004
134	BOX-1288	MITTS, CHERYL L		Cobb Lake	8813000005
135	BOX-1290	HORAK, KAREN		Cobb Lake	8813000009
136	BOX-1372	ROSENBERRY, RAYMOND W		WindsorRes#8	8818000003
137	BOX-1373	MCKAY FAMILY LIMITED PARTNERSHIP ASSOC		WindsorRes#8	8818000006
138	BOX-1374	DERMYER, EDWARD F/JENNY L		WindsorRes#8	8818000007
139	BOX-1376	TROENDLE, CHARLES A		WindsorRes#8	8818000009
140	BOX-1377	CALKINS, LEONARD S/LORENE		WindsorRes#8	8818000010
141	BOX-1378	HILLHOUSE, JOSHUA J		WindsorRes#8	8818000011
142	BOX-1380	HALL, GRANT E/JOYCE A		WindsorRes#8	8818000014
143	BOX-1385	WERTZ, GLORIA L		WindsorRes#8	8818000020
144	BOX-1386	BALL, CHARLES THOMAS/MARGO LEA		WindsorRes#8	8818000021
145	BOX-1388	DORITY, DONALD O TRUST		WindsorRes#8	8818000023
146	BOX-1390	HOKE, STEPHENIE A/STEPHEN TURNER/		WindsorRes#8	8818000027
147	BOX-1391	MISTER, BETTY JANE		WindsorRes#8	8818000028
148	BOX-1392	HORVATH, KAY F		WindsorRes#8	8818000030
149	BOX-1393	LEVALLEY, STEPHEN B		WindsorRes#8	8818000031
150	BOX-1396	MURPHY, JOHN J, JR		WindsorRes#8	8818000035
151	BOX-1402	WHITLOCK, JONATHAN K/ALISSA B		WindsorRes#8	8818205002
152	BOX-1406	BETS AND NELL, LLC		No Record	8819000006
153	BOX-1407	ARAVIS, DOROTHEA S		Annex Res #8	8819000007
154	BOX-1408	BURKE, JAMES H/BECKY JO		Annex Res #8	8819000010
155	BOX-1409	SHALD, RYAN		Annex Res #8	8819000011
156	BOX-1411	HILPERT, STEPHEN D/RHONDA J		Annex Res #8	8819000013
157	BOX-1412	WALTON, ANN E		Annex Res #8	8819000014
158	BOX-1417	CLARK, JULIANA		Annex Res #8	8819000020
159	BOX-1418	GRAFF, JEDEL/GREGORY DAYTON		Annex Res #8	8819000022
160	BOX-1425	BAKER, DALE C/CHERYLYN A		Annex Res #8	8819000038
161	BOX-1426	VINCENT, APRILL L		Annex Res #8	8819000039
162	BOX-1428	SCHIRBER, MICHAEL A		Annex Res #8	8819000041
163	BOX-1429	DAVIS, JERRY W		Annex Res #8	8819000044
164	BOX-1430	TSUNAMI COMMUNICATIONS, INC		Annex Res #8	8819000045
165	BOX-1433	ANTHONY, MICHAEL F		No Record	8819000055
166	BOX-1439	ZELL, GERALDINE E		Annex Res #8	8819200048
167	BOX-1442	JACKSON, CARY B		Annex Res #8	8819308002
168	BOX-1450	CITY OF THORNTON		Annex Res #8	8820000903
169	BOX-1487	ARNETTE, ALAN D/CATHERINE M		Cobb Lake	8823306036
170	BOX-1493	SCHNORR, ROLAND		Cobb Lake	8825000027
171	BOX-1494	PAPROSKI, JULIE		Cobb Lake	8825000030
172	BOX-1495	GEIGER, DAVID M		Cobb Lake	8825000031
173	BOX-1496	REED, HAROLD E, LIVING TRUST (.50)		Cobb Lake	8825000047
174	BOX-1498	SCHNORR, WILLIAM W		Cobb Lake	8826005701
175	BOX-1504	HUMMEL, CAROLE REVOCABLE TRUST, THE		Cobb Lake	8826106017
176	BOX-1537	PEISNER, WILLIAM D		Cobb Lake	8826408001
177	BOX-1538	ENTRUST NEW DIRECTION IRA		Cobb Lake	8826408002
178	BOX-1539	BARR, WILLIAM L/KAROLYN K		Cobb Lake	8826408003
179	BOX-1540	LUMBARD, RALPH A		Cobb Lake	8826408004
180	BOX-1541	BARETTA, RONALD L		Cobb Lake	8826408006
181	BOX-1542	K AND E GREER FAMILY TRUST		Cobb Lake	8826408008
182	BOX-1603	MOAD, JANET		Annex Res #8	8830205003
183	BOX-1604	GARNER, J ERIC		Annex Res #8	8830205005
184	BOX-1605	LOTZ, ROBERT J/MARSHA J		Annex Res #8	8830205006
185	BOX-1609	AUGUSTINE, RON/SHEILA		Annex Res #8	8830207004
186	BOX-1637	EASON, DONALD H/NANCY E		North of Adriel Hills	8831400023
187	BOX-1640	GEYER, DONNA LYNN		North of Adriel Hills	8831407003
188	BOX-1641	DEIKE, CURTIS O/ RITA A		North of Adriel Hills	8831407004
189	BOX-1642	SAKAS, BASIL P/GEORGIA P		North of Adriel Hills	8831407005
190	BOX-1643	MCCLUSKEY, PATRICK M		North of Adriel Hills	8831407006
191	BOX-1652	SCHAPANSKI, STEPHEN J/MARGO C		Check Record	8831427003



192	BOX-1655	PLANO, WILLIAM E		North of Adriel Hills	8831427006
193	BOX-1656	CITY OF FORT COLLINS		West of AB	8833000910
194	BOX-1665	MEYER, BEVERLY		Gray Lakes SW	8834005702
195	BOX-1667	RASMUSSEN, DON E/ AMY M		Gray Lakes SW	8835000012
196	BOX-1668	DAY, KELLY LEIGH		Gray Lakes SW	8835000013
197	BOX-1669	DALLOW, BARBARA P		Gray Lakes SW	8835000014
198	BOX-1670	HERICKHOFF, JAMES A		Gray Lakes SW	8835000015
199	BOX-1671	WEDDING, LLC		Gray Lakes SW	8835000016
200	BOX-1674	PETTINE, PAISLEY W		Gray Lakes SW	8835105002
201	BOX-1675	KEHN, DONALD M		Gray Lakes SW	8835105003
202	BOX-1677	HAASE, DAVID L		Gray Lakes SW	8835105005
203	BOX-1679	KRUSE, WAYNE L/JOYCE M		Gray Lakes SW	8835105007
204	BOX-1680	FORD, EDWARD G/ANGELA L		Gray Lakes SW	8835105008
205	BOX-1681	HARRISON, MELINDA M/ROBERT T		Gray Lakes SW	8835105009
206	BOX-1682	GREEN ACRES, LLC		Gray Lakes SW	8835105010
207	BOX-1687	RITTENHOUSE, BRIAN C		Gray Lakes SW	8835408003
208	BOX-1689	STATE OF COLORADO		Gray Lakes SW	8836000902
209	BOX-1699	JOHNSON, DEBORAH A (.50)		Clark Lake & N & E	8913000025
210	BOX-1700	ESPOSITO, MATTHEW/RENEE L		Clark Lake & N & E	8913000026
211	BOX-1709	GATES, GREGORY C		Clark Lake & N & E	8914000032
212	BOX-1710	DAY, NANCY D		Clark Lake & N & E	8914000033
213	BOX-1716	SKIBO, PEGGY A/GREG T		Clark Lake & N & E	8914000042
214	BOX-1726	LODGEPOLE ENTERPRISES, INC		Clark Lake & N & E	8915000009
215	BOX-1728	KIPPSCHULL, GUENTER W		Clark Lake & N & E	8915000012
216	BOX-1730	BROWELL, DEBRA J		Clark Lake & N & E	8915000015
217	BOX-1731	FORTUNATO, MICHAEL T		Clark Lake & N & E	8915000028
218	BOX-1733	BERNHARDT, MARK S		Clark Lake & N & E	8915000031
219	BOX-1734	NORTH POUUDRE IRRIGATION COMPANY		Clark Lake & N & E	8915000907
220	BOX-1755	BLEHM, MICHAEL D		Blehm I25 West	8917000008
221	BOX-1756	BLEHM, MICHAEL D		Blehm I25 West	8917000009
222	BOX-1759	ELDER-BLEHM LAND AND		Blehm I25 West	8918000001
223	BOX-1763	WILSON, BONNIE JANE		NO Record	8920000004
224	BOX-1764	MILLER, ROBERT FALK		Bee Lake NE	8920000005
225	BOX-1792	NORTH POUUDRE IRRIGATION COMPANY		Clark Lake & N & E	8922000902
226	BOX-1797	TUCKER, EDWARD L		Clark Lake & N & E	8922205001
227	BOX-1798	TUCKER, EDWARD L		Clark Lake & N & E	8922205002
228	BOX-1952	NAUTA, JUDY/RAYMOND, TRUSTEES		Bee Lake NE	8929000001
229	BOX-1957	MCGREW, KENNETH STANLEY		Bee Lake NE	8929000014
230	BOX-1963	ANDELT, WILLIAM F/SUSAN H		Bee Lake NE	8929205001
231	BOX-1964	JAMES, CHESTER K/KATHY A		Bee Lake NE	8929205002
232	BOX-1965	LAKAMP, RONALD D		Bee Lake NE	8929205003
233	BOX-1966	HALEY, NEIL FREDERICK		Bee Lake NE	8929205005
234	BOX-1968	SIBLERUD, ROBERT L		Bee Lake NE	8929205007
235	BOX-1969	PANEPINTO, A GINO		Bee Lake NE	8929205008
236	BOX-1971	K AND M COMPANY		Bee Lake NE	8932000002
237	BOX-2007	HOLMES, RICHARD L		Highland Ac & SW	9801000009
238	BOX-2008	BRANSTAD, BARBARA (.815)		Highland Ac & SW	9801000015
239	BOX-2009	MCCARTNEY, KENNETH G		Highland Ac & SW	9801305001
240	BOX-2010	LAVELLE, CHARLES A		Highland Ac & SW	9801305002
241	BOX-2011	RYCHEL, W KENT/E LEIGH/B SUSAN		Highland Ac & SW	9801305003
242	BOX-2012	MROCZKO, DONALD J, SR		Highland Ac & SW	9801305005
243	BOX-2013	REHBEIN, CLAYTON/STACEY L		Highland Ac & SW	9801305006
244	BOX-2014	POOLE, ELDON D/TIFFANY		Highland Ac & SW	9801305008
245	BOX-2015	BREDEHOFT, LAWRENCE/CARLA		Highland Ac & SW	9801306001
246	BOX-2016	LATENDRESSE, JOHN K		Highland Ac & SW	9801306002
247	BOX-2017	HARRAS, JEFFREY L/LORI A		Highland Ac & SW	9801306003
248	BOX-2018	MCNEIL, MICHAEL R		Highland Ac & SW	9801306004
249	BOX-2019	FINCH, DONALD J/SUSAN R		Highland Ac & SW	9801306005
250	BOX-2020	KRELL, RON		Highland Ac & SW	9801306006
251	BOX-2021	WIEGGEL, DIANE J		Highland Ac & SW	9801306007
252	BOX-2022	HEGARTY, PATRICK J/TRACY L		Highland Ac & SW	9801306008
253	BOX-2023	BOYD, PAUL/JOHNSTONE, STEPHEN C		Highland Ac & SW	9801306010
254	BOX-2024	HOUSER, MICHAEL D		Highland Ac & SW	9801306011
255	BOX-2025	EAST LARIMER COUNTY WATER DISTRICT		Highland Ac & SW	9801306909
256	BOX-2027	LAVELLE, DAN R/KIMBERLY		Highland Ac & SW	9801307002



257	BOX-2028	WHITE, VINCENT V/SHIRLEY S	Highland Ac & SW	9801307003
258	BOX-2029	MACKEY, GARY L	Highland Ac & SW	9801307004
259	BOX-2030	CREWDSON, TINA ANN/RICHARD L	Highland Ac & SW	9801307005
260	BOX-2031	KUHLMAN, BARTHOLOMEW J	Highland Ac & SW	9801307006
261	BOX-2032	HANCOCK, JERRI D	Highland Ac & SW	9801307007
262	BOX-2033	PREUITT, SHIRLEY J	Highland Ac & SW	9801307008
263	BOX-2034	CALE, SARAH E	Highland Ac & SW	9801307009
264	BOX-2035	SCHRAMM, NARA	Highland Ac & SW	9801307010
265	BOX-2036	NORRIS, ROBERT B, JR	Highland Ac & SW	9801307011
266	BOX-2037	GILMORE, ROLAND E	Highland Ac & SW	9801307015
267	BOX-2038	ANDERSON, BRENDAN S/JODIE C	Highland Ac & SW	9801307016
268	BOX-2039	BURKHALTER, HERBERT G/KATHY J	Highland Ac & SW	9801307017
269	BOX-2040	GRAY, MARILYN L	Highland Ac & SW	9801307018
270	BOX-2041	WESTOVER, PAUL I/TERRI D	Highland Ac & SW	9801307019
271	BOX-2042	LEONHARDT, DANIEL C	Highland Ac & SW	9801307020
272	BOX-2043	ELISON, KATHRYN E, TRUST	Highland Ac & SW	9801307021
273	BOX-2044	HIXSON, STEVEN C	Highland Ac & SW	9801307022
274	BOX-2045	WARREN, O K/CATHERINE M	Highland Ac & SW	9801307023
275	BOX-2046	FANGMAN, PHILIP JOSEPH/MARY MARGARET	Highland Ac & SW	9801307024
276	BOX-2047	FISHER, EDMOND M/SHARON B	Highland Ac & SW	9801307025
277	BOX-2048	BROWN, BRIAN ERIN	Highland Ac & SW	9801307027
278	BOX-2049	WEIMER, JULIE RENE	Highland Ac & SW	9801307028
279	BOX-2050	ELY, GERALD D/PEGGY L	Highland Ac & SW	9801307029
280	BOX-2051	SMITH, DUANE H/LAURA M	Highland Ac & SW	9801307030
281	BOX-2052	SCRIPTURE, THOMAS C	Highland Ac & SW	9801307031
282	BOX-2053	BERNHARDT, JOYCE A	Highland Ac & SW	9801307032
283	BOX-2054	MORDO, MOSHE	Highland Ac & SW	9801307033
284	BOX-2055	GROGAN, BERLE DEAN	Highland Ac & SW	9801307034
285	BOX-2056	CHALK, DOUGLAS M	Highland Ac & SW	9801307035
286	BOX-2057	DUWA, LARRY L	Highland Ac & SW	9801307036
287	BOX-2058	WALTERS, DONALD R/NANCY K	Highland Ac & SW	9801307037
288	BOX-2059	JOHNSON, ARDITH J	Highland Ac & SW	9801307038
289	BOX-2060	BALLARD, JOSEPH ROBERT/KAYLA D	Highland Ac & SW	9801308004
290	BOX-2061	LONGMORE, WILLIAM R	Highland Ac & SW	9801308005
291	BOX-2062	MORENG, MARY BETH/CHARLES	Highland Ac & SW	9811000001
292	BOX-2063	MORENG, MICHAEL Q	Highland Ac & SW	9811000006
293	BOX-2066	KILLION, BRIAN/JAMIE (.50)	Highland Ac & SW	9812100028
294	BOX-2067	WILSON, RODNEY L (.90)	Highland Ac & SW	9812105002
295	BOX-2068	MORENG, BARBARA F	Highland Ac & SW	9812105003
296	BOX-2069	LAPPIN, MICHAEL R	Highland Ac & SW	9812105004
297	BOX-2070	HAAS, JAMES M	Highland Ac & SW	9812105005
298	BOX-2071	DECHAIRO, ROGER R/KAY E	Highland Ac & SW	9812105006
299	BOX-2072	BURMAN, KEITH R/SHARON L	Highland Ac & SW	9812105018
300	BOX-2074	SANCHEZ, MANUEL G	Highland Ac & SW	9812107702
301	BOX-2075	MCKELLAR, WILLIAM M	Highland Ac & SW	9812205001
302	BOX-2076	WIEBELHAUS, JAMES W	Highland Ac & SW	9812205014
303	BOX-2077	OQUINN, GARY B/CARMEN	Highland Ac & SW	9812205015
304	BOX-2078	BRUCHER, GLENN P	Highland Ac & SW	9812205016
305	BOX-2079	THOMAS, JOSEPH J/ARLENE	Highland Ac & SW	9812205017
306	BOX-2080	MORENG, JOSEPH P H	Highland Ac & SW	9812206701
307	BOX-2081	MORENG, JON C	Highland Ac & SW	9812206702
308	BOX-2082	MORENG, MIRIAM T	Highland Ac & SW	9812206703
309	BOX-2083	JOHNSON, DIANE M (.70)	Highland Ac & SW	9812206704
310	BOX-2084	BARD, LISA S	Highland Ac & SW	9812207701
311	BOX-2085	ACKERMAN, DARRELL A, TRUST	WindsorRes#8	9812300008
312	BOX-2086	RUTLEDGE, JOHN C/CAROLE R	Highland Ac & SW	9812300018
313	BOX-2087	HUBKA, JERRY L/JOYCE M	Highland Ac & SW	9812305009
314	BOX-2088	FRY, JAMES L/SARA A	WindsorRes#8	9812305010
315	BOX-2089	GALLENSTEIN, PAUL J	WindsorRes#8	9812305011
316	BOX-2090	NEWMAN, LARRY AND SUSAN,	Highland Ac & SW	9812305012
317	BOX-2091	CURTIS, LEE R	Highland Ac & SW	9812305013
318	BOX-2092	GUSTAFSON, PETER G	Highland Ac & SW	9812306701
319	BOX-2093	BALLOFFET, ARMANDO F/SHEILA M	Highland Ac & SW	9812306702
320	BOX-2094	WOOD, BETTY L	WindsorRes#8	9812308701
321	BOX-2097	JOHNSTON, TROY M	WindsorRes#8	9812309701



322	BOX-2098	NICKERSON, GERALD L, JR	WindsorRes#8	9812309702
323	BOX-2099	RAIRDON, DAVID C/LOIS E	WindsorRes#8	9812400004
324	BOX-2100	TAYLOR, NICOLE R/KENT	WindsorRes#8	9812400009
325	BOX-2101	DIONNE NO 3 FLP	WindsorRes#8	9812400011
326	BOX-2102	CORDLE, DAVID G/BRENDA M	WindsorRes#8	9812400012
327	BOX-2103	HANSON, MARLAN J/AILEEN S	WindsorRes#8	9812400013
328	BOX-2104	SHADE, LARRY L (1/2)	WindsorRes#8	9812400014
329	BOX-2105	WEST, MARK E/MELINDA	WindsorRes#8	9812400015
330	BOX-2106	ALDEN, ELVA B	WindsorRes#8	9812400016
331	BOX-2108	AITON FAMILY REVOCABLE TRUST	WindsorRes#8	9812400019
332	BOX-2109	WINSETT, JOSEPH C	WindsorRes#8	9812400020
333	BOX-2110	CARPENTER, WAYNE L	WindsorRes#8	9812400021
334	BOX-2111	KELLY REVOCABLE TRUST	WindsorRes#8	9812400025
335	BOX-2112	MADDUX, CINDY L	WindsorRes#8	9812400028
336	BOX-2113	HALL, RONALD C	WindsorRes#8	9812400029
337	BOX-2114	HEPLER, ELAH	WindsorRes#8	9812400032
338	BOX-2115	BACHUS, VAUNDEEN L	WindsorRes#8	9812400033
339	BOX-2116	WERNER, JEANETTE J	WindsorRes#8	9812405007
340	BOX-2117	KENYON, CHRISTOPHER MARK/MIHUI KIM	Highland Ac & SW	9812405008
341	BOX-2118	WASSON, JOHN G/TOBI J	Highland Ac & SW	9812405019
342	BOX-2119	MONFORT, MYRA H	Highland Ac & SW	9812405020
343	BOX-2120	WINER, PAMELA H/STEPHEN L	WindsorRes#8	9813000001
344	BOX-2122	TUTTLE, MISSY	WindsorRes#8	9813000005
345	BOX-2123	RICHEY, GARY	WindsorRes#8	9813000009
346	BOX-2125	DENT, ROBERT C/NORMA F	WindsorRes#8	9813000011
347	BOX-2126	WOOD, ROGER H/BARBARA S	WindsorRes#8	9813000013
348	BOX-2127	KLEIN, JAMES W/MARY F, JOINT REVOCABLE	WindsorRes#8	9813000014
349	BOX-2128	GREENBANK, PHYLLIS C	WindsorRes#8	9813000015
350	BOX-2129	SHANNON, PATRICIA RAE	WindsorRes#8	9813000016
351	BOX-2130	KMSTIER LLC	WindsorRes#8	9813000017
352	BOX-2131	WHEDBEE, ROBERT E	WindsorRes#8	9813000018
353	BOX-2132	KUEHN, ROLAND J/IRENE K	WindsorRes#8	9813000020
354	BOX-2133	GAFFIELD, VALERIE	WindsorRes#8	9813000021
355	BOX-2134	GALLAGHER, MICHAEL S	WindsorRes#8	9813000022
356	BOX-2135	MENARD, GERALD J/SARAH A	WindsorRes#8	9813000023
357	BOX-2136	JENSEN FAMILY TRUST, THE	WindsorRes#8	9813000025
358	BOX-2137	SHENEMAN, ROGER/CAROL	WindsorRes#8	9813000026
359	BOX-2139	DOTY, CATHLEEN R	WindsorRes#8	9813000029
360	BOX-2142	THOMPSON, JOHN D	WindsorRes#8	9813000036
361	BOX-2143	SWITZER, JAMIE S	WindsorRes#8	9813000038
362	BOX-2145	SOCIETY OF SAINT PIUS X, FORT COLLINS,	Annex Res #8	9813000912
363	BOX-2147	SMITH, GRANT M	WindsorRes#8	9813005701
364	BOX-2148	SMITH, GRANT M	WindsorRes#8	9813005702
365	BOX-2149	MAYER, MARKUS P	WindsorRes#8	9813005703
366	BOX-2152	YOUNG-BUCKERT, PATRICIA E	Annex Res #8	9824000021
367	BOX-2153	BENSON, M CATHERINE	Annex Res #8	9824000022
368	BOX-2154	RAND, MARILYN G/VERNON T	Annex Res #8	9824000023
369	BOX-2155	HODGES LIVING TRUST	Annex Res #8	9824000027
370	BOX-2156	COHEN, BARBARA L, TRUST (.75)	Annex Res #8	9824000061
371	BOX-2158	BOWERS, PEGGY J	Annex Res #8	9824105701
372	BOX-2160	DERSCHON, LINDA D	Annex Res #8	9824213001
373	BOX-2161	ANTROBUS, LYLE D	Annex Res #8	9824213002
374	BOX-2164	CECIL, ROBIN L	Annex Res #8	9824214003
375	BOX-2168	BY DESIGN HOMES, LLC	Annex Res #8	9824411007

	Inside Present & Revised Boundary
	Inside Present & Revised Boundary (2 year historic 100% Credit)
	Inside Present Boundary Drains to Sump
	Inside Present Boundary Drains away from Boxelder Crk.
	Outside Present & Revised Boundary
	Outside Present Boundary & Inside Revised Boundary