

CLEAR CREEK COMMUNITY SERVICES DISTRICT

Board of Directors, Johanna Trenerry – Chairwoman, Irwin Fust – Vice-Chairman,
Virginia Bassham – Director, Mark Engel – Director, Murray Miller – Director
5880 Oak Street, Happy Valley, CA 96007
Phone: (530) 357-2121 Fax: (530) 357-3723

REGULAR MEETING

Wednesday, October 21, 2020 at 9:00 AM
District Office - 5880 Oak Street Anderson, CA 96007

Due to COVID-19 the Board of Directors meeting will be held via Zoom (video) or telephone conference and will be available for the public to attend. We have established an entry point for log in and attendance. In your web browser type in <https://zoom.us/> and in the upper right of the screen click on “join a meeting”. When the next page opens enter the meeting ID number 309 792 2136 in the field meeting ID. Click the blue box below the meeting ID after entering the ID number.

The next screen will allow the user to enter the password. That password is 5zY2c1. It is case sensitive. The next prompt will have you wait for the host to bring you into the meeting. For those who would rather place a telephone call the dial in number is 415-762-9988, password: 892752# and follow the prompts to join the meeting.

MINUTES

DIRECTORS: Johanna Trenerry, Irwin Fust, Virginia Bassham, Mark Engel and Murray Miller

STAFF: Kurt Born, Cary Brown, Bill Palmaymesa and Christy Roberts

AUDIENCE: Dennis Possehn, Sandy Winters, Tammy Cole, Beverly Fickes and Cedric Twilight

CALL TO ORDER: The meeting was called to order at 9:00 AM

PLEDGE OF ALLEGIANCE: Chairwoman Trenerry led the Pledge of Allegiance

OPEN TIME: None

CONSENT/AGENDA: A motion was made by Director Miller and seconded by Vice Chairman Fust to approve the minutes from September 16, 2020, paid bills dated 9/25/20, 9/28/20 and 10/9/20 totaling \$212,944.71 and the August and September 2020 financial statements. Motion was voted on and approved.

OLD BUSINESS:

None

NEW BUSINESS:

WIIN Act Final Contract – Signature – Ordinance 2020-13: General Manager Born stated that we are at a point of review, have had attorneys look at this and done negotiations. What this particular Ordinance does is, allow Johanna and myself to sign the contract so we can get it to the Bureau of Reclamation and move the process forward. The Board needs to decide on how we are going to pay for this, whether it is in 4 equal payments or one payment with a discount. I need direction on where to go with this. Vice Chairman Fust stated that a question that has risen in the past about this amendment that supposedly allows us 15,300 acre-feet of water in perpetuity. It is not specially pointed out in the amendment that we get to get that and Skip, you were going to investigate that and bring it to the Board? Mr. Born stated that because the amendment doesn't talk about the contract allocation amount, it has nothing to do with the amount. This is openly related to paying the construction fees for the contract, that's it, so we can lower the cost of the Agricultural water. Mr. Fust stated that in the same token, it amends our contract with the Bureau of Reclamation for our water that is coming due in 10-years. If we do not sign this amendment, then we have to re-negotiate our contract with the Bureau in 10-years and who knows what we will get. The whole idea behind this amendment and the best part, is that we keep our 15,300 acre-feet of water in perpetuity. Are we guaranteed that? Mr. Born stated that there are no guarantees in life. Mr. Fust asked then why would we do this? Mr. Born stated because it is due and payable anyway, we have to pay this regardless. Chairwoman Trenerry stated (inaudible) I've attended all the WIIN Act meeting and reviewed the contract numerous times, our contract says we are allowed 15,300 AF and they did discuss it, the water is yours. Maybe not in 10-years but right now we have it. Mr. Fust asked if he could ask the question in a different way; if we sign the WIIN Act contract now which amends it, does that mean we will not have to go back into negotiations 10-years from now? Mr. Born stated, yes it does. Mr. Fust stated so our contract does say that we get 15,300 AF of water so my assumption is, we would continue with 15,300 AF of water, right? Mr. Born stated yes. Mr. Fust stated in the amendment it keeps referring to the repayment schedule and I want to point out that it refers to exhibit C and exhibit C only tells us what commercial agriculture is and it is actually exhibit D that tells us what the repayment amount is. Could you see to it that is clarified? It's exhibit D, not exhibit C. My final question, in the amendment it states the first payment is due December 31, 2020 and how can we do that? Mr. Born stated, we need your decision on which way to go. Mr. Fust stated that the financing we are looking at through CalMuni at first stated that the rate would be 1.4% and now I understand their rate is 3%? Mr. Born stated the rate depends on who they can get into the pool and I think that rate will vary until everything is nailed down. Mr. Fust asked what is the possibility of looking at a bank? Mr. Born stated that he would assume that the rates wouldn't be as good because this is a pooled resource. Director Miller stated he had the same questions as Irwin in perpetuity but I know we are working with the Government her so things can change. My question is regarding the Ag rate in exhibit B and I wanted to make sure that everyone understood that \$75 plus is already effective? Mr. Born stated yes, it started on March 1, 2020. If we secured this it

would drop back down? Mr. Born stated yes, but keep in mind that we just received news last week that they are raising the restoration fee out of the blue. So the agricultural water is taking another hit. Mr. Miller asked if we don't do this then our customers are left with paying the \$75 and it won't drop down until we pay this off, correct? Mr. Born stated yes.

Director Engel stated that with the legal challenge, compliancy and I have concerns about how that will affect this process and how much money we are going to spend without knowing that. Obviously, there are legal fees to think about and which way to go. That is my question; how much money are we going to spend on this before we know how it's going to work out? Mr. Born stated that what I do know is the legal expenses to this point have been paid. The next legal fee would be for validation with the courts at approximately \$3000. Anything else beyond that, I don't know and I can't confirm. But we are on the tail-end of this.

Director Bassham stated that she is really torn about this. If feel like which ever way we decide to go, won't be the right way and I'm just torn. Director Engel stated we have to pay this regardless. Rates are at historic lows right now (inaudible) so that's a plus moving in this direction. We are not going to get a guarantee and it's not looking as attractive as before. There is not really a clear way. Chairwoman Trenerry stated that if we do not pass this and when our contract becomes due, you will spend big bucks to get the Government to go along with you. I want you to seriously think about this, if that 15,300 AF goes into another contract, you better believe that we are going to lose it for sure because LA wants our water. It's either we sign this today and we have our 15,300, or potentially lose it in 10-years. Think about it and ask yourself, do we want to lose that 15,300? Director Engel stated he respected Madam Chairwoman's point and I know you have experience dealing with the Bureau in the past and in the negotiations. Mr. Fust stated that there is no question that we need this water for the future and Johanna is right. If we wait 10-years, we might not be able to negotiate the water. This amendment we are being asked to approve, that joins us in the WIIN Act and keeps our contract in perpetuity. I am little torn on this as is Mark and Virginia and I would like to hear what our customers have to say. Chairwoman Trenerry stated she would open it up for public comments and please keep comments to two minutes.

Audience Cedric Twilight stated it is a little untimely and we don't have our financing in place. I think that in reading a fact sheet from the Westlands Water District, that signing this does confirm that it converts our service contract to a repayment contract that your water allocation is secure. I think we are in okay shape. Financing is problematic and it's an opportunity from what I can tell and it's about execution and it's not something I would consider smooth.

Audience Sandy Winters stated there are good and bad points to this WIIN Act and to tell the truth, I haven't read it. I'm really not into paying for something that I don't understand and I'm just falling into the footsteps of the people that have. I've been with this District for 54-years now and hoping that we can keep raising cattle, growing a garden and keeping the pastures green. I am relying on you guys to do the best you can.

There are people on our Committee that have good suggestions and Cedric was one of them. Thank you for your time. Chairwoman Trenerry thanked Mrs. Winters.

Beverly Fickes stated one of the things they have talked about in their Community meetings is having an assessment and having this debt paid off in a few years with no loan and for the most part everyone was positive about that. You may want to let the Advisors Committee that you form today, be one of their tasks. There seems to be so many unanswered questions and we as the Community, have trouble approving this.

Annette stated she briefly wanted to weigh in and not only encourage the Board to not vote on this Act until the next meeting and it gives the new Community Advisory Committee time to review the documentation and weigh in. It will go a long way in re-building trust with the water District users and would increase the publics understanding of why this is a key issue. I encourage the Board to chair this until the next meeting. Our new Committee really needs to look at this. You have some brilliant minds available, lets use them. Chairwoman Trenerry thanked Mrs. Annette.

Chairwoman Trenerry stated she moves adoption of Ordinance 2020-13. Director Bassham asked if they are also adopting a payment plan? General Manager Born stated that adopting this Ordinance allows Johanna and I to sign the amended contract and move this forward and move to have the validation process done through the court. Then figure out a payment scheme. If we were to do the lump payment it would be due January 30, 2021. If we were to do the installment option, the payments would begin January 30, 2021 and carry until the 4th payment due December 1, 2023. There is a little bit of time to decide on a payment method but not a lot of time. I think it would be good to have feedback from the Community. Chairwoman Trenerry stated we can look at money later. Director Bassham stated she just want to be sure exactly what the motion is. Chairwoman Trenerry stated the important thing is to get this signed so we can be dependent on not having to do this again in 10-years and we are keeping our Ag. Director Bassham seconded the motion. Vice Chairman Fust stated how about some discussion. Mr. Fust stated that in listening to Cedric, he is re-assured that and happy to hear that the Westland's Water District thinks we are going to keep our allocations. They are an awfully big outfit and if they think we get to keep it, then I'm assured that we are going to keep it. Mr. Fust stated that moving forward with this contract today is probably the best way to go but we do need to come up with a better way of financing that debt. Director Engel stated as a matter of clarity and discussion by the Community, the idea of an assessment and I'm pretty sure the Bureau of Reclamation is going to want that money, so we are going to need financing for this project. Hearing the comments of the Chairwoman and Vice Chairman, coupled with the fact that I've attended few WIIN Act meetings and everyone agrees you are going to get your allotment in perpetuity. After discussions today and seeing the passion in the Board and the experience involved in those negotiations, I am influenced to move forward as well. Director Miller stated he was in favor. Motion was voted on and approved.

Ayes: 5

Noes:0

Absent: 0

Abstain: 0

CVP Contract Conversion Complaint – Environmental Compliance: General Manager Born stated this is on here just for discussion. The Bureau of Reclamation is having some issues with the environmental part of the process. I am just providing this to the Board to keep you informed. There is really nothing to discuss, just keeping you informed of what is going on with the WIIN Act.

Pre-Prop 218 – Additional Steps – Community Advisory Committee: General Manager Born stated this was brought to him by Director Miller and he would like to speak about the Community Advisory Committee. Director Miller stated he submitted a term of reference and what the Committee would look like. The main motive is to add additional steps prior to the official Prop 218 notice. The additional Prop 218 steps we can look at would be collect a Community Advisory Committee to give feedback on any rate study we propose and give feedback. The proposed rate study would go to them and they would make suggestions; add or change wording and bring it back to the Board. The Board would approve it, then that proposal would be published in newsletter and online. Collect some feedback and hold a couple of informational meetings. In one of the informational meetings, the Board would finalize and adopt it and initiate the Prop 218 process. The main goal is to give us as much feedback as possible before initiating the Prop 218 process.

Vice Chairman Fust stated we do need a Citizen Committee and some of the people have good ideas. At the Prop 218 meeting there was a discussion of Ag and trying to revive Ag in our District. I am in favor of putting together a Committee. I put together a road-map as to how we can proceed before the budget next year. I am suggesting that in the October or November meeting, we move approval of the annual CCI indexing rate increase. Mr. Born stated it's been supplied to you as a draft this month and is a 1.9% increase. Mr. Fust stated in November we appoint an Ad hoc Committee and my suggestion is 2-Board members and 3-5 Community members to study and make recommendations on a rate structure that will insure a stable source of financing for the future and over a reasonable amount of time, replenish the reserve accounts. The plan should also consider a component that will address future capital improvements and well as an Agricultural plan. October through December, we will approve the WIIN Act, which is what we did today. Now we need to look at financing what we owe. January through March of 2021 the Ad hoc Committee will meet regularly to review and discuss annual budget expenses, reserves, capital improvement plan, a grant for the replacement of the distribution lines, a grant for replacing large meters, if necessary and a plan for expanding agriculture in Happy Valley and all of this discussion will lead to a recommendation for a rate structure that will support increased costs, rebuild reasonable reserves, have a structure that will provide a base rate for M&I and Ag the same for all meter sizes. It doesn't matter what size meter you have, you're only going to use so much water based upon what you can pay. The Committee should have a recommendation that would be structured with smaller increases over an 8 to 10 year

period, to make it less burdensome for customers and have capital improvement plan. In this road-map I have indicated that from January to March 2021, we seek to solidify grants for replacing distribution lines, valves and large meters. Then at the April 2021 meeting, the Ad hoc Committee will present to the Board a new rate structure. That will start the Prop 218 process and a Prop 218 meeting in June 2021.

Director Engel stated he has a concern and its related to meter base rates. We definitely need to look at whether or not abandoning meter size base rates altogether will jeopardize grants because I got indication earlier that was the case and we need to know that. I think the rate recommendation that RCAC came out with was a little absurd. It went to the Community because the Community asked for it and we thought that was a feasible request. I wasn't surprised it got turned down, it wasn't a good fit for our Community. Meter size base rates could be a workable solution if it helps us get into grants. Maybe a tiered approach. I'm just saying this would keep us in the meter size safe place for the benefit of securing future grants.

Director Bassham stated she likes the Vice Chairman's informative road-map. I agree that we have a lot of talented customers that could really help us with these tough financial decisions and help provide solutions.

Director Miller stated he enjoyed reading the road-map and one thing he would add is posting it and getting wider feedback. Mr. Fust stated we could also add an informational public meeting.

Chairwoman Trenerry stated that she wanted to comment and ask Director Miller a couple of questions. It sounds like the CAC Committee is what the current Board members were all elected to do? The Community has always been allowed to speak and express their opinions. Skip has always taken the time to answer questions, we also have a website and printed newsletters to keep people informed. Will the two Board members and office staff be paid to come to Clear Creek? Director Miller stated he is unclear about HR when it comes to staff but as far as Board its going to be a voluntary roll. I would have to check your HR policies on office staff. I would assume if they are doing work for the District, they would be getting paid. (inaudible) Chairwoman Trenerry stated you are picking people to be on there and the Community has no say if they want those people. Mr. Miller stated that is incorrect. Chairwoman Trenerry asked if the rest of the Community has the right to object when you pick them? I already object to some of the people you are picking. Chairwoman Trenerry and Director Miller had an exchange of words. Vice Chairman Fust interjected and asked the people to settle down. A lengthy discussion was had.

Mr. Born asked to speak and stated that what Johanna's concerns are that people tend to lose sight of the fact, in this business we are very busy at the office. The concern is the amount of time that maybe taken from us for this Committee that doesn't really know everything they need to know, or should know, to make informed decisions and the time it will take to bring them up to speed. Mr. Fust stated that whoever is on this Committee can be supplied with relevant paperwork they can take home a read themselves. I don't think there will be much work done by staff, there will be some questions to be answered. Mr. Fust stated I am prepared to make a motion, that we

form a Citizen's Committee made up of 2 Board members. Chairwoman Trenerry stated if you have a Committee of 6, how can you have a majority vote? Mrs. Trenerry stated if all Board members want to go this way, then all members of the Board should come up with a vote, not just Mr. Miller. Vice Chairman Fust made a motion for the Board to make up an Ad hoc Committee made up by the citizens, with 2 Board Members and 3 Community members. We appoint those members and finalize that Board at November meeting. We will also discuss what the roll of the Committee will be and that is my motion. Director Miller seconded. Director Bassham stated she is going to abstain because she's not sure. I love that the Community is going to be involved but not taking the place of the Board. Mr. Fust stated to comment Virginia if I may; the Committee is not taking the place of the Board because the Board has the ultimate decision-making call in this District. The Committee is going to help the Board make a good decision. This Board has the authority to make the decisions and that is it. Mrs. Bassham stated she is still going to abstain for right now.

Ayes: 3

Noes: 1

Absent: 0

Abstain: 1

CCI Rate Increase – 1.9%: Director Miller stated that his concern is that having consumption-based tiers and I'm just wondering if we could amend that? I know that it was mentioned in relation to RCAC, that it no longer legal and if so, why are we continuing with that? Mr. Born stated it's not a practice the State follows, but it is with the Bureau of Reclamation, which is who we have our contract with and they do follow. They consider it water conservation and they consider it a necessary component. The Federal Government support it and the State does not and we are following it because we have a Federal contract. It's trying to satisfy 2 regulatory agencies, simultaneously for a District like ours and we have to do our best to satisfy both and I don't believe the meter size base rate fits our Community at all. I am working on this. Mr. Fust stated as it stands right now, you will be bringing back this CCI rate increase at the November meeting, correct? Mr. Born stated yes. Director Engel stated his concern is with this CCI increase and the Community perception of, okay you got an increase and then we are talking about a rate increase again. Somehow, we need to make it clear that this is not the ultimate saving of the District. 1.9% is not going to do it and not a solution to our problem.

Audience Cedric Twight stated in regard to the rate increase and that forming the Committee will look at that big picture. I think that forming this Committee sooner, rather than later and seeing where this 1.9% so that there is public outreach and that folks know that there is a plan and this takes us from point A to point B. I'm just concerned it's going to be a piecemeal approach without any solid planning and the planning needs to get out in front.

Board Meeting Formats: General Manager Born stated this is just seeking suggestions on possibly getting a different format. The Zoom format is kind-of working for us but has been touchy at times. I just want to know if anyone has other

suggestions. Mr. Fust stated he thought they were going to be discussing the meetings being held at a different time. Formats of electronic types, I don't know one from the other. Director Engel stated maybe we could start a hybrid format, where the Board and Manager meet in person at the Board room and then Zoom the public. I would like to do a full group but that's just not feasible at this time. Director Bassham stated Microsoft Team has a really good tool and we use it all the time. I think a lot of the problem is, people are not muting their phones. Just moving a piece of paper disrupts the current person talking. With MS Teams if you want to talk, you click a button, it raises your hand and then you un-mute that person. I think that's where the problem is being able to mute people. Mr. Born stated we tried muting before and on that day, there were a lot of technical difficulties and issues with TDS that day. It was a collection of different things that went wrong and made it a technical nightmare. The more we use the program, the easier it's becoming but it just seems there might be a better format for us out there. Director Miller stated Google has one called Meet and maybe we could get free versions of these and try them out between Board members before we launch a public meeting. Mr. Born thanked Director Miller.

Director Engel stated on the 2020-13 Ordinance we were also going to have a discussion regarding attorney representation, which is Downy Brand. Mr. Born stated it's not an ordinance but it is part of your Board packet. There are attorney fees for the validation process for this but it is just part of the legal process. Downy Brand is one of the legal agencies that is doing these for most other agencies that are involved in the WIIN Act. Attorney John Kenny did recommend Downy Brand because this is one of the primary things they do. It is just informational. Mr. Born stated he is bringing this back in November for discussion. Director Miller asked if there are any time constraints whether we do it now, or in November? Mr. Born stated not that he is aware of.

OPERATIONS & ADMINISTRATION

STAFF REPORTS: Nothing to report

STANDING COMMITTEE REPORTS: None

QUESTIONS and/or PUBLIC COMMENTS: Audience Cedric Twight stated he is confused on how the Board conducts items and asks public comments with conclusion. But always there is an opportunity for the public to engage. Do you all have a meeting procedure that you follow, that you can share with the public so we can follow? Secondly public meetings provide background information and supporting documentation and make that available to the public. I am at a disadvantage here because I don't know what you're looking at. I was wondering if the Board would consider making those documents available before the meeting? Finally, with respect to

Downy Brand, you would be hiring one of the most expensive attorneys in the State of California. I'm not sure how that was picked. If it's simply just having the document recorded, it shouldn't take \$3000 to complete. Again, more information and disclosure would help the public. Mr. Twight thanked the Board.

Vice Chairman Fust stated to answer your question in terms of the Agenda, it does say towards the end, questions and/or public comments, so the public always has a right to talk at the meetings. There is also an open time for items not listed on the Agenda. In regards to the packets we receive, all you have to do is go to the office and pick one up. Nobody is hiding this stuff. It is up to you to go get the packet, just like it's up to me to get my packet. Chairwoman Trenerry asked if we could make our packets available on our website? Mr. Born stated yes, we can put the packets on our website.

Audience Sandy Winters stated to comment about compensation for these Community meetings and paying for an office representative and I've been on a lot of Committee's over the years. None of us were ever paid, it was all volunteer work. I'm sure the members of the CAC would be more than willing to volunteer their time.

Audience Beverly Fickes stated she is upset and disappointed that you accused Mr. Miller of sabotaging the rate increase. The Community has always wanted to be involved and for you (collectively) to hinder an Advisory Committee, is just very disappointing. Unfortunately, your behavior at today's meeting was not very positive and you owe your fellow Board members an apology and if you can't do that then you need to step down because it's time. Mr. Fust stated he wanted to point out to Beverly that they did approve to appoint a Citizens Committee today.

Audience Cedric Twight open time for the public to speak should be open and not just about things on the agenda. There are things that come in the middle of the meeting and that's just not practical. I've never been to a public meeting that doesn't open up for every agenda item for the public to comment. It would be equitable if you made time for the public on each item. Mr. Twight thanked Mr. Born for considering posting the Board items.

ADJOURNMENT: 10:38 AM

Submitted by,

Christy Roberts

Johanna Trenerry, Chairwoman

Irwin Fust, Vice Chairman

Virginia Bassham, Director

Mark Engel, Director

Murray Miller, Director

ATTEST: _____
Kurt Born, General Manager