



KERN BOARD REGULAR MEETING
March 14, 2011 – 6:00 PM
Town Board Chambers – 301 Walnut Street
Windsor, CO 80550

MINUTES

1. Call to Order
President Vazquez called the meeting to order at 6:00 p.m.

2. Roll Call of Directors Present
The following Board members were present:

	President John Vazquez
	Vice President Matthew O'Neill
	Secretary Jon Slater
	Robert Bishop-Cotner
	Mike Carrigan
	Kristie Melendez
Excused:	Don Thompson
Others present:	Ian McCargar, Town Attorney
	Dean Moyer, Director of Finance
	Patti Garcia, Town Clerk

3. Approval of Minutes from January 10, 2011 Board of Directors Meeting – P. Garcia
Secretary Slater motioned to approve the Minutes as presented; Board Member Carrigan seconded the motion. Roll call on the vote resulted as follows:
Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Slater, Vazquez
Nayes – None. Motion carried.

4. Approval of Bills – D. Moyer
Director of Finance Moyer reported on the bills included in the packet. Mr. Moyer noted the largest sum was to JT Contracting for \$43,000 which was for the physical work done for the SCADA system which is a computerized system that controls the level of water in the lake. Mr. Moyer reviewed the rest of the bills and noted he was available to answer any questions.

President Vazquez inquired what the firm of Swift and Bramer does for the Kern Reservoir & Ditch Company. Town Attorney McCargar reported the firm represents the Kern and the Town on the Weinmeister dock case.

Vice President O'Neill asked for the fund balance of the account. Finance Director Moyer stated he was unsure of the balance and noted that the account is funded partially from the water fund and partially from the drainage fund. The account does receive an annual augmentation payment of \$160,000 from Front Range Energy (FRE) which was included in their development agreement. Mr. Vazquez noted we had entered into a 10-year agreement with FRE to provide them water for augmentation with a lump sum payment the first year and the noted sum on an annual basis.

President Vazquez requested in the future that the fund balance information be included with the approval of bills.

Secretary Slater motioned to approve the bills as presented; Board Member Carrigan seconded the motion. Roll call on the vote resulted as follows:

Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Slater, Vazquez

Nays – None. Motion carried.

5. Attorney agreement, Weinmeister appeal – I. McCargar

Town Attorney McCargar stated the agreement was presented to the Board of Directors for consideration pursuant to the suit filed against the Weinmeisters regarding the dock on the lake. Judge Maus issued an order last year to allow the Weinmeisters to keep the dock and boat ramp on the lake. The Town had requested additional clarification such as what the size and the shape of the dock could be and where it could be located, along with notification requirements in the event work needed to be done on the shoreline or the lake. Clarification was received which put limits on the size and shape of the dock and terms of importance. The Weinmeisters requested the Judge to reconsider, which he denied. The Weinmeisters have since indicated that they may appeal the denial. Mr. McCargar inquired of Paul Swift and Megan Peterson, legal counsel, if they would consider a fixed fee agreement for the appeal instead of doing work on an hourly basis. Documentation was included in the packet which provided an amount for an appeal along with costs related to a cross appeal if needed. Town Attorney McCargar stated he believes the fees noted are reasonable.

Pursuant to a question from President Vazquez, Town Attorney McCargar stated the cross-appeal would challenge the court's conclusion on the merits of the case; whether the dock should be permitted or not.

If work had to be done at the location of the dock, Town Attorney McCargar stated that pursuant to the order from Judge Maus in December, 2010, the Town would have to give the Weinmeisters notice and they would need to remove the portion of dock requested and get it out of the way so that any scheduled work can be done.

President Vazquez inquired why the Weinmeisters were appealing as Mr. McCargar stated the order handed down does not affect the size, shape or location of the dock as indicated by evidence at the trial. Mr. McCargar was unsure although the Weinmeisters had submitted an alternative configuration of the dock to Judge Maus which had been denied. It was also noted that part of the order was the Weinmeisters were expected to adhere to the Town's general regulations regarding the use of the lake such as not keeping a boat on a lake overnight.

Secretary Slater motioned to approve the Weinmeister appeal budget request not to exceed \$8,650 for attorney's fees; Board Member Carrigan seconded the motion. Roll call on the vote resulted as follows:

Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Slater, Vazquez

Nays – None. Motion carried.

6. Communications

Town Attorney McCargar stated the citizens who purchased the pocket park have approached the Town pocket park property with a request that the Kern Reservoir and Ditch Company consider moving some property lines that would permit them to occupy space that, according to the assessor is owned by the Kern. Mr. McCargar noted he told them that it would not be addressed at the meeting tonight due to additional research that needed to be completed. Mr. McCargar inquired of the Kern Board if they would be willing to convene a special meeting to discuss the subject. The Town Board had no objections to a special meeting to discuss

7.

Adjourn

Town Board Member Slater motioned to adjourn the meeting; Town Board Member Bishop-Cotner seconded the motion. Roll call on the vote resulted as follows:

Yeas – Bishop-Cotner, Carrigan, O’Neill, Melendez, Slater, Vazquez

Nays – None. Motion carried.



Patti Garcia, Town Clerk