



## KERN BOARD REGULAR MEETING

July 13, 2015

Immediately before the Regular Town Board Meeting

Town Board Chambers

301 Walnut Street, Windsor, CO 8055

The Town of Windsor will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call (970) 674-2400 by noon on the Thursday prior to the meeting to make arrangements.

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### MINUTES

1. Call to Order  
President Vazquez called the meeting to order at 6:51 pm
  
2. Roll Call of Directors Present

	President John Vazquez
	Vice President Kristie Melendez
	Myles Baker
	Robert Bishop-Cotner
	Ivan Adams
	Secretary/Treasurer Christian Morgan
Absent	Jeremy Rose
Also Present:	Town Manager Kelly Arnold
	Town Attorney Ian McCargar
	Parks/Open Space Manager Wade Willis
	Deputy Town Clerk Krystal Eucker
  
3. Approval of Minutes of May 11, 2015 Board of Directors Meeting – K. Eucker  
**Board Member Adams motioned to approve the minutes as presented; Vice President Melendez seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Morgan, Melendez, Bishop-Cotner, Adams, Vazquez; Nays – None. Motion passed.**
  
4. Approval of Bills – D. Moyer  
Mr. Arnold stated there is a bill that should not have been included on the list regarding the pump station work assessment at Kyger. The bills should be approved excluding the bill to Leonard Rice Engineers for \$1,067.75.  
**Vice President Melendez motioned to approve the bills as amended; Board Member Baker seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Morgan, Melendez, Bishop-Cotner, Adams, Vazquez; Nays – None. Motioned passed.**
  
5. Resolution No. 2015-KB02 - Resolution Approving First Amendment to Operational Management Services Agreement between the Kern Reservoir and Ditch Company and the Whitney Irrigating Ditch Company – I. McCargar  
**Vice President Melendez motioned to approve Resolution 2015-KB02; Board Member Baker seconded the motion.**

Town Attorney Ian McCargar stated on May 11, 2015, the Kern Board approved Resolution No. 2015 KB-01, authorizing an agreement under which the Whitney Irrigating Ditch Company would provide the Kern with ditch rider services. Following Kern approval, the Whitney's insurance carrier notified the parties that the language of Section 13 of the agreement requiring "additional insured" status of the Kern on the Whitney's insurance policy could not be implemented. "Additional insured" status allows a contracting party make claims on the other party's insurance policies, rather than deferring to the named insured. Although this term is commonplace, the parties have renegotiated and have arrived at the attached First Amendment to the earlier agreement. The amended language requires that each party maintain its own insurance, without either adding the other as an "additional insured".

**Roll call on vote resulted as follows: Yeas – Baker, Morgan, Melendez, Bishop-Cotner, Adams, Vazquez; Nays – None. Motioned passed.**

6. Report on rip-rap project – K. Arnold

Mr. Arnold stated the rip-rap project has been discussed in the past and there is some money in the capital budget (sales tax capital) this year to start a rip rap project. As the rip-rap project has been looked at further, it was discovered the costs is more than expected at \$400,000 to complete the north shoreline. Also, balancing the rip-rap project along with lowering Kyger to install the pump station could be problematic. The west and south shorelines are holding together well from the natural vegetation. With most of the waves coming from the west and impacting the north and east shorelines, those will need to be addressed. It is suggested the rip-rap project be placed on hold at this time to allow Kern to accumulate funds from oil and gas revenue to complete the project at one time.

Mr. Vazquez inquired if there was any farrow money that was tied to that rip rap project that would be in jeopardy if we don't proceed with the project.

Mr. Arnold stated there was not. The east shoreline was completed with FEMA mitigation funds.

Ms. Melendez inquired when this issue would come back before the board.

Mr. Arnold stated there will be discussion during the Capital Improvement Plan meeting.

7. Report on Kern annual budget preparation and presentation – K. Arnold

Mr. McCargar stated a budget is being developed for the Kern Reservoir and Ditch Company since there is a source of revenue, primarily oil and gas revenue. Also, legally it is best that a budget is created and treated as a separate entity.

Mr. Vazquez inquired if time spent by town staff working on Kern related items should be segregated.

Mr. Arnold stated that is something that has not been looked at by the town but may need some discussion around that issue. Also, the separate entity was created in part for liability purposes as a ditch company.

Mr. Vazquez inquired if it would be feasible to bring the Kern Board under the fold of the Town of Windsor as a department.

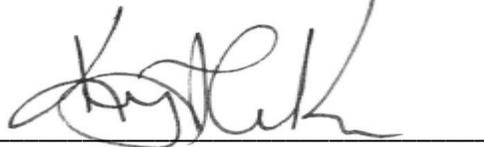
Mr. McCargar stated keeping the Kern Board and Ditch Company as a viable independent entity is good for the Kern and the town. Aside from the dredging loan, we also have a water court decree that requires that Kern be active and responsive under the terms of that court order, also the liability protection that goes along with owning and operating a reservoir. The idea for a budget came about because revenues were being received and the question arose on who is accounting for this. Some of the services that the town provides can certainly be accounted for in that budget and the idea is to treat it as a stand along corporation.

Mr. Arnold stated there is a line item in the town budget for the Kern Board but town support costs have not been looked at.

8. Communications  
None

9. Adjourn  
**Board Member Adams motioned to adjourn; Board Member Bishop-Cotner seconded the motion. Roll call on vote resulted as follows: Yeas – Baker, Morgan, Melendez, Bishop-Cotner, Adams, Vazquez; Nays – None. Motioned passed.**

**The meeting was adjourned at 7:04 p.m.**



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Krystal Eucker, Deputy Town Clerk