

CLARKE COUNTY RESERVOIR COMMISSION
AMERICAN STATE BANK
Thursday, May 8, 2008
9:00 a.m.

Sandy Kale, Chairperson
Jack Cooley, Vice-Chairperson
Rick Buesch
Fred Diehl
Frank Riley
Norm Lust
Alternate Jeannie Crees
Harold Allen, Jr.
Anne Welker
Dan McIntosh

Osceola Water Board
Clarke County Board of Supervisors
Clarke County Development Corporation
City of Osceola
Clarke County Conservation Board
Clarke Soil & Water Conservation District
City of Murray
City of Woodburn
Member at Large
SIRWA

Curtis Allen
Connie Allen
Bob Anderson
Bev Raymond
Darlene Handrock
Joseph E. Handrock
Merle Klein
Kathy Kelly
Jason A. Gibbs
Bill Freeman
Anita Foland
Bob Horton
Daniel Shepherd
Dave Beck
Dennis Schrodt
William A. Kelly
Thomas B. Anderson, P.E.
Marion James
Kathy Flam
Judy Weese
Dennis Hilger

Landowner
Landowner
Landowner
Landowner
Landowner
Landowner
Landowner
Landowner
Citizen
Clarke Electric Coop
Clarke Co. Conservation Board
Osceola Water Board
SIRWA
USDA NRCS – Des Moines
USDA NRCS - Osceola
Osceola City Administrator
Clarke County Engineer
James Law Firm
Southern Iowa RC&D
Southern Iowa RC&D
Southern Iowa RC&D/NRCS

- Not everyone who attended the meeting signed in.

CALL MEETING TO ORDER

Chairperson Sandy Kale called the meeting of the Clarke County Reservoir Commission (CCRC) to order at 9:01 a.m. Nine Commissioners and one alternate responded to roll call.

APPROVE AGENDA

A motion to approve the agenda as written was made by Commissioner Jack Cooley and seconded by Commissioner Fred Diehl. Motion carried with a roll call vote:

Ayes: Commissioners Fred Diehl, Harold Allen, Jr., Jack Cooley, Frank Riley, Rick Buesch, Norm Lust, Sandy Kale, Dan McIntosh, Anne Welker, and Alternate Jeannie Crees.

APPROVE APRIL 10, 2008 MEETING MINUTES

Motion was made by Commissioner Dan McIntosh and seconded by Commissioner Norm Lust to approve the April 10, 2008 meeting minutes. Motion carried with roll call vote:

Ayes: Commissioners Fred Diehl, Harold Allen, Jr., Jack Cooley, Frank Riley, Norm Lust, Sandy Kale, Dan McIntosh, and Anne Welker.

Abstain: Commissioners Rick Buesch and Alternate Jeannie Crees.

TREASURER'S REPORT

Treasurer Dan McIntosh noted the CD had been cashed (approved by commissioners at the 4/10/2008 meeting) and deposited into the *checking account*. He explained that a request, for transfer of Casino funds to CCRC's *special account*, had been submitted to the three entities that control the Casino funds. The request for the funds had been approved by two of the three entities - the City of Osceola and the Water Board. The development board will meet the following week to act on the request.

Mr. McIntosh reported that CCRC's general budget of \$39,500 for FY 2008 would end in June. The FY 2009 budget, beginning July 1, 2008, would require approval from each of the sponsoring organizations of CCRC. Treasurer Dan McIntosh recommended that CCRC request a 10% increase, or about \$4,000 increase in the FY 2009 budget.

He also explained that Noel Friday from Friday's Insurance Co. had requested the completion of a form that showed revenue/expenditures for FY 2008 so that the insurance company could determine the premium due for policy renewal on June 1, 2008. When the new price becomes available, the commissioners could determine if CCRC should continue with that policy.

Mr. McIntosh also stated that CCRC will hold its public hearing July 7 at Terrible's Lakeside Casino and that the contract for the room fee and refreshments for the event totaled to \$244.39. Director Rick Buesch suggested that CCRC compare prices of other local meeting room facilities for future events.

**TREASURER'S REPORT
Clarke County Reservoir Commission
May 8, 2008**

CHECKING ACCOUNT

PREVIOUS BALANCE (April 10, 2008)		-\$ 5,989.58
REVENUE RECEIVED		
04/10/2008	Deposit CD (<i>approved by commissioners at 4/10/08 mtg. to cash CD</i>)	\$ 9,612.82
04/30/2008	Interest for April 2008	<u>2.36</u>
	TOTAL REVENUE RECEIVED	9,615.18
	CASH BALANCE	\$3,625.60
EXPENSES PRESENTED FOR PAYMENT		
05/08/2008	Southern Iowa RC&D - <i>postage expense 2/21/08-5/2/08</i>	<u>298.00</u>

TOTAL EXPENSES	<u>298.00</u>
ENDING BALANCE (May 8, 2008)	\$ 3,327.60

SPECIAL ACCOUNT	
(Opened 7/26/2007)	
PREVIOUS BALANCE (April 10, 2008)	- \$1,436.21
REVENUE RECEIVED	
4/10/2008 Deposit CD (approved by commissioners at 4/10/2008 mtg. to cash CD)	1,436.21
4/30/2008 Interest for April 2008	<u>0.00</u>
TOTAL REVENUE RECEIVED	<u>1,436.21</u>
CASH BALANCE	0.00
EXPENSES PRESENTED FOR PAYMENT	
5/8/2008 James Law Firm	6,134.04
5/8/2008 Ahlers & Cooney, P.C.	1,754.25
5/8/2008 Howard R. Green – Prudent & Feasible Alternatives Study	802.50
5/8/2008 Howard R. Green – Water Demand Study	234.50
5/8/2008 Brown, Winick, Graves, Gross: Attorneys at law	<u>11,240.90</u>
TOTAL EXPENSES	<u>\$20,166.19</u>
ENDING BALANCE (May 8, 2008)	- \$ 20,166.19

12-MONTH CERTIFICATE OF DEPOSIT	
PREVIOUS BALANCE (11/30/06)	\$20,491.92
12/31/2007 Interest	166.04
1/2/2007 Transfer to Checking Account	-10,000.00
6/31/2007 Interest	242.97
12/16/2007 Interest	<u>114.85</u>
ENDING BALANCE – (Matured 12/16/07; new maturity date 12/16/08)	\$ 11,015.78
Additional interest as of April 10, 2008	<u>33.25</u>
Balance of CD as of April 10, 2008	\$ 11,049.03
4/10/2008 CASHED CD APRIL 10, 2008	<u>-11,049.03</u>
CD Balance on April 10, 2008	0.00

.....

Treasurer Dan McIntosh presented the Treasurer’s Report. A motion was made by Director Dan McIntosh to approve the report, pay the postage bill from *general checking account* and to pay the legal service fees from the *special account* upon receipt of \$20,166.19 Casino funds. He noted that in the future each request for Casino funds would be for an exact amount to pay monthly bills, thus, leaving a zero balance in the account each month.

Motion was seconded by Director Fred Diehl and carried with roll call vote:

Ayes: Commissioners Fred Diehl, Harold Allen Jr., Jack Cooley, Frank Riley, Rick Buesch, Norm Lust, Sandy Kale, Dan McIntosh, Anne Welker and Alternate Jeannie Crees.

NEW BUSINESS:

SCHEDULE PUBLIC HEARING FOR SITE SELECTION

Attorney Marion James explained that this ‘Schedule for Public Hearing for Site Selection’ is a resolution that is a formal step in the process that CCRC is planning to build a lake/reservoir. Mr. James stated, “Because it involves agricultural land, the Iowa Code Chapter B requires that CCRC have a public hearing, giving opportunity to the public for its input on the site, the whole project, before CCRC makes a final decision in selecting the site and then all the things that come out of that in terms of building a lake. That code section requires that CCRC have a public hearing with notice published in the paper not less than four or more than 20 days. The property owners are required to be notified not less than 30 days prior to that time.” The notice is mailed to a list of property owners whose names have been certified by the county auditor.

A copy of the RESOLUTION AUTHORIZING PUBLIC HEARING ON INTENT TO COMMENCE A PUBLIC IMPROVEMENT PROJECT TO CONSTRUCT A RESERVOIR AND TO ACQUIRE AGRICULTURAL LAND FOR THE PROJECT was presented to each commissioner to consider for setting the date for the public hearing. The landowners would receive notice as to the purpose of the project along with ‘statement of property owner’s rights’

Attorney James explained if the Commissioners wanted this resolution, which sets the date for July 7 for the public hearing; then, because of time restraints, this resolution would require approval from the commissioners at this May 8, 2008 meeting. The resolution identified the location as Terrible’s Lakeside Casino.

Mr. James also explained that a second hearing would be required to meet requirements of the Iowa Code to approve acquisition of agriculture land by eminent domain. He stated that bonding attorneys had advised to have the two hearings scheduled together but since the second hearing required only a 14-day notice, it could be approved at the June meeting. Commissioner Dan McIntosh commented that it would be more convenient for absentee landowners to schedule/attend both hearings the same date.

Commissioner Fred Diehl made the motion that CCRC approve the resolution authorizing the public hearing to be held July 7, 2008 at 7:30 p.m. at Terrible’s Lakeside Casino Event Center, Osceola, Iowa and that the second hearing follow the public hearing. Motion was seconded by Commissioner Norm Lust and carried with a roll call vote:

Ayes: Commissioners Fred Diehl, Harold Allen Jr., Jack Cooley, Frank Riley, Rick Buesch, Norm Lust, Sandy Kale, Dan McIntosh, Anne Welker and Alternate Jeannie Crees.

The commissioners concluded they would meet July 7, 2008 after the public hearing to take action on the public hearing.

LOST CLARIFICATION ELECTION

Attorney James stated that the language of the referendum passed last fall for use of local option sales tax was very broad, and he explained bonding attorneys had expressed some hesitancy/difficulty in selling bonds for land acquisition due to the ballot language not addressing land acquisition. The law firm in Des Moines (specializing in issuing bonds) advised CCRC to go back and clarify the language with voters. (The entities voting would be City of Osceola and City of Woodburn.) The commissioners were referred to a handout included in the meeting packet entitled “Auditor’s Guide to Special Elections”. To make the change effective before January 2009, the election would have to held ninety (90) days prior to January 1 making the date sometime in September 2008 with sixty (60) days lead time before the September election needed for information to be shared with the voters. He suggested that the commissioners discuss this issue at the next CCRC meeting.

POLICY OF PROCUREMENT STANDARD

Attorney James discussed the issue of procurement standard that CCRC would have to follow to hire a land coordinator, appraiser, review appraiser and abstractor. Mr. James had contacted the attorney in the USDA's Office of General Counsel in Kansas City. He was informed that technically CCRC would not have to follow the federal standards despite using federal funds for the project since CCRC was a local organization. He stated that if CCRC chose to use the federal procurement standard, then Natural Resources Conservation Service (NRCS) staff would have the guidelines for CCRC to follow.

Dave Beck from NRCS in Des Moines explained the federal procurement standard and how it affected the process/procedures for the project. Commissioner Norm Lust stated that the land negotiations committee had agreed that CCRC should follow the federal procurement standard and the committee would make that recommendation to CCRC.

Motion was made by Commissioner Norm Lust and seconded by Commissioner Frank Riley that CCRC use the federal procurement standard. Motion carried with roll call vote:

Ayes: Commissioners Fred Diehl, Harold Allen Jr., Jack Cooley, Frank Riley, Rick Buesch, Norm Lust, Sandy Kale, Dan McIntosh, Anne Welker and Alternate Jeannie Crees.

INTERGOVERNMENTAL AGREEMENT FOR SALES TAX RECEIPTS

CCRC Attorney Marion James reported the *INTERGOVERNMENTAL AGREEMENT FOR SALES TAX RECEIPTS* subject to final approval given by the CCRC Finance Committee, Clarke County, City of Osceola and the City of Woodburn, was being revised by bonding attorneys.

Attorney James explained that at the present time money is being collected by the Iowa Department of Revenue in response to the referendum passed last fall. Sales tax is being collected from the City of Woodburn and City of Osceola. The framework is not yet available as to where the money is to go due to language in the referendum. Once the agreement is in place, the county will probably be the secondary recipient of the funds and hold the funds as the trustee in benefit for the CCRC. Attorney James plans to present the final draft at the June meeting. No action was taken.

AMEND 28E BYLAWS FOR CONDEMNATION/SHORT TERM FINANCING

Attorney James stated the draft amendment to the 28E Intergovernmental Agreement for CCRC was being reviewed by a bonding attorney; and, due to a proposed change, the document would not be ready to present to each sponsor of CCRC until sometime in June. He indicated that the Bylaws would also have to be amended.

The amendment would provide for four (4) changes: (1) power of eminent domain, (2) power to borrow money on a short-term basis, (3) amendment procedures for the bylaws, and (4) amendment procedures for the 28E.

USDA NRCS UPDATE

Dave Beck, Planning Leader from NRCS in Des Moines, reported NRCS staff is busy getting ready to present the *Draft Plan* for the interagency and public review sometime in June. He explained that NRCS would host a one-day public meeting/open house session at Osceola to publicly explain and discuss the *Draft Watershed Plan and Environmental Impact Statement*. There will be posters/displays to explain the project. Technical staff from NRCS will be present to answers questions. Mr. Beck suggested that the session be held June 26 and at 5:00 p.m. to 7:30 p.m. instead of having one afternoon session and one evening session. The Commissioners were in

agreement with the date and time for the meeting. NRCS would like to use the large assembly room in Terrible's Lakeside Casino due to the size of crowd the room can hold and asked SIRC&D to schedule the room.

Mr. Beck commented that NRCS normally sends out letters of invitation as a joint letter from NRCS and CCRC and that Chairperson Kale will be asked to sign the letter. He indicated that CCRC should have a display and that at least two commissioners should be present to assist with answering questions. CCRC members could work in shifts. Mr. Beck stated NRCS publicity staff will assist the Commissioners with the development of their display table. Display materials should explain the purpose of the lake, the size of the lake, the water needs for the community, etc. Commissioner Fred Diehl made comments that there should be display(s) showing history of successful water development projects, such as Three Mile Lake, and finished product(s).

Chairperson Kale appointed a committee including Frank Riley, Anne Welker and Anita Foland to work with RC&D/NRCS on the open house display.

Mr. Beck explained that the 'open house' is held during the 45-day review and comment period, which is required of NRCS to publicly explain and discuss the *Watershed Plan and Environmental Impact Statement*. The 45-day period start when the interagency review is published in the federal register. The comments become a part of the final plan.

DRAFT TIMELINE

RC&D Coordinator Dennis Hilger and Dave Beck discussed the *Draft Timeline* for the water development project. The timeline itemized project activity (need, who, and when) starting with April 2008 – MAY 2009.

SPONSOR REPORTS

Alternate Jeannie Crees, City of Murray, had nothing to report.

Commissioner Fred Diehl, City of Osceola, had nothing to report.

Commissioner Jack Cooley, Clarke County Board of Supervisors, had nothing to report.

Commissioner Frank Riley, Clarke County Conservation Board, had nothing to report.

Commissioner Rick Buesch, Clarke County Development Corporation, had nothing to report.

Commissioner Norm Lust, Clarke Soil and Water Conservation District, had nothing to report.

Commissioner Sandy Kale, Osceola Water Board, reported that she and Dan McIntosh attended the Osceola City Council meeting and the Osceola Water Board meeting to explain CCRC's request for Casino funds.

Commissioner Dan McIntosh, SIRWA, reported that SIRWA had entered into a contract with Creston Waterworks to upgrade the water treatment plant membrane filtration, which will be approximately a six million dollar project over a three-year period.

Commissioner Anne Welker, Member at Large, had nothing to report.

OTHER ITEMS TO BE DISCUSSED BY COMMISSION MEMBERS

RC&D Coordinator Dennis Hilger referred Commissioners to a handout, *Service Provider April – May Report*, which itemized the various duties completed by Southern Iowa RC&D Area, Inc. from April 10 to May 8, 2008.

OPPORTUNITY FOR CITIZENS TO ADDRESS THE BOARD

Attorney Marion James, Dave Beck and RC&D staff addressed questions presented by members in the audience. Attorney James agreed to research question and respond by letter to one landowner who had question concerning bonding companies.

CLOSED SESSION TO DISCUSS PENDING LITIGATION

Chairperson Sandy Kale announced that members of the Commission will have to move into closed session to discuss pending litigation. At 10:20 a.m., Commissioner Norm Lust moved to go into closed session to discuss pending litigation. Commissioner Dan McIntosh seconded the motion. Motion carried by a roll call vote:

Ayes: Commissioners Fred Diehl, H. Allen Jr., Jack Cooley, Frank Riley, Norm Lust, Sandy Kale, Dan McIntosh, Anne Welker and Alternate Jeannie Crees.

CONSIDERATION OF MATTERS ARISING FROM CLOSED SESSION

At 10:49 a.m. the Commission came out of closed session to continue action on remaining agenda items. Chairperson Sandy Kale took roll call. There were no matters arising from closed session to present for discussion.

Chairperson Kale asked Marion James to discuss recent legislation concerning tax increment financing (TIF). Mr. James said the legislation was somewhat unclear as to the impact that it would have on the water development project and that there was limited information available at this time.

Chairperson Kale stated that it was time to determine the budget for FY 2009. She indicated the finance committee had discussed the idea of leaving the dues the same and in the future pay all attorney/legal fees from the special account (Casino funds). She called on the Bill Freeman, Chairperson of the Osceola Water Board for comment. He explained that funds needed for non-investment activity, such as legal fees, could be requested, as long the amount did not affect the principal invested for the three entities. Funds requested will come from interest on the investment. When CCRC becomes involved with land acquisition activity, then funds can be drawn on the principal.

Since this item was not on the agenda, it was agreed that the Commissioners will vote at the next meeting to keep the sponsors' dues of \$39,500/year as the same amount in FY 2009.

The next item discussed by Chairperson Kale was the timeline. She stated that CCRC wanted an aggressive timeline for advertising and hiring for four positions: (1) land acquisition coordinator, (2) appraiser, (3) review appraiser, and (4) abstractor. Those positions were not included in the draft timeline discussed earlier in the meeting. Ms. Kale suggested that in July, after the public hearing (for selection of site), that the advertisements go out for the land acquisition coordinator and the appraiser, and in August that the advertisements go out for the review appraiser and abstractor.

Attorney James suggested that this item be included on the July meeting agenda.

After discussion, the commissioners agreed that the land negotiations committee should proceed with finalizing the position descriptions for the four (4) positions and be prepared for advertising the day after the public hearing. Ms. Kale stated the committee could make decisions on the advertising.

Attorney James discussed the purpose of the declaratory judgment. He recommended that the Ahlers Firm in Des Moines assist with that process. This process should start following the site selection.

ADJOURN MEETING

Upon motion made by Commissioner Norm Lust, seconded by Commissioner Dan McIntosh, the meeting was adjourned at 11:22 a.m. Motion carried with a roll call vote:

Ayes: Commissioners Harold Allen Jr., Jack Cooley, Frank Riley, Norm Lust, Sandy Kale, Dan McIntosh, Anne Welker and Alternate Jeannie Crees

Commissioners Rick Buesch and Fred Diehl were not available to vote.

Secretary

THE NEXT MEETING OF THE CLARKE COUNTY RESERVOIR COMMISSION IS SCHEDULED FOR THURSDAY, June 12, 2008 AT 9:00 A.M. AT THE CLARKE COUNTY DEVELOPMENT OFFICE, 115 EAST WASHINGTON STREET, OSCEOLA, IA.