

CLARKE COUNTY RESERVOIR COMMISSION
Information Station
(Clarke County Development Office)
115 East Washington Street
Osceola, IA
Thursday, March 12, 2009
9:00 a.m.

Sandy Kale, Chairperson (by phone)
Jack Cooley, Vice Chairperson
Charles Morgan, Alternate
Dan McIntosh, Treasurer
Mary Klein, Alternate
Harold Allen, Jr.
Anita Foland, Alternate
Jeannie Crees, Alternate
Anne Welker

Osceola Water Board
Clarke County Supervisors
City of Osceola
Southern Iowa Rural Water Association
Clarke Soil & Water Conservation District
City of Woodburn
Clarke County Conservation Board
City of Murray
Member at Large

Daniel Shepherd, Alternate
Kathy Kelly
Robert Brown
Robert Lundquist
Bill Kelly
Jeff Zimprich
Thomas B. Andersen, PE
Marion James, Attorney
Dennis Hilger
Judy Weese
Kathy Flam

SIRWA
Landowner
Union County Supervisor
Taylor County Supervisor
Osceola City Administrator
USDA NRCS, Atlantic
Clarke County Engineer
Creston
USDA-NRCS/SIRC&D
SIRC&D, Inc.
SIRC&D, Inc.

- Not everyone who attended the meeting signed in.

CALL MEETING TO ORDER

Vice Chairperson Jack Cooley called the meeting of the Clarke County Reservoir Commission (CCRC) to order at 9:12 a.m. Five Commissioners and four alternates responded to roll call. Commissioner Sandy Kale was present by telephone. Representative from the Clarke County Development Corporation was absent.

APPROVE AGENDA

A motion to approve the March 12, 2009 meeting agenda as written and posted was made by Commissioner Dan McIntosh and seconded by Commissioner Harold Allen, Jr. Motion carried with a roll call vote.

Ayes: Commissioners Harold Allen, Jr., Jack Cooley, Sandy Kale, Dan McIntosh, Anne Welker,
Alternates Mary Klein, Jeannie Crees, Anita Foland and Charles Morgan.

Absent: Clarke County Development Corporation

Vice Chairperson Jack Cooley asked that agenda item V. NRCS Public Meeting Report and Public Comment Period be combined with agenda item XI. USDA NRCS Update.

APPROVE FEBRUARY 12, 2009 MEETING MINUTES

Motion was made by Commissioner Harold Allen, Jr. and seconded by Commissioner Anne Welker to approve the February 12, 2009 meeting minutes. Motion carried with roll call vote.

- Ayes: Commissioners Harold Allen, Jr., Jack Cooley, Anne Welker, Sandy Kale, Alternate Anita Foland and Substitute Alternate William Kelly (in audience but was the representative at this meeting)
- Abstain: Commissioner Dan McIntosh, Alternates Jeannie Crees, Mary Klein, and Charles Morgan
- Absent: Clarke County Development Corporation

TREASURER'S REPORT

**TREASURER'S REPORT
Clarke County Reservoir Commission
March 12, 2009**

CHECKING ACCOUNT		CK#
PREVIOUS BALANCE (February 12, 2009)	\$14,418.99	
REVENUE RECEIVED		
2/28/2009 Interest for February 2009	<u>7.51</u>	
TOTAL REVENUE RECEIVED	<u>7.51</u>	
CASH BALANCE	\$14,426.50	
EXPENSES PRESENTED FOR PAYMENT		
2/28/2009 Clarke County Fairgrounds Event Center (rental fee for 2/26/09)	300.00	Ck 1076
3/12/2009 SIRC&D - quarterly payment for March, April & May 2009	7,500.00	Ck 1077
3/12/2009 SIRC&D - postage expense	140.70	Ck 1078
3/12/2009 SIRC&D - refreshments/supplies for NRCS Open House	27.42	Ck 1079
3/12/2009 Clarke County Assessor - aerial photos	<u>310.54</u>	Ck 1080
TOTAL EXPENSES PRESENTED FOR PAYMENT	<u>8,278.66</u>	
ENDING BALANCE (March 12, 2009)	\$6,147.84	

SPECIAL ACCOUNT		CK#
<i>(Opened 7/26/07)</i>		
PREVIOUS BALANCE (February 12, 2009)	\$25.17	
REVENUE RECEIVED	<u>0.00</u>	
CASH BALANCE (March 12, 2009)	\$25.17	
EXPENSES PRESENTED FOR PAYMENT	<u>0.00</u>	
ENDING BALANCE (March 12, 2009)	\$25.17	

LOSST 2008 CHECKING ACCOUNT	CK#
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Account opened 10/9/2008

PREVIOUS BALANCE (February 12, 2009)	\$ 287,061.43	
REVENUE RECEIVED		
2/28/2009 Interest for February 2009	<u>159.88</u>	
TOTAL REVENUE RECEIVED TO DATE	<u>159.88</u>	
CASH BALANCE		
	\$287,221.31	
EXPENSES PRESENTED FOR PAYMENT		
2/28/2009 James Law Firm – legal service	<u>7,413.17</u>	Ck 1009
TOTAL EXPENSES	<u>7,413.17</u>	
ENDING BALANCE (March 12, 2009)	\$279,808.14	

12 MONTH CERTIFICATE OF DEPOSIT
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12/11/2008 Time Certificate of Deposit (2008 Local Option Sales & Service Tax)	\$300,000.00	
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Treasurer Dan McIntosh noted that copies of the Treasurer’s Report are available for the Commissioners and audience to review. A motion to approve the Treasurer’s Report and to pay the bills as presented was made by Commissioner Dan McIntosh and seconded by Commissioner Harold Allen, Jr. Motion carried on a roll call vote.

- Ayes: Commissioners, Harold Allen, Jr., Jack Cooley, Sandy Kale, Dan McIntosh, Anne Welker,
 Alternates Jeannie Crees, Anita Foland, Mary Klein, Charles Morgan
- Absent: Clarke County Development Corporation

NEW BUSINESS

FY 2010 BUDGET PER 28E AGREEMENT

The FY 2010 proposed budget per 28E agreement was presented as an attachment to the Treasurer’s Report. The only new item added to the budget was the line item for professional service of a certified public auditor (CPA). Commissioner McIntosh explained that to date CCRC had not had a full audit. However CCRC had received a yearly review of financial statements (as recommended by the CPA). Commissioner McIntosh asked that each Commissioner review the FY 2010 budget and present it to their respective organization for approval. CCRC will vote on the budget at the April 23, 2009 meeting. It was noted that FY 2010 will begin July 1, 2009.

SIRC&D SERVICE PROVIDER AGREEMENT

Southern Iowa Resource Conservation and Development Area, Inc. (SIRC&D) Board of Directors Robert Lundquist and Robert Brown addressed the CCRC Commissioners regarding the ‘service provider agreement’ signed between CCRC and SIRC&D in August 2007. The purpose of the agreement, Lundquist noted, was to assist CCRC to complete its proposed water supply project by providing a number of services essential to development of the reservoir (i.e. coordination of services, accounting, record keeping, administrative, project funding (i.e. loans/grants), federal and state law compliance (e.g. Iowa Open Meeting Laws), media, contact point, etc.). The agreement is for a three year period beginning August 2007 for \$30,000 per year. The agreement ends August 31, 2010. Lundquist reminded the CCRC commissioners that when he first presented the proposal for the ‘service provider agreement’ in 2007, that he had voiced concerns of the work being completed for the proposed dollar amount. He recalled that when he presented the proposal in 2007, one of the CCRC commissioners, too, had concerns that the proposal was too low, and that Lundquist had responded (at the 2007 meeting) “that SIRC&D would try.” As Chairperson of the SIRC&D, he reported we have tried but it was his feeling that significantly more hours in 2008 were going into the project than what was originally estimated.

SIRC&D Chairperson Lundquist stated that an analysis of the staff hours used for the project was made of the last quarter of 2008 and the first two months of 2009. Mr. Lundquist reported that the staff was spending a majority of its working hours on the CCRC Water Supply project. He reported that it appears that SIRC&D did not estimate enough hours in the past year. After interviewing staff, the number of hours needed for the project was projected forward for a full year, starting January 2009. He explained that SIRC&D was not charging enough to cover its hourly expenses for staff in 2009. Lundquist noted that the hours needed for the project have increased and that two former federal employees have retired from federal service, but that SIRC&D, Inc. has hired the employees to keep the project progressing forward at a good pace. Lundquist explained that hiring back the two employees for the project and new state and federal laws regarding water supply reservoir (e.g. 2006 eminent domain law) have dramatically affected the ‘service provider agreement’ budget that he proposed in 2007. Many project activities simply require more detail and, therefore, require additional hours of staff time. (The SIRC&D will only use one federal employee on staff in 2009-2010 who will be the replacement for the retired USDA RC&D Coordinator, and if the individual has any training in watershed and reservoir development, it will be limited. In 2009-2010 the SIRC&D will have 2.6 man-years of staff time available.)

SIRC&D Director Robert Brown commented that SIRC&D is just trying to cover its costs to provide a “team” to work on the CCRC project.

Mr. Lundquist stated the payment requested today covers services for March, April and May 2009. After that date, there will be 15 months remaining on the contract. He stated SIRC&D was asking for an additional \$29,000 on the contract to cover the remaining 15 months (June 2009 through August 31, 2010) for services. This does not cover any past expenses for service. The request is to cover SIRC&D’s labor costs for the next 15 months. This amount does not and will not cover any equipment costs.

Commissioners asked for an explanation of how the increase in fees for the service provider would affect the budget. It was explained that the budget was related to sponsor contributions/yearly dues of which \$30,000 was a line item to pay SIRC&D a service provider fee. If the Commissioners approved the increase in the agreement with SIRC&D, the additional amount could be paid from the local option sales and service tax (LOSST) revenue.

A motion to approve a request for \$29,000 increase for the 15 months remaining in the SIRC&D Service Provider Agreement was made by Commissioner Harold Allen, Jr. The motion was seconded by Alternate Jeannie Crees Motion carried on a roll call vote.

Ayes: Commissioners Harold Allen, Jr., Jack Cooley, Sandy Kale, Dan McIntosh, Anne Welker, and Alternates Jeannie Crees, Charles Morgan, Anita Foland and Mary Klein

Absent: Clarke County Development Corporation

HIRING COMMITTEE REPORT

Commissioner Anne Welker read the following CCRC Hiring Committee report, which was received from Committee Chairperson Norm Lust.

The committee had met three (3) times since the last monthly CCRC Board of Directors meeting on February 12, 2009. This included a meeting of the full committee at James Law Firm Office in Afton and telephone conference call with CCRC's finalist for the Land Acquisition Coordinator job.

The Hiring Committee is completing negotiations with Mr. Robert Himschoot with GLB, L.L.C. of Cedar Rapids, Iowa for the Land Acquisition Coordinator job. The Hiring Committee, its attorney and service provider are finalizing details in the contract that address the start time and payment schedule, which includes mobilization payment and contingent payment. No problems are expected. The CCRC service provider and attorney have also had conference calls with Mr. Himschoot to prepare for the Hiring Committee's three aforementioned meetings.

The completed contract with the Appraiser is in his hands for his review, and the CCRC Hiring Committee should be receiving the contract soon.

The advertisement for the Review Appraiser will appear in three publications next week.

The advertisement for the Abstractor position will appear in the *Osceola Sentinel-Tribune*.

PROPOSE PROGRAM FOR APRIL 23, 2009 PUBLIC HEARING

Attorney Marion James reported the laws have changed dramatically with respect to acquisition of property by eminent domain and also under terms of statute with respect to having a required public hearing when a public entity intends to acquire agricultural land for an improvement project, which may involve eminent domain.

“The change is that before you can proceed with eminent domain, an entity must show there is a need for water. Also, the means proposed to satisfy the need for water, with respect to building a surface water source lake, that a feasibility study has been completed. Both of these items have been completed. The lake can only be built to a size in number of acres that are needed based on NRCS standards to meet that need. CCRC has established that there is a need for a flowage of three million gallons per day, taking into account the West Lake capacity, and also looking at the Ten State Standards which apply to the 50 year test. A feasibility study has been completed and now CCRC must now look again at the number of acres. CCRC has the job as fact finder to make sure that these requirements have been done.”

Attorney James recommended that CCRC have the experts, who prepared the studies/reports, present at the public hearing to be prepared to answer any questions. It is a time for CCRC to ask questions as well as the public to ask questions. He recommended that engineers Mike Fincel, Mark Duben, and Mark McCurdy be on the program because CCRC must still determine the number of acres that are needed to satisfy the demand that has been determined and also take a look and have input from those engineers that this is the site best suited in Clarke County to achieve that purpose.

In summary there are two water supply needs reports, one completed for SIRWA and one completed for Osceola Water Works that need to be reviewed with the audience. Also the Prudent and Feasible Alternatives Study and the NRCS Watershed Plan and Environmental Assessment should be reviewed with the audience. It was noted that the engineers will review the science/information of the reports rather than the lay people.

It was suggested that Marty Adkins and Jeff Zimprich from Natural Resources Conservation Service (NRCS) should be included on the program to discuss the 45-day comment period that will end on April 20 prior to the public hearing on April 23.

Dennis Hilger stated that these items were just suggestions for the program. CCRC could add other items. Chairperson Sandy Kale commented she thought this was a good plan and proposed that CCRC accept the proposed agenda. Mr. Hilger stated there would also be a question and answer period at the end of the program for the public.

It was noted that the CCRC Commissioners will have their April monthly business meeting April 23, 2009 at 4:00 p.m. at the Clarke County Fairgrounds Event Center Building. The public hearing concerning the proposed public improvement for construction of a lake as a surface drinking water source will be April 23, 2009 at 7:00 p.m. at the Clarke County Fairgrounds Event Center Building. The public hearing will involve the presentation of reports from engineers and public input.

Attorney Marion James reported that the notice to landowners will be mailed March 13, 2009. There will be a notice published in the paper sometime between 4 and 20 days prior to the hearing on April 23, 2009. Commissioner Dan McIntosh asked that CCRC send a reminder (post card) of the public hearing to those landowners a few days ahead of the April 23 date.

SCHEDULING PUBLIC HEARING ON INTENT TO APPROVE ACQUISITION OF PROPERTY BY EMINENT DOMAIN

Attorney Marion James reported that CCRC is dealing with two different Iowa Code sections. The second section requires that when a public entity intends to acquire land by eminent domain the property owners must receive notice that this may occur. Therefore a second public hearing on decision of whether to exercise power of eminent domain is held at a later date. A proposed resolution scheduling a public hearing on the regular monthly meeting date of May 14, 2009 was distributed to the Commissioners.

Attorney James stated he thought that CCRC had indicated a preference of having this public hearing also at the Clarke County Fairgrounds Event Center Building to accommodate those who want to attend. He suggested that the meeting start at 7:00 p.m. and the public hearing start at 7:30 p.m. He stated the engineers would not need to attend this meeting. The purpose of this meeting is to inform the public that some land may have to be acquired by eminent domain.

Dennis Hilger suggested that the land acquisition coordinator team be invited to attend to give a presentation and explain project maps. It was noted that at a previous meeting CCRC had agreed to rent the Event Center Building for this public hearing and that the service provider would prepare the rental contract for an officer to sign.

A motion was made by Alternate Anita Foland to approve the resolution for *SCHEDULING PUBLIC HEARING ON INTENT TO APPROVE ACQUISITION OF PROPERTY BY EMINENT DOMAIN* to be held May 14, 2009, 7:30 p.m. at the Clarke County Fairgrounds Event Center Building. Motion was seconded by Commissioner Anne Welker. Motion carried with roll call vote.

Ayes: Commissioners Harold Allen, Jr., Jack Cooley, Sandy Kale, Dan McIntosh, Anne Welker, and Alternates Jeannie Crees, Charles Morgan, Anita Foland and Mary Klein

Absent: Clarke County Development Corporation

A motion was made by Commissioner Dan McIntosh to hold the CCRC May business meeting on May 14, 2009 at 7:00 p.m. at the Clarke County Fairgrounds Event Center Building. Motion was seconded by Alternate Anita Foland. Motion carried with roll call vote.

Ayes: Commissioners Harold Allen, Jr., Jack Cooley, Sandy Kale, Dan McIntosh, Anne Welker, and Alternates Jeannie Crees, Charles Morgan, Anita Foland and Mary Klein
Absent: Clarke County Development Corporation

USDA NRCS PUBLIC MEETING UPDATE, PUBLIC COMMENT PERIOD AND NRCS UPDATE

Jeff Zimprich reported that approximately 85 people attended the NRCS public/informational meeting February, 26, 2009. He expressed a lot of information was handed out, and there was some good discussion concerning the project. He indicated he had some copies available of the handouts and the local NRCS Office also had copies of the handouts.

The NRCS Office in Des Moines was receiving comments. The end of the comment period will be April 20, 2009. Mr. Zimprich noted that the notice of the Draft Watershed Plan and Environmental Impact Statement was published in the Federal Register on Friday, March 6 and that sets the 45-day comment period to end April 20, 2009.

NRCS will review all those comments at the end of the comment period and will respond to those comments. NRCS is not required to respond to every comment. All comments, positive and negative, will be included in the plan to make it final. Mr. Zimprich encouraged all to submit comments. Commissioner Dan McIntosh commented that the NRCS displays were very informative.

Mr. Zimprich stated all the materials prepared for the NRCS open house would be available to local groups to use for local displays.

SPONSOR REPORTS

Commissioner Dan McIntosh reported that SIRWA will have its annual meeting on March 16, 2009. SIRWA has a *Friends of SIRWA* award. SIRWA choose Dave Beck from NRCS to receive the award for this year.

There were no other reports.

OTHER ITEMS TO BE DISCUSSED BY COMMISSION MEMBERS

No items were presented for discussion.

OPPORTUNITY FOR CITIZENS TO ADDRESS THE BOARD

Questions presented by Landowner Kathy Kelly were addressed.

APRIL CCRC MEETING DATE

The next CCRC meeting will be April 23, 2009 at 4:00 p.m. at the Clarke County Fairgrounds Event Center Building.

ADJOURN MEETING

Upon motion made by Commissioner Dan McIntosh, seconded by Alternate Anita Foland, the meeting was adjourned at 10:04 a.m. Motion carried with a roll call vote.

Ayes: Commissioners Harold Allen, Jr., Jack Cooley, Sandy Kale, Dan McIntosh, Anne Welker, and Alternates Jeannie Crees, Charles Morgan, Anita Foland and Mary Klein
Absent: Clarke County Development Corporation.

Secretary

THE NEXT MEETING OF THE CLARKE COUNTY RESERVOIR COMMISSION WAS SCHEDULED FOR THURSDAY, APRIL 23 AT 4:00 P.M. AT THE CLARKE COUNTY FAIRGROUNDS EVENT CENTER BUILDING.