

QCPOA Board Meeting Minutes

September 12, 2016

The meeting called to order by Lawana Langston at 6:22 PM.

Board members present: Lawana Langston, Dave Denison, Terry Davis, Steve Frazier, Lucinda Lull, and Don McKinney. Gary Bandy, the Board Secretary, was not present, but was standing by for a phone call when a question was called for a vote. Gary Bandy had asked Dave Denison to have someone else take minutes in his absence. Dave asked if there was any objection to Judy Denison taking the minutes, and hearing no objections, she agreed to do so.

Also present were other property owners whose names are listed on the attached sign in sheet.

Approval of the minutes from the last meeting was delayed since all members of the Board had not yet seen the proposed minutes and there was not a copy of the minutes available for them to review.

Lawana Langston clarified that the purpose of this board meeting was to get a report from the group that had been working on the water situation, and to consider how the QCPOA was going to be involved going forward. Clarification was also made that time would be allowed for comments and questions from the non-board member property owners in attendance.

Lawana Langston then called on Dave Denison to give a report on the work that a group of concerned property owners had been doing to understand the State's water requirements and determine the need to take action to protect Quartz Creek Property Owners access to water.

Dave Denison gave a brief history of dealings with the State regarding compliance with safe drinking water regulations, to which Terry Davis added a few additional dates, details, and clarification. Dave explained that after the July 5th, 2016 meeting with the State Water Quality Control Division (WQCD) at which he openly challenged them, he and other owners had separately come to the conclusion that it would be more cost effective and productive to try to comply with the requirements, and ensure access to safe drinking water, rather than to continue to incur expenses of a protracted legal battle and fines, the total of which could be substantial. He and 5 of these owners met to discuss strategies to address their concerns regarding the water situation. Those owners were Shirley Babler, Judy Henkel, Ron Blue, Steve Frazier, and John Hart. They then had a conference call with 4 staff members of the WQCD and Meg Parish, the Assistant Attorney General for the State of Colorado to get a better understanding of the requirements and possible ways to comply.

After that call, Dave appointed a technical sub-committee of owners with engineering degrees, technical expertise, and experience with our spring water systems. Those three, John Hart, Ron Blue, and Henry Kahanek have been studying various options for compliance over the past two months. Henry Kahanek and Dave Denison have had phone conference calls with the WQCD staff and Meg Parish, the Assistant Attorney General, over the past two months about means of compliance and the consequences of failing to comply. They have documented their determination that QCPOA is a water supplier and that Quartz Creek Properties is a Public Water System and the consequences of failure to comply with their regulations in a letter, a few copies of which were

circulated among those present. Dave read the letter out loud so that everyone could know the content. A copy of the letter is appended to these minutes.

Dave Denison answered the question regarding who would be fined. From the phone conversations, the fine would be levied against QCPOA, and if QCPOA failed to pay, then the State would seek to have the property owners pay or have a lien placed on their property.

Terry Davis voiced concerns with the letter, and relayed past history in which there had not been an opportunity to plead our case because a notice of violation would have to be issued before we would be afforded an administrative hearing and no such violation had ever been issued. Terry Davis also said that although he is now convinced that we will need to chlorinate the water supply, he wants to be sure to get owner input regarding QCPOA involvement in the solution to the chlorination process.

Shirley Babler stated that she became concerned and interested in working toward compliance with the state's requirements after attending the meeting and seeing the attention the Assistant Attorney General had given to the situation. In her long career working with the Colorado Health Department, she knew that when that level of attention (i.e. driving all the way to Pitkin for a meeting, and writing a 22 page response letter) was given to a situation by the AG's office they mean business. She further stated that as a dietitian, she is concerned that we have safe water to drink.

With regard to financing the efforts, Dave Denison said he had had two telephone conversations and has exchanged several emails with Jim Griffiths at Colorado Water Resources and Power Development Authority (CWRPDA) regarding the availability of grants and 0-2 % interest 20-30 year loans that are available to organizations such as ours for water and power projects. He clarified that these had just this past year become available to POAs like ours, but they are not available to individuals or informal committees, such as the one that currently is working on the water issue. Dave said that they had tried to arrange a conference call for additional information about the application process and requirements prior to this meeting but tomorrow afternoon is the earliest time that the 4 people from CWRPDA and related the agencies are available to meet with Dave and Steve. They are scheduled to meet tomorrow via conference call.

Dave then explained that in all his conversations and interactions with these agencies he made it clear that he was doing so strictly as an individual QCP property owner and, although he is on the QCPOA Board, he is not speaking for or representing the Board in any way. However, he recognized the need for QCPOA to represent the interests of QCP property owners in this matter, to give legitimacy to the efforts of the committee, and to provide an entity which could apply for grants and loans to finance the project. To that end, he sought input from several others, authored the resolution, and revised it to address feedback from other board and committee members. He circulated 10 copies among those present and then read the following resolution:

RESOLUTION # 01.16

This is a resolution of the Board of Directors of the Quartz Creek Property Owners Association

(QCPOA) to address the domestic water supply for owners in Quartz Creek Properties (QCP) and,

Whereas, QCPOA has historically maintained springs for the supply of water for domestic use by QCP owners; and

Whereas, the Water Quality Control Division of the State of Colorado (WQCD) maintains that the Quartz Creek Springs system is a Public Water System (PWS) and as such must meet state and federal potable water regulations; and

Whereas, the Water Quality Control Division of the State of Colorado (WQCD) maintains that the QCPOA is the operator and supplier of the Public Water System (PWS); and

Whereas, QCPOA is the entity which exists to provide basic community services for QCP owners, and

Whereas, there exists no other entity available for providing these basic community services;

Now therefore, be it resolved that QCPOA Board of Directors will seek solutions for bringing the QCP water supply into compliance with WQCD potable water regulations. Be it further resolved that QCPOA Board of Directors endorses the efforts initiated by six QCP owners in a July 12, 2016 conference call with Tyson Ingels and other members of WQCD staff, and hereby appoints those six owners plus Henry Kahanek to serve as a special committee to continue working with WQCD staff to design a plan for bringing the QCP water supply into compliance with WQCD requirements. This special committee will be referred to as QCPOA Water Committee and is composed of the following members:

Dave Denison, Co-chair (QCPOA Vice President)

Steve Frazier, Co-chair (QCPOA Board Member)

Shirley Babler

Judy Henkel

Ron Blue

John Hart

Henry Kahanek

The Water Committee shall report to the QCPOA Board of Directors from time to time and will have no authority to make major commitments on behalf of QCPOA without express approval by vote of QCPOA Board of Directors.

It is further resolved that QCPOA Board of Directors desires to bring the QCP water supply into compliance with WQCD regulations within the earliest feasible time frame with a completion target date of July 15, 2017; however, that date may not prove feasible and should not be considered a hard commitment.

The QCPOA Board hereby directs its President to cause a copy of this Resolution to be sent by mail or Email to each Quartz Creek Properties owner of record.

Dave Denison moved that the resolution be approved and there was a second to the motion by Steve Frazier. Limited discussion followed, including the following:

Terry Davis said he was concerned that we are playing into the State's hand and admitting prematurely that we are a Public Water System (PWS) and disagrees that we should take this action at this time.

Dave Denison responded that "Nowhere in the Resolution do we admit or agree that QCPOA is a Public Water System”".

Steve Frazier moved that they suspend discussion and call the question, second by Denison. This motion was objected to by Terry Davis at which time Lawana called a vote on the motion to end discussion.

At this point there had been no opportunity for the remaining Board members to address the motion on the table.

Those in favor: Gary Bandy (by phone), David Denison, Steve Frazier, and Lawana Langston.

Those opposed: Terry Davis, Don McKinney, and Lucinda Lull

The motion to suspend discussion and call the question carried by a 4 to 3 majority. Lawana Langston called for a vote to approve Resolution #01.16 presented by Dave Denison. Those in favor: Lawana Langston, David Denison, Steve Frazier and Lucinda Lull

Those opposed: Terry Davis and Don McKinney;

Gary Bandy said via phone that although he favored the resolution, he thought it should be postponed for 4-6 weeks. Board members present interpreted this as a vote in opposition. The

motion to approve Resolution #01.16 presented by David Denison, and included in these minutes, carried by a 4 to 3 majority.

The following comments occurred during earlier parts of the meeting discussions, not during the limited discussion on the motion on the table:

John Hart said that he had been concerned about the direction of the Board in divesting the water infrastructure and consulted one of the state's leading water attorneys who said that the divestment put all the property owners in jeopardy. He gave the scenario of a serious waterborne disease transmitted by our untreated water for which we would be held individually responsible. It could happen, and in fact, there was an incidence this past summer in which persons became ill at a QCP cabin and suspected the water. However, the cabin owner had the water tested and it passed the water test. John further stated that after looking at our real usage numbers, and discussing our situation with two different water attorneys, they said we do meet the definition of a PWS and should comply.

Jim Jahelka asked why the resolution was needed. Why not just go do it. David Denison re-explained the need for a legitimate group to work to comply with the regulations and let the State know we are working toward compliance, as well as to be eligible for grants and low to no interest loans.

It was then decided to allow time for input and questions from the other property owners present.

There was discussion about the need for input from the property owners, and a proposal that Terry Davis had written was mentioned. Terry then handed out copies of the document to some of those present. There was some further discussion of the need to involve the property owners in the decision making process regarding the water situation, especially since they now own both water rights and infrastructure.

David Denison explained that, in one of the phone conference calls, the Assistant Attorney General had said that they do not recognize that divestiture to be legal because property cannot be given to a person unless he accepts it. They have no evidence that the property owners have accepted the ownership of the shares of the infrastructure. He also reiterated that the resolution was just to formalize and express the Board's desire to comply with the WQCD requirements, and in no way proposes solutions or precludes information to and input from property owners in the process.

Fred Staker expressed support for the resolution that was approved, but voiced frustration with the strong language used in the letter from the state. He said that he was one of the people who voted for divestiture but after doing so, he began to think that he might be missing an opportunity to improve the value of his investment.

Bobby Slack also made comments regarding the impact of access to safe drinking water on our investments.

Bruce Councilman expressed his appreciation to the folks who had done so much work on this project, and there was a round of applause from most present.

Sue Rogers expressed her agreement with the proposal that QCPOA be the entity to address the water situation, and is in favor of that part of the resolution, but said she did not agree with the Board making final decisions on Water Committee proposals without getting input from QCPOA property owners. "I will say that as a Board member, and also a property owner, I totally agree

with your comment of keeping the property owners in the loop and promise to do my part in helping that communication stay open and with an open mind," (the quote is from Lucinda Lull)

Lawana Langston noted that part of the resolution was that it be sent to the property owners, and that they plan to include a copy of the letter from the state. David Denison said he had no problem including input from property owners in their planning and decision-making. Some general discussion about this continued, with indication of an understanding that owner involvement is desired.

A motion to adjourn was made by Steve Frazier, second by Dave Denison, and carried by a majority of votes of the Board members present.

Lawana Langston adjourned the meeting at approximately 8:30 PM.

Respectfully submitted for review by the Board

Judy Denison,

Volunteer Property Owner, Acting Recording Secretary