

MINUTES

TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS
May 19, 2021 3:00 P.M.
22901 Banducci Road, Tehachapi, CA 93561

ANNOUNCEMENT: THIS MEETING IS BEING CONDUCTED VIA TELECONFERENCE AS AUTHORIZED BY GOVERNOR GAVIN NEWSOM'S EXECUTIVE ORDER N-25-20. DUE TO A SCHEDULED SCE POWER OUTAGE, THERE WILL BE NO PHYSICAL MEETING IN THE BOARD ROOM. THE MEETING WILL ONLY BE AVAILABLE VIA THE ZOOM MEETING APP. THE MEETING ID IS 871-5069-4968. THE PASSWORD IS 0519RBM. THE DIAL-IN NUMBER IS (669) 900-9128, PASSCODE IS 0466166.

- Item 1. Call to Order and Roll Call**
Directors Present: Cassil (remote), Hall (remote), Pack (remote), Schultz (remote), Zanutto (remote)
Legal Counsel: Robert Kuhs (remote)
Staff in Attendance: Catherine Adams (remote), Jon Curry (remote), LaMinda Madenwald (remote) and Tom Neisler (remote)
- Item 2. Announcement**
President Schultz announced this meeting is being audio recorded, including all Board, Staff, and Public comments.
- Item 3. Flag Salute**
The Pledge of Allegiance was led by Director Hall.
- Item 4. Approval of Agenda**
Director Hall moved to approve the Agenda. President Schultz seconded the motion, and it was carried on the following vote: Ayes: Cassil, Hall, Pack, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None.
- Item 5. Comments by any Party on Items of Interest and Within the Subject Matter Jurisdiction of the Legislative Body**
Mr. Neisler stated that Mr. Curry made a yeoman's effort to rearrange the SCE power shutoff for today and was told there was no way that could happen. Staff arranged to encumber all the Directors to attend via Zoom and there has been no power outage at this building. The lake meter that is 300 feet from the office is without power. Mr. Neisler expressed his displeasure to SCE with the way they have handled this. He apologized to the Directors and Public for the inconvenience. President Schultz stated he understands the frustration as he has no power and did not receive a notice.
- Item 6. Consent Calendar - Consent items are considered routine and are intended to be acted upon as a single item, without discussion. During this portion of the meeting, the Consent Calendar will be read aloud. Prior to approval, the President will give the Board the opportunity to remove any item from the Consent Calendar to be discussed and voted on individually. The President will also give staff and the public the opportunity to request any item be discussed individually, in which case the President will determine whether the item will be removed from the Consent Calendar. The remaining calendar will be acted upon. Any removed items will then be heard and acted upon individually.**
- a. Approve Minutes of the Regular Board Meeting of April 21, 2021
 - b. Approve Quarterly Investment Report, Financial Report and Payment of Bills
 - c. Approve Date for Benefit Assessment Hearing

President Schultz asked if there were any items the Board, Staff or Public would like to remove for discussion. There were none.

Director Zanutto moved to approve the Consent Calendar. Director Pack seconded the motion, and it was carried on the following vote: Ayes: Cassil, Hall, Pack, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None.

Item 7. General Manager's Report

Mr. Neisler reported on the following matters:

- The picture in the Staff Report was taken by Steve Shaw and is a large turtle swimming in Brite Lake!
- The brush and groundcover in the area is very brown and the fire risk is concerning.
- The Table A Allocation remains at 5% for this year and the reservoir levels are decreasing slightly.
- Governor Newsom has expanded his drought declaration for the state and it does not yet include the entire state. Expanding the drought declaration would allow for greater movement of water around the state. Whether that will impact us directly remains to be seen.
- Member Units in KCWA are working with DWR to implement a program that was originally proposed in 2014, to pump water back up the California Aqueduct from the huge banking projects in southern Kern County and distribute to Districts who can use it. If it does happen, it will not impact this District directly, but it is a positive indicator that there is some cooperative effort among agencies to meet these extraordinary demands.
- He procured 50% of the District's anticipated natural gas requirement for 2024 at a cost of \$3.31/MMBtu during a dip in the market; the price has increased significantly now. In 2019, he purchased over 80% of the estimated supply for 2021 and 2022 natural gas on the assumption that the price would increase. The price has increased; however, the allocation is so low, there is not enough water to pump. He paid \$2.71/MMBtu for the gas at that time and now sold it back for \$4.31/MMBtu. This resulted in a cost savings for the District of about \$150,000 and will be used to offset the decreased revenue due to lack of water sales this year. Although this worked to the advantage of the District, we are not in the business of being natural gas speculators.
- The ACWA Virtual Conference took place last week and encountered technical problems that will be discussed later on the Agenda. One important topic that was presented was on changes to the Prevailing Wage law in California. The State has expanded the definition of what needs to be covered under prevailing wage. Virtually any contract for services in excess of \$1,000 is going to be covered under prevailing wage. There will be a monetary impact to the District, so he wanted to bring it up for reference at this time.
- CalOES has extended the deadline to expend the grant funds to March 2022.
- Upon being appointed to the ACWA Region 7 Board, Mr. Neisler was appointed as the Vice Chair as well as given a seat on the Statewide Board of Directors for ACWA. He was then appointed to the Executive Committee of the State Board. He will monitor how much impact this has on his work and advise the Board accordingly. He will be the only member of the Statewide Board of Directors who represents the KCWA and Member Units.
- He reviewed the charts noting that the Brite Lake levels are increasing, lake levels throughout the state are less than desirable, and precipitation charts are not very valuable.

Director Hall asked how my members are on the ACWA Executive Committee and Mr. Neisler stated around 15.

Item 8. Operation Manager's Report

Mr. Curry reported on the following matters:

- The Public Water System Annual Report has been submitted and accepted by the State Water Resource Control Board. We have not been notified of any requested edits at this time. With the campground being closed for the majority of the year, the water use was miniscule.

- The D2 Certification testing is scheduled and all Staff who are enrolled should have their tests completed by early June. Results are usually given within 24 hours now that the tests are being done by computer.
- We coordinated with the Salvation Army and the City of Tehachapi to hold a trash clean up event of the Antelope Channel near Sonic Drive-In. The event was successful, and pictures are attached to the Staff Report.
- The pumping system is currently operating with two engines at 14 CFS and all wells are shut down except the City's Snyder Well which is operating on a time of use schedule. Recharge areas are currently shut down.
- The Brite Lake data from May 14, 2021, was elevation 4363.3', volume 1,772 AF, and level 37.3'.
- PP5 located on Tehachapi Willow Springs Road was showing some vibration in the assembly so Staff did troubleshooting and took the pump out of service. The pump impeller vanes were starting to come apart. It was sent to Delta Pump for diagnosis and repair and will be put back into service next week. This allowed for the electric motor to go through rehabilitation as well.
- PP3 Engine 3 (replacement from catastrophic failure) began to get vibration so it was taken out of service for diagnosis. Staff contacted Sinor Engine, went through the engine, and determined there is either a flywheel or an idler gear issue in the front of the engine, so Sinor is sending a technician out to replace that.
- We coordinated with SCE's Pump Efficiency Testing Program and performed tests on extraction wells and booster pumps. Results will be received as well as suggested improvements. In the CIP, Staff is requesting funds for next year to make improvements for better efficiency.
- A repair was made on the 2" water supply line to the office and ripping has been completed at the 19 Acre Recharge site.
- Looking ahead, Staff is working on completion of the 2020-2021 CIP project list. The two Summer Interns will start on June 1st.

President Schultz asked if there is any idea where the pieces from the impeller ended up. Mr. Curry stated they were small pieces and probably were pushed out into Oak Creek Tank.

Mr. Neisler sent kudos to Mr. Curry for providing this excellent D2 Certification training program to the Staff and it has led to numerous insightful and beneficial conversations. With respect to the Earth Day clean up, that effort was led by the City of Tehachapi, and they coordinated other clean ups in the area as well and he thanked them for their efforts. He stated the pump at Plant 5 is a relevant example of recognizing a leading indicator of imminent failure and addressing it, rather than fixing a catastrophe after the fact. He recognized Mr. Curry and his staff for this accomplishment. There is new level of care and maintenance of the system than in the past and he wants the Board to be aware that these employees are doing exemplary work, and everyone benefits from it. Director Zanutto appreciated the comments. President Schultz suggested having a party for all the employees when they pass the D2 Certification and Mr. Neisler felt that would be appropriate.

Item 9. Approve Procedures and Schedule for Annual Water Deliveries

Mr. Neisler stated this is a follow-up to discussions that have occurred over the past several months. The Board has approved a Water Priority Ordinance for 2021 and those procedures are being implemented. During discussions, the Board presented some concerns about how our customers were engaged in the process of estimating their needs for the following year. Director Cassil, at last month's meeting, requested notification of the procedures so Mr. Neisler prepared a written procedure/schedule in the Staff Report for Board approval and reviewed all the steps.

Director Cassil thanked Mr. Neisler for putting together this written clarification and procedure and she believes with this practice in place, there will be fewer reasons for complaints. Mr. Neisler thanked her and apologized for what was perceived by some members of the public as an oversight of our duties and that was not our intention.

Director Cassil moved to approve the schedule and procedures for water supply notification as outlined in the Staff Report. Director Zanutto seconded the motion, and it was carried on the following vote: Ayes: Cassil, Hall, Pack, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None.

Item 10. Adopt Resolution 04-21, Setting Water Rates for 2021

Ms. Madenwald stated the approval of this item will keep all water rates at their current level. The Ad-Hoc Water Rate Committee (Hall & Cassil) met on May 3rd, and the minutes are included as Attachment A. At that meeting, the General Manager passed out an Office Memorandum which explains this topic in detail (Attachment B). The Regular M&I Rate calculation yielded a 5-year average cost of \$1,447/AF and the current rate is \$1,385/AF. The actual cost in FY 2019-20 was \$1,171/AF and the District sold 155 AF of Regular M&I water last year, so the Staff and the Committee's recommendation is to not go through the process to change the rate at this time.

The Historical Analytics Method (Attachment C) is used to review the Term M&I and Agricultural rates; these two rates have been equal since 2014. When the 2021 model rates were determined, all of those rates came in lower than the current rate, so a calculation was done to see how much lower they were than last year. The model rate for 2021 was \$37/AF more in Pressure Zone 1, and \$44/AF more in Pressure Zones 2 & 3 than the model rates for 2020. Historically, the practice has been for the Board to recommend using the excess funds to cover the debt service for the Engine Replacement Program and any additional be transferred to the Equipment Replacement Reserve Fund. This year, there will be approximately \$315,000 cost over revenue difference, but we are projecting for the next two years, 2022-2023, that there will be a revenue over cost difference and can hopefully resume our practice of utilizing the excess.

Director Zanutto asked where the costs of the Delta Conveyance Project (DCP) are being picked up. Ms. Madenwald stated those costs are billed directly from KCWA and are coded to the State Water Project Fund (82). Mr. Neisler added that DCP costs are a component of the District's fixed cost Statement of Charges from DWR through KCWA. The proceeds from the Ad-Valorem Tax are specifically dedicated to that purpose.

Director Hall commented that the rates did not change enough to warrant having an election. Director Cassil commented that this is a very difficult time to go to the Public and ask for a vote to pay higher rates. As Director Hall pointed out, there was not that much of a difference. Also, when looking at what is happening in the broader community, especially with the pandemic and economic disruption for many families, it seems like an unwise thing to do at this time even if there was justification for it.

President Schultz commented he has always been an advocate for stability in the rates and incremental changes when needed. He feels keeping the rate the same is appropriate. Director Hall added that there is a Rate Stabilization Fund to cover the marginal cost of water and accomplish stability in the rates. President Schultz thanked the Committee and Ms. Madenwald for all her hard work in putting this together.

President Schultz moved that the Board adopt Resolution 04-21, Setting Water Rate for 2021. Director Cassil seconded the motion, and it was carried on the following vote: Ayes: Cassil, Hall, Pack, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None.

Item 11. Accept Bids for Generator Equipment for the Fiscal Year (FY) 2020 Community Power Resiliency Allocation to Special Districts Program and Authorize Staff to Proceed with the Purchase of the Generator Equipment

Mr. Curry stated Staff is requesting that the Board accept the submitted bids and award the purchase of the emergency generators to Pacific Power, Inc. At the April RBM, the Board authorized Staff to solicit bids for this project and Staff sent out Notice of Bid Solicitations to six qualified vendors (Attachment A). Three of the vendors submitted bids based on the project scope and Pacific Power Inc., located in Bakersfield, was the low bid at \$257,658.90.

As discussed previously, Staff had concerns about long lead times due to high demand for emergency generators and CalOES has extended the program completion deadline from October 2021 to March 2022. The District has received \$300,000 from CalOES for this project and per the grant application, has proposed matching funds of \$91,000 which is included in the proposed FY 21-22 Capital Improvements Budget.

President Schultz inquired as to what the \$91,000 will be used for on the project. Mr. Curry explained it will go towards electrical upgrades, concrete for pads, natural gas line upgrades, and to install a new natural gas line at Pump Plant 5 for that generator. Mr. Curry stated Staff will do everything they can to keep costs as low as possible.

Director Zanutto moved to accept the bid from Pacific Power Inc. for \$257,658.90 for the Fiscal Year (FY) 2020 Community Power Resiliency Allocation to Special Districts Generator Improvements Project and authorize Staff to proceed with the purchase of the generator equipment. President Schultz seconded the motion, and it was carried on the following vote: Ayes: Cassil, Hall, Pack, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None.

Item 12. Accept bids for the Storage Canopy Project, Award Contract and Authorize General Manager to Execute

Mr. Curry stated at the April RBM, the Board approved Staff to solicit bids for this project and Staff sent Bid Notices to six construction contractors on April 19, 2021. Two bids were received by the May 13, 2021 deadline and the low bid was from Energy Link Industrial Services, Inc. in the amount of \$40,012.00. The project completion date is June 25, 2021.

This project will consist of a concrete pad with containment and a cover for compressed gas and oil drums as well as a pipe rack. The CIP budget includes \$45,000 for this project.

Director Zanutto asked why there was such a large discrepancy between the two bids. Mr. Curry stated they reviewed them line by line and the biggest discrepancy was the second bid had the storage canopy piece way out of line. The Bid Notice contained a scope of work, and it will be the contractor's responsibility to submit engineered drawings. The second bid may have over engineered the project and the price was much higher than what Staff anticipated. Director Zanutto commented that Energy Link did not do a job walk and Mr. Curry explained that we use Energy Link for other projects, and they have been to this location.

Director Cassil asked if without a drawing, is it possible we are comparing apples and oranges and Mr. Curry explained that Staff put together an in-house drawing with dimensions and details in the scope of work so even though they were not engineered drawings, they described what the project should entail. Director Cassil thanked him for the clarification.

Director Pack moved that the Board accept the bid from Energy Link Industrial Services for the Storage Canopy Project, Award the contract and Authorize the General Manager to Execute. Director Hall

seconded the motion, and it was carried on the following vote: Ayes: Cassil, Hall, Pack, Zanutto, Schultz; Noes: None; Abstain: None; Absent: None.

Item 13. Approve 2021 Agreement for the Use of Brite Valley Aquatic Recreation Area

Mr. Neisler stated this agreement discussion has been going on for a long time and there are a few reasons for that. The first reason is that it lost urgency based on the relationship that has evolved between the Tehachapi Valley Recreation and Parks District (TVRPD) Staff and TCCWD Staff. Things have been moving forward with little to no disruption and that was not the case in the past. This effort was predicated on a proposal that TVRPD was involved in for a very large scale event with ESPN TV coverage, onsite alcohol sales, etc. That event never happened, and the District expended a tremendous amount of money to protect our interests to ensure if an event such as that did happen, it would be done safely and with limited to no liability to the District. That prompted the effort to update and revise this Operating Agreement. It was originally implemented in 1974, and some regulations and guidelines that were in effect at that time are no longer applicable. Things such as insurance coverages and permitting requirements were out of date. TCCWD Staff and TVRPD Staff have moved forward cooperatively to develop an updated agreement.

Kern County is a party to the underlying agreement that concerns financing of the improvements at the aquatic recreation area and legal counsel of both Districts, cooperatively drafted an agreement that is attached to the Staff Report. Some notable revisions include insurance coverage limits, special event permits, approval of improvements or modifications within the recreation area, addition of an exhibit that shows what the agreement covers (referenced in the older document, however no parties can locate it), clarification of TCCWD's preeminent priority of use of the facility, and prohibition of direct contact with the water. TVRPD's Board considered and approved this agreement at their meeting last night. Corey Torres, TVRPD General Manager, and TCCWD Legal Counsel, Robert Kuhs, are available for questions. Mr. Neisler is satisfied with this agreement at a Staff level and requests the Board adopt this agreement. He noted that the recommended motion in the Staff Report was incorrect and verbally provided the correction.

President Schultz stated he is going to abstain from voting on this item as it directly impacts him on a personal level. He stated as a neighboring property, he has problems with trespassers, vandalism, broken fences, wildfires, damage to property and animal abuse. He turned control of the meeting over to Director Pack.

Director Zanutto asked if there is signage at the campground to enforce restrictions and discourage wrong behavior and stated if there is not, there should be. He also inquired if TVRPD has ever purchased water from the District as he saw they have the opportunity to in the agreement. Mr. Neisler stated TVRPD has not purchased water in the past as there was never a perceived reason to do so. Mr. Kuhs stated he is not aware of any signage requirement within the current agreement and Mr. Torres was no longer on the call so there was no one available to comment on behalf TVRPD regarding President Schultz's concerns or Director Zanutto's question on signage. Director Hall asked Legal Counsel if there can be an inclusion of verbiage in the agreement requiring TVRPD to maintain neighborly conduct. Mr. Kuhs stated there is some wording to that regard. In light of the concerns that were raised and without being able to have any feedback from TVRPD, it was determined this item should be tabled.

Director Cassil moved to table Item 13, Approve 2021 Agreement for Use of Brite Valley Aquatic Recreation Area. Director Hall seconded the motion, and it was carried on the following vote: Ayes: Cassil, Hall, Pack, Zanutto; Noes: None; Abstain: Schultz; Absent: None.

Item 14. Report on Spring 2021 Virtual ACWA Conference

Mr. Neisler stated the Spring 2021 Virtual ACWA Conference encountered many technical issues and had to extend the availability of the presentations to the registrants until May 28th, as many were not able to access the conference the first day. Director Hall attended the JPIA meeting on Monday and provided a written report that is attached to the Staff Report. It is Board policy that Directors report on conferences that the District has paid for. Typically, Staff notes are provided as well however, in this case, Mr. Neisler has not yet been able to access the conferences at this time. He had intended to pass out the notes Ms. Adams prepared assuming it was going to be an in-person meeting and then that changed. He suggested it may be appropriate to table Staff notes until the next meeting, simply to share information as no action is required.

President Schultz commented on the Attorney Forum regarding Proposition 218, Law of Water Rates and he understands now why the District is not quick to change the rates as there are many complicated areas. The Statewide Issue Forum on Groundwater Programs discussed the many regulations now required by agencies and he is happy this District is not a part of many of those. He listened to section on PFAS Standards; Orange County has a pilot program to take PFAS out of their groundwater and he was surprised to learn that 70% of Orange County's water is from groundwater. The Water Industry Trends with CARB portrayed that this state has an agenda to go electric and there is a desire to begin having agencies utilize electric vehicles for new purchases in their fleet by 2024. There are issues with this especially because many districts have employees on-call for 24 hours and are on-site for over 12 hours at a time so there is no time to recharge it. They hope to implement that all fleet must be electric by 2027. There was a water district that brought up the issue of when powerlines burn in a wildfire and there is no power to charge vehicles in an emergency situation. There is still a lot to be worked out. There are additional sessions he would like to watch so he is glad they will be available. Comparing this Virtual Conference to ACWA Conferences in the past, he felt it was not as good as in person and there were far more commercials and advertisements. Overall, it was a success, and he got some good information out of it.

Director Zanutto brought attention to Director Hall's notes in which he reported the Utah based JPIA Captive Insurance Fund grew by \$26 million. President Schultz asked about the JPIA CEO discussing rates increasing. Director Hall stated when you look at the external market, it is increasing 1.5% each year and the swells seem to be historic because insurance managers figure the best way to make up for losses is to increase the rates. Some of the coverage that JPIA needs will be externalized. President Schultz added that JPIA is getting some coverage through Alliant, and it seems their rates are starting to rise rapidly. Cyber Crime is really taking a front seat in the world right now, and he urges everyone to be cautious. He suggested maybe some trainings would be beneficial. Director Hall suggested doing a full back-up test to ensure it would work in the event it was needed. President Schultz welcomes hardening of the District's security systems.

Item 15. Board of Director's Comments

Director Cassil commented that she has a map of the boundaries of the District and the voting districts. The census was taken in 2020 so this is the year districts can use those results to redistrict. She would appreciate it if other Board members can please keep their eyes open for other districts that are redistricting and make a note of the things they are doing. She has asked Tom to place a redistricting item on the June Agenda. President Schultz stated not all the information is available yet from the census so he would like to wait until that is available which would be better suited for a July meeting. He would like to look at the District's history and how the divisions were established initially before considering redistricting. He has had a brief discussion with Mr. Neisler and his understanding is that this District is required to have its divisions by area and not by population, so a census would not be a reason for redistricting. That is not a final determination by any means, he is just sharing what he has found so far. Mr. Neisler and Mr. Kuhs are looking into this.

Mr. Neisler commented that Director Cassil made a written request that this topic be placed on the June RBM Agenda, and he has met with her to discuss the division boundaries and the apparent disparity in population. Subsequent to that meeting, he spent time investigating this issue and found that Ordinance 1 of TCCWD, established that divisions would be created, and directors would be chosen from divisions. That means elections are conducted at large. The applicable Water Code sections state that directors that are chosen from divisions rather than by divisions, are on the basis of acreage. Divisions that are created by divisions are on the basis of population. Therefore, since the acreage has not changed since 1971, there is no reasonable justification for redistricting. Staff/Counsel will review the census data, the appropriate standards, and it will be placed on the Agenda for Board consideration.

Item 16. Adjourn to Closed Session

President to reference Closed Session items as presented on Agenda, then Board to adjourn to Closed Session.

- a. Existing Litigation
- b. Anticipated Litigation

The Board went into Closed Session at 5:09 p.m.

Item 17. Return to Open Session

The Board returned to Open Session at 5:30 p.m.

Report Action Taken in Closed Session:

- a. No reportable action.
- b. No reportable action.

Item 18. Adjournment

The meeting was adjourned at 5:30 p.m. on a motion made by President Schultz, seconded by Director Hall, and carried on the following vote: Ayes: Cassil, Hall, Pack, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None.


Robert W. Schultz, Board President


Catherine Adams, Board Secretary



CLOSED SESSION ITEM DESCRIPTIONS

(Gov. Code § 54954.5)

A. CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Gov. Code § 54956.8.)

Description of Property: _____
Proposed District Negotiator: _____
Negotiating Parties: _____
Subject of Conference: _____

B. CONFERENCE WITH LEGAL COUNSEL (Gov. Code § 54956.9.)

1. Existing Litigation: 1 case
Name of Case: Rosedale-Rio Bravo Water Storage District et. al., v. Kern
County Water Agency et al., Kern County Sup. Ct.

2. Anticipated Litigation: _____
Gov. Code § 54956.9 (b): 1 potential case
Gov. Code § 54956.9 (c): _____

C. PUBLIC EMPLOYEES (Gov. Code § 54957.)

- 1. Appointment: _____
Title: _____
- 2. Employment: _____
Title: _____
- 3. Performance Evaluation: _____
Title: _____
- 4. Discipline/Dismissal/Release: _____

D. CONFERENCE WITH LABOR NEGOTIATOR (Gov. Code § 54957.6.)

Agency Negotiator: _____
Employee Organization: _____
Unrepresented Employee: _____