

MINUTES

**TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT
SPECIAL MEETING OF THE BOARD OF DIRECTORS
February 3, 2023, 3:00 P.M.
22901 Banducci Road, Tehachapi, CA 93561**

CALIFORNIA DPH RECOMMENDS ALL PERSONS CONTINUE WEARING MASKS INDOORS IN PUBLIC SETTINGS

- Item 1. Call to Order and Roll Call**
Directors Present: Hall, Sasia, Schultz, Zanutto
Legal Counsel: Robert Kuhs
Staff in Attendance: Catherine Adams, Jon Curry, LaMinda Madenwald, Tom Neisler
- 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 President Schultz.
- Item 4. Approval of Agenda**
 Director Sasia moved to approve the agenda. Director Hall seconded the motion, and it was carried on the following vote: Ayes: Hall, Sasia, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None. Motion passed.
- Item 5. Comments by any Party on Items of Interest and Within the Subject Matter Jurisdiction of the Legislative Body**
 There were none.
- Item 6. Appoint Director to Fill Division 3 Vacancy**
 Mr. Neisler explained that Delbert Jones announced his resignation at the December 14th RBM creating a vacancy on the Board of Directors. The Board held a Special Meeting on December 30th and chose to appoint a candidate rather than calling a Special Election. The deadline for candidates to state their interest was January 27th and we received interest from Mr. Clayton Strahan, Mr. John Ables, and Ms. Alex Mullenax and their letters are attached to the Staff Report. Staff has verified that all three candidates reside within the Division 3 boundary.
- President Schultz stated he would like to call up each candidate and allow them the opportunity to say something in addition to their letters and then the Board will ask questions. Mr. Strahan shared that he has a Bachelor's Degree in Parks and Recreation and a Master's Degree in Business Administration and for the last 16 years he has been managing the Lake Piru Recreation area for the United Water Conservation District. He is interested in being on this Board because he sees the challenges it's facing, and he has been dealing with similar circumstances at his job and he understands water is a critical resource. Mr. John Ables shared he has been in Tehachapi for 40 years and has worked as a contractor for the District off and on so he is familiar with how it works. He is interested in the future of our water because this valley has been good to he and his family, and he would like to see it carry on for years to come. Ms. Mullenax stated she thinks anyone chosen today will be an excellent fit for the Board and she feels she can bring not only an agricultural and business perspective, but also a regenerative standpoint. She thanked the Board for their time and service to the community.

The Directors thanked the candidates for their interest and felt they were excellent candidates. The Directors asked further questions of each of candidate and the candidates responded. President Schultz asked Mr. Neisler for verification of the term dates. Mr. Neisler responded November 2024 is the next General Election and although the Division 3 term expires in November 2026, when a vacancy is filled by appointment, the candidate must stand for re-election at the next General Election to finish out the term.

Director Hall moved that Clayton Strahan be appointed to the Board of Directors as the Division 3 Director with the term expiring on November 5, 2024. Director Zanutto seconded the motion, and the following votes were cast: Ayes: Hall, Zanutto; Noes: Sasia, Schultz; Abstain: None; Absent: None. Motion failed.

President Schultz moved that John Ables be appointed to the Board of Directors as the Division 3 Director with the term expiring on November 5, 2024. Director Sasia seconded the motion, and the following votes were cast: Ayes: Sasia, Schultz; Noes: Hall, Zanutto; Abstain: None; Absent: None. Motion failed.

President Schultz moved that Alex Mullenax be appointed to the Board of Directors as the Division 3 Director with the term expiring on November 5, 2024. Director Zanutto seconded the motion, and the following votes were cast: Ayes: Schultz, Zanutto; Noes: Hall, Sasia; Abstain: None; Absent: None. Motion failed.

President Schultz commented this is very stiff competition and he feels there are three excellent candidates. The Directors asked the candidates more questions, they elaborated on their experiences, and further discussion took place.

Director Sasia moved that John Ables be appointed to the Board of Directors as the Division 3 Director with the term expiring on November 5, 2024. President Schultz seconded the motion, and the following votes were cast: Ayes: Sasia, Schultz; Noes: Hall, Zanutto; Abstain: None; Absent: None. Motion failed.

Director Zanutto moved that Alex Mullenax be appointed to the Board of Directors as the Division 3 Director with the term expiring on November 5, 2024. President Schultz seconded the motion, and the following votes were cast: Ayes: Schultz, Zanutto; Noes: Hall, Sasia; Abstain: None; Absent: None. Motion failed.

President Schutlz asked Mr. Neisler to explain the Board's options. Mr. Neisler stated the Board is required to fill the vacancy within 60 days of the resignation and that date is February 12th. If the Board cannot come to a decision by that date, the Board of Supervisors will need to be notified and they have the authority to appoint a candidate of their choosing at that time or force the District to call a Special Election. He stated the Board can call another meeting, take a break, or ask the candidates some more questions. Director Hall asked further questions of the candidates and Directors shared more of what they are looking for. The Directors discussed options of holding another Special Board Meeting, tight time constraints for noticing it in the paper, and Director Zanutto will not be available. Discussion took place on the lack of time to meet the deadline, and President Schultz asked Mr. Neisler to notice an extension to the deadline for candidates to apply and schedule a Special Board Meeting for Friday, March 10th at 10:00am.

Director Hall moved that Alex Mullenax be appointed to the Board of Directors as the Division 3 Director with the term expiring on November 5, 2024. Director Zanutto seconded the motion, and the following votes were cast: Ayes: Hall, Zanutto; Noes: Sasia, Schultz; Abstain: None; Absent: None. Motion failed.

Ms. Susan Wells voiced her objection to the scheduling of another Special Board Meeting when there are three qualified candidates and one Director has stated he will not be available. Ms. Victoria Appling addressed the Board stating she is a 6th generation Tehachapi resident, she is Delbert Jones's niece, has

graduated from Fresno State with a Bachelor's Degree in Education with an emphasis in Agriculture, is currently attending Oklahoma State for a Master's Degree in Hydrogeology and tried to reach the Board President but was unsuccessful. She is very interested in the water in California and stated if the Board does open the application period back up, she will apply. President Schultz thanked her and commented he did not receive any of her correspondence, so he requested she write a letter to the Board expressing her interest. Ms. Claudia Elliot offered her observations to the Board stating that if she were in their position, she would look for the best candidate to represent that particular division noting it has one of the most water challenged areas in the valley, it has a little bit of the city, it has some other odd territory and she thinks that made it hard but she was happy to see they received three applicants and originally had two candidates run for the position. She commented they are going to be in trouble if they keep getting split votes and expressed concern for the potential of the County Supervisor getting involved. President Schultz appreciated the comments and clarified the Board will move forward with a Special Board Meeting on March 10th at 10:00am.

Item 7. Conduct Public Workshop to Consider 2023 Water Sales Priority Ordinance

President Schultz called a short break to move into the round table setting and reconvened the meeting at 4:00pm. Mr. Neisler introduced the topic and stated at the conclusion of the January 18th RBM, he was directed to prepare a bullet point list summarizing the main points of the letters agencies have submitted and he has attached that to the Staff Report. Since the last meeting, the Table A Allocation has increased to 30% and this model was derived prior to the recent atmospheric river storms that occurred in January. He reported that since December 8, 2022, the level in Lake Oroville has risen 182 feet and the current snowpack is 205% of the average YTD.

President Schultz stated this Ordinance is an annual document and he understands a lot of the questions are in regards to future water, however this applies to wet water this year. He stated he would like to go through the Ordinance line by line and asked the agencies who submitted letters if they would like to comment or start with their letters. Ms. Wells is fine with that approach and stated GHCS D's position hasn't changed and they would like to see M&I have a higher priority and thinks Mr. Neisler's list is good and makes it clear what they would like to see changed in the Ordinance. Mr. Don Marsh, City of Tehachapi, echoed Ms. Wells comments stating the letters go back to 2021 and their requests are still the same.

They began working through the Ordinance beginning with the Recitals. Under Recital C., Ms. Wells felt construction is important to the local economy but does not feel it should be above Conjunctive Use. Mr. Marsh felt this Recital should not be specific to Direct Delivery, that it should just state M&I customers. President Schultz pointed out they have access to other water and Ms. Wells stated they (GHCS D) do not have Direct Delivery. Mr. Neisler stated that Direct Delivery is surface water (non-potable, not for residential use) that is taken directly off the pipeline. Conjunctive Use water is potable water extracted from the ground wells, based on supplemental supplies from the District. The reason the District developed Term M&I Agreements, was so that water would be available in years of shortage as direct supply for M&I users. In exchange for that, the District took on the responsibility of replenishing those supplies when there is adequate water so it does not have to be replenished in a year of shortage. There is a difference in terms of use, delivery and availability between Direct Delivery and Conjunctive Use water.

Mr. Joe Hughes, Attorney for GHCS D and City of Tehachapi, referenced a previous meeting noting a discussion on the most beneficial use of water in a current year and understands that recharge is less efficient due to evaporation. He noted that M&I has not been able to recharge water since 2019 and only twice in the last 10 years, so going forward that will probably be more of the norm. Our intentions are not to make this M&I versus Agricultural; the past is probably not going to be the future and M&I cannot just sit on the sidelines waiting for another 2019 year. Mr. Matt Vickery, Grimmway Farms, commented

that while their intention seems sincere, when he sees the letter stating they want Section 2. G.1. (Recharge Water) to move above Section 2. D. (Agricultural), that's what's happening. Mr. Hughes said they are focusing on Section 2. F. (Conjunctive Use). President Schultz pointed out that the City and GHCSO have received their full "wet" water requests for the current year, even in these last 3 years of shortage while Agriculture was not given their full requests and were cut back. He explained that if you look at the way the Ordinance operates, if the District delivered water for a recharge request, ahead of a wet water need for beneficial use that year, it would be taking away one customer's right to existing use and giving it to a future use (non-use). Mr. Hughes understood this point and clarified that the City/GHCSO is looking for some certainty or a plan, so that they know what water they will have available to them in 5 years. Mr. Neisler stated they will know that quantity through the Regional Urban Water Management Plan (RUWMP) and enforcement mechanism in the Term M&I Agreement. The operating mechanism is the Water Sales Priority Ordinance. Mr. Marsh commented that their issue is that the way the Ordinance is written, as long as Agriculture does not get their full request, M&I will never have access to water for recharge. Mr. Robert Kuhs, TCCWD Legal Counsel, pointed out that if M&I recharge were to receive priority over other uses, it eliminates the purpose of the water banking component of the Term M&I Agreement. If M&I demands are met under any circumstance, there is no need to set aside recharge water for dry years. Mr. Hughes suggested a compromise of coming up with a certain allocation percentage where a sliding scale starts to come into effect; M&I recharge use starts to get some of the water rather than the priority being one or the other (Ag vs. M&I). Discussion took place on this concept, current required banking amounts, and allocation percentages in which there is water available for voluntary recharge.

There was debate on construction water (Direct Delivery) being included in Recital C. and what defines existing customers and new customers in Recital F. Mr. Kuhs explained that in a water short year, the District is not going to promote new uses, unless we have taken care of our existing uses. Director Hall feels we are in a time of permanent scarcity and every drop of water will be spoken for every year. He thinks we need a permanent solution, even if it entails a lot of work, so there is framework for each year to give customers more clarity. He also suggested an idea for different types of recharge/banked water. Further discussion took place on the Recitals and it was suggested that there is a need for some clarity within those statements. Mr. King, a member of the Public, stated he sees the challenges everyone is faced with and understands there is a moving target, but feels everyone that lives here has skin in the game and thinks a solution is a percentage based plan to create a level playing field that doesn't pit Ag against M&I and encouraged Agricultural water banking. Mr. Kuhs thanked him for the good comments and explained that it sounds good to impose a banking requirement on Agriculture, but the reality is that is complicated. With current demands and the District's annual operational pumping limit, there is not much water left over. Mr. Kuhs added that if the only variable the District had to worry about was how much water the State Water Project is going to allocate us, it would be easier to implement your suggestion; we could say here is what we will give in a 5% year, 10% year, etc. The problem is the customer base is dynamic, the acreage that gets planted is dynamic, new customers come into play each year, and these variables get introduced in real time and that changes how you can prioritize.

Director Zanutto encouraged Agricultural water banking so there is less dependence on the District in dry years, and suggested changing the rate structure as we should not be selling the District's banked water that was banked 10-15 years ago, at the current price, because it costs the District much more to replace that water now and in the future. Mr. Vickery stated the premise is sound but the disconnect is the quantities involved; Grimmway would need to double the number wells they have in Cummings Basin to extract that. Mr. Kuhs stated an important concept for everyone involved to understand is that if we took a best case scenario where we get a 50% allocation, we have 10,000 AF to pump up the mountain, but the District has a fixed demand of almost 9,000 AF. This leaves only 1,000 AF and this Board has to decide how that 1,000 AF is going to be divided up; does it go to M&I for banking, to Agriculture for banking, or to the District for our banking.

President Schultz introduced the Ordinance portion of the document and began reviewing the Sections. Under Section 2.B., a discussion took place on how Wheeled Water works in present day, and it was determined this item is obsolete and can be removed. They reviewed Agricultural uses in Section 2.D. with no changes. The City and GHCS D stated, as discussed earlier, they do not agree with where Section 2.G. (Recharge Water) falls on the priority list. Part 3. of this item was revised to remove the words "Agricultural end" as Voluntary Banking can be from Ag or M&I. Additional wording was added to part 1. to clarify what customers this pertains to. There was further discussion on water banking and the status of District's banked reserve account. Section 2.H. was discussed and revised to add the statement "direct sale from TCCWD only" and remove "i. Public property only" as it does not apply. Section 5. was revised to post the Ordinance on the District website and two other public locations.

President Schultz concluded that he understands there are still some differences in opinion, but as an operational document for the year, he feels we have done a good job of reviewing this Ordinance and making edits. We will compile these edits and vote on the Ordinance at the next Regular Board Meeting. Mr. Chris Carlson, Assistant GM GHCS D, commented that although contentious, this was valuable and insightful, and they do appreciate being able to a part of this discussion and Mr. Marsh agreed.

Item 8. Board of Directors Comments

Director Zanutto asked for a moment with Legal Counsel after the meeting.

Item 9. Adjournment

The meeting was adjourned at 7:04 p.m. on a motion made by Director Hall, seconded by President Schultz, and carried on the following vote: Ayes: Hall, Sasia, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None. Motion passed.


Robert W. Schultz, Board President


Catherine Adams, Board Secretary