

MINUTES

TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS
October 20, 2021, 3:00 P.M.
22901 Banducci Road, Tehachapi, CA 93561

THIS MEETING WILL BE CONDUCTED IN-PERSON
STATE MANDATED COVID-19 PRECAUTIONS WILL BE ENFORCED

Item 1. Call to Order and Roll Call

Directors Present: Cassil, Hall, Pack, Schultz, Zanutto

Legal Counsel: None

Staff in Attendance: Catherine Adams, LaMinda Madenwald, Jon Curry, 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 Director Zanutto.

Item 4. Approval of Agenda

Ms. Adams requested approval of an amended agenda which includes updated titles on the Closed Session items and case numbers on the exhibits. She read the titles aloud and stated revised copies are available at the counter and have been given to Directors and Staff.

Director Cassil moved to approve the agenda as amended. Director Schultz seconded the motion, and it was carried on the following vote: Ayes: Cassil, Hall, Pack, 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

Mr. Jay Schlosser, City of Tehachapi, asked roughly how much water the District sold this year and Mr. Neisler replied this will be discussed under Item 10 and the number about 5,500 AF. There were no other comments.

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 September 15, 2021
- b. Approve Financial Report and Payment of Bills

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

Director Pack moved to approve the Consent Calendar. 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. Motion passed.

Item 7. General Manager's Report

Mr. Neisler reported on the following matters:

- People may have seen the water conservation public outreach efforts of magnets on vehicles and banners around town.
- The peak irrigation demand season has passed and we are moving into winter operations. Staff is working on recruiting an Operations Assistant and a Pipeline Maintenance II- Welder.
- The Governor has requested a voluntary 15% reduction in residential water use throughout the state. Data shows that in July, the state experienced a 1.8% reduction and a 5% reduction in August. Today the Governor expanded the emergency drought declaration to include the whole state and encouraged public water agencies to implement conservation measures and ban wasteful practices.
- The Bureau of Reclamation has requested reconsultation of the 2019 Biological Opinions settlement. After 10 years of negotiation, President Trump set a deadline to complete the agreements and the USBR (federal) complied, and DWR (state) did not. Yesterday, the State withdrew their agreement to the Voluntary Settlement Agreement, on the joint operations of the CVP and the SWP. Therefore, the two major regulatory items that dictate how the cooperative functioning of the federal water project and the state water project, which were so close to being resolved, are now back to square one.
- Brite Lake reached its lowest level (478 AF) and is now recovering to almost 600 AF. Wells will be shut off in accordance with their electrical billing cycles.
- He and Mr. Curry had a productive call with TerraVerde Energy, a consulting firm that works with public agency clients for "developing and deploying intelligent energy strategies". They have a lot of resources the District may be able to take advantage of with respect to electrification, power purchase agreements, and renewable energy. At no cost, they will conduct a review of an agency's operation and provide guidelines going forward, in hopes you will contract with them to work on these programs.
- The water estimate forms were sent out to customers with the October water bills and Staff has been working with customers to complete those forms to be turned in by the November 1st deadline.
- The District is getting a lot of media coverage recently and this is good for the public to be informed. He appreciates the local press being involved. He was asked and provided an article that was published in the October edition of the Tehachapi Living Magazine. Staff has made efforts to have more of a social media presence to provide outreach to our customers. Ms. Judy Negrete did a series of posts for water professionals' week which highlighted a department each day and then the District as a whole.
- The Pump Plant Tour leaves tomorrow morning at 8:00am and will return around noon where a light lunch will be provided.

He asked if there were any questions from the Board, Public, or Staff and there were none.

Item 8. Operation Manager's Report

Mr. Curry reported on the following matter:

- He attended the CARB Public Fleets Workgroup meeting on the new Advanced Clean Fleets Rule. This rule will shift all public fleets to electrification or alternate fuel sources. The workgroup allows for public comment from Special Districts and industry groups. There were a lot of comments from larger water districts regarding emergency operations and why water and wastewater agencies were not included in emergency vehicle counts given the nature of the work. Staff is putting together compliance planning and alternatives to comply with the rules.

-The CalOES Generator Project is still waiting on equipment deliveries. The first generator should be arriving in November and the last generator should be arriving in March. We will have a progress report due in November.

-Operationally, the extraction wells have been shutdown in the Tehachapi Basin. The City's Snyder well and a well in Brite Valley are the only ones pumping into the system currently.

- Brite Lake data for October was elevation 4344.2', depth 18.2', and volume 589.8 AF.

-With the importation system shutdown, Operations has been focusing on CIP projects. Pumping Systems department has been doing clean-up, reorganization, and updating equipment and parts. For CIP projects they have started the PP1 Catalyst Safety Platform Safety Improvements, replacement of the air compressors and air receiver tanks at PP4, and replacement of the Limatorque back pressure valve inside the Cogen building. The Pipeline department fixed a waterline leak on the eastside of Dennison just north of Highline. Crews responded and were able to quickly repair it as well as replace hay bales that were damaged on a nearby property.

-The CASGEM well readings were completed for fall of 2021 and those will be submitted to DWR.

Director Hall asked if they had any idea why the watermain broke and Mr. Curry responded it was due to rocky bedding and it broke at a collar from the shift in the ground.

Mr. Neisler asked Mr. Curry to comment on his initial experience at the JPIA Leadership course. Mr. Curry stated it has been very eye opening and a great experience. There was a self-assessment provided as well as a lot of interaction with other managers. He is excited about the opportunity and appreciates the District's support in him attending.

Mr. Neisler commented that the CARB requirement to have an electric fleet by 2024 is not feasible. Most of the District's fleet is one-ton pick-up trucks and the entire fleet is four-wheel drive. The cost of the electric trucks available now are over double the cost of regular trucks.

Director Zanutto asked when Staff anticipates having the CARB compliance strategies ready to present to the Board in the Strategic Planning sessions. Mr. Neisler responded that implementation strategies are just becoming available and the capabilities of the vehicles need to be expanded before we can use them. His goal is to have something in place by the next Strategic Planning cycle.

Item 9. Adopt Resolution 12-21 in Recognition and Appreciation, Honoring Farrell Loyd Upon his Retirement

Mr. Neisler stated Mr. Farrell Loyd has dedicated over 34 years of service to this District and typically when an employee retires we present them with a framed resolution and have their friends and family in attendance. Unfortunately, Mr. Loyd is not able to be present today.

Mr. Loyd has been a valuable, dependable, and pleasant employee of the District. He has seen this District grow and undergo a number of changes in those 34 years and he will be missed. We are happy Mr. Loyd can now enjoy his retirement and wish him the best in his endeavors. There will be a celebration luncheon on his last day of work, Monday, November 1st at noon and all are invited. President Schultz displayed the framed resolution and stated we can present it to him at the luncheon.

President Schultz moved that the Board approve Resolution No. 12-21 in Recognition and Appreciation of Farrell Loyd Honoring Him For His Dedicated Service to the Tehachapi-Cummings County Water District Upon His Retirement. Director Hall seconded the motion, and it was carried on the following vote: Ayes: Cassil, Hall, Pack, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None. Motion passed.

Item 10. Presentation on 2022 Water Supply Outlook

Mr. Neisler stated this is a preliminary report; definitive information and 2022 allocation amounts are not available yet.

-At the October 14th, Member Unit Manager's Meeting, John Yarbrough, Assistant Deputy Director State Water Project presented DWR's planning and outlook for the SWP in 2022.

-It's still too early to fully report on 2021 water use, the peak demand season is passed and Brite Lake is recovering. He reviewed status details as previously presented in the Manager's Report.

-The importation system was shutdown on August 23rd after importing 3,949 AF of the available 3,965 AF of supply. Going into 2022, there will be approximately 190 AF banked in the San Joaquin Valley and less than 20 AF carryover in the San Luis Reservoir. The total amount of recharge was 2 AF. YTD delivery totals show approximately 25% reduction for agricultural deliveries and combined M&I (regular, term, and conjunctive use) deliveries increased approximately 2.4%.

-Combined surface deliveries of Ag, M&I and Wheeled water are approximately 5,532 AF. The difference between surface supply and deliveries (approx. 1,583 AF) was made up by withdrawing some of the District's banked supplies in Cummings and Tehachapi Basins.

This report is subject to revision; it is only intended to give the Board and Public a snapshot of where we are now and what 2022 looks like. Director Hall asked for clarification on what is classified as "wheeled" water. Mr. Neisler explained that wheeled water is provided to people who have extraction rights, but have no extraction capacity (no well). They assign their rights over to the District and the District provides them water via the pipeline at a reduced cost. Director Zanutto asked for a breakdown of the imported water. Mr. Neisler stated the 5% SWP allocation for 2021 equated to 965 AF with a little carryover in San Luis Reservoir that was pumped as well as 3,000 AF from the SJ Valley. The remaining banked water in SJ Valley is 190 AF.

He shared portions of the slideshow presented by DWR at the Member Unit Manager's Meeting. The 2020-2021 precipitation year is the second lowest on record after 1976-1977. He reviewed a Rising Average Temperatures chart; Spring 2021 was the warmest and driest on record. Soils are dry, run off is low, and storage is the lowest it has ever been. The DWR stated the new normal requires conservative planning and multi-agency action starting now. He reviewed reservoir storage charts and historic lows. DWR mentioned the soil is so dry it will take 140% of average rainfall just to get back to the average runoff level. The water level in the Delta is already so low, salinity barriers have been built to keep salt water from intruding into the Delta as this would shut down the SWP as there would be no fresh water to provide. For 2022, Temporary Change Provisions allow more environmental flexibility to resolve drought issues. SWP deliveries will be based on critical domestic, sanitary, and fire suppression needs. DWR stated that even with these actions, it is possible that we will not meet the 2 million acre foot minimum storage at Lake Oroville. DWR's next steps are robust multi-agency coordination, preparation of TUCPs, and working with stakeholders on ways to mitigate impacts of worst case scenario drought.

Mr. Schlosser congratulated the District on delivering 5,500 AF of water and asked for a rough breakdown of Ag and M&I deliveries. Mr. Neisler provided about 4,000 AF Ag and about 1500 AF M&I. Mr. Schlosser inquired if there will be any District policy changes for banked water given the outlook for future water supplies. President Schultz responded not at this time as the final allocation will not be available until after the season starts, so the banked supply and how it's handled each year, is a moving target and is dealt with as it goes.

Director Cassil stated she is concerned that with the lack of rainfall, lack of snow, and lack of SWP water, there is a great need for very conservative planning. She suggested the community be invited to attend the next meeting where this planning will be discussed. Mr. Neisler agreed and stated that meeting will be some time in February 2022, as the necessary information should be available then.

Item 11. Authorize Staff to Solicit Bids for Skid Steer and Accessories

Mr. Curry stated in the Capital Expenditure Budget, the Board allocated \$120,000 for this project. The Pipeline Department has been utilizing a rental skid steer each year to perform weed control/hazard reduction in areas of the District. The skid steer platform allows for utilization of attachments such as loader buckets, augers, breakers, and mower decks. Staff would like to move forward with soliciting bids for a skid steer loader and industrial mower deck to allow for more frequent and expanded maintenance throughout the year.

President Schultz moved that the Board authorize Staff to solicit bids for the purchase of the skid steer and accessories. The motion was seconded by Director Zanutto and was carried on the following votes: Ayes: Cassil, Pack, Hall, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None. Motion passed.

Item 12. Authorize Staff to Solicit Bids for the Pumping Plants Painting Project

Mr. Curry stated this project was in the Capital Expenditure Budget to make improvements and needed maintenance at the pump plant facilities. The scope of this project includes cleaning, painting, and priming Pump Plants 1-4 building exteriors and associated structures to preserve and increase their service life. The FY 2021-2022 budget includes \$100,000 for this project and Staff is asking the Board for approval to solicit bids for the Painting of the Pumping Plant Buildings and Drums Project.

Director Cassil commented that maintenance is important as there is a lot of expensive equipment that needs protection.

President Schultz moved that the Board authorize Staff to solicit bids for the Pumping Plant Painting Project. Director Hall seconded the motion, and it was carried on the following vote: Ayes: Cassil, Hall, Pack, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None. Motion passed.

Item 13. Authorize the General Manager to Execute Contract Change Order 002 for the Storage Canopy Project

Mr. Curry stated that when this project came to be, Staff generated rudimentary drawings and a rudimentary scope and bids were received based on that. There is a requirement to provide engineered drawings and building permits from the County. When the engineered drawings to incorporate wind and snow ratings came back, there were substantial structural improvements that were needed compared to the preliminary drawings. With the time lag in the project, there have been substantial increases in the cost of material, equipment, and labor. The detail on those increases is included in Attachment D, Cost Breakdown and he reviewed those.

The Board accepted the bid from Energy Link Industrial Services in May for the amount of \$40,012.00. This change order reflects an increase of \$45,185.00 so Staff felt it necessary to bring this back for Board approval. Staff still feels like this is a valuable project and would like to move forward with it.

The Directors had a long discussion on details of the work to be performed, labor costs, costs expended to-date, how this overage would affect the budget, and the engineered drawings. Staff recalled the second closest bid was around \$100,000, and that this is a design-build project. They answered questions on the engineered drawings and the duration of the project.

President Schultz moved that the Board authorize the General Manager approve the Change Order 002 from Energy Link Industrial Services for the Storage Canopy Project. Director Zanutto seconded the motion and further discussion on the engineered drawings took place. The following votes were cast: Ayes: Schultz, Zanutto; Noes: Cassil, Hall, Pack; Abstain: None; Absent: None. Motion failed.

President Schultz asked the Board for suggestions on what to do next. Director Hall stated he is concerned with the contractor providing the engineered drawings that now call for these changes and

increased cost. Mr. Neisler explained that under the terms of the contract, Energy Link was required to hire a professional engineer to provide a building that meets building code requirements. He stated this is a typical practice and does not induce a conflict of interest. If the Board would like it peer reviewed, that can be done. Fred Hicks, Mountain View Consulting Group, made a public comment that the drawings were engineered to Kern County building code, so as soon as they are submitted, you will have another set of eyes reviewing those from the County. He does not see a conflict of interest because if someone tried to overbuild, it would get flagged at the building department. Director Hall appreciated the comments as he thought it was an in-house engineer for Energy Link; he feels better knowing it was outsourced so there would be no conflict of interest and he sees now the increase in material costs was largely due to increase in steel prices rather than large quantity increase.

In light of these clarifications, Director Hall moved that the Board authorize the General Manager approve the Change Order 002 from Energy Link Industrial Services for the Storage Canopy Project. President Schultz seconded the motion and it was carried on the following votes: Ayes: Cassil, Hall, Schultz, Zanutto; Noes: Pack; Abstain: None; Absent: None. The motion passed.

Item 14. Board of Directors Comments

Director Zanutto attended the ACWA Region 6 and 7 San Joaquin Valley Water Forum on October 8th. He reported that the discussion was about the SJ Valley water problems, the perspective from the Capital, the need for investment in infrastructure, and bureaucracy holding up the money for the projects. The two assemblymembers said the State Water Board needs audited and the Senator said it needs to be abolished. The operation of channels and reservoirs were discussed as nothing short of malpractice and it was stated the systems were being operated as if they did not exist. It was mentioned the fees have increased dramatically over the last ten years and are being used as a hidden tax. The SJ Water Collaborative Action Program, Jason Phillips and Timothy Quinn, are working on a blueprint for Ag water in the valley that is made up of 5 caucuses and are hoping to decide on one product that all the caucuses can agree on. They stated there is a massive water gap and a solution is needed. They know some land will have to be fallowed and they are looking at repurposing it. They stated we need to be more vocal against the Biden and Newsom administration.

Director Cassil attended an ACWA Virtual Event Series entitled “Zooming Through California: Connecting ACWA Regions” on August 19th. She provided a printed summary of her notes. The agenda included a spotlight on Pajaro Valley Water Management Agency (PVWMA) and California’s New Water Futures Market. PVWMA focuses on halting seawater intrusion by balancing overdraft conditions in the basin by supplying non-potable irrigation water. They import no water from outside the district. The New Water Futures Market discussion was provided by panelist from WestWater Research, CME Group, and an ACWA Member, Mesa Water District. Some important facts for county water districts, community services districts, cities and other California government agencies were: NASDAQ Veles California Water Index Futures do not deal in *wet* water, transactions in this market are highly speculative, and TCCWD and other CA government agencies are not allowed to speculate with public funds. She read a description of the NASDAQ Veles California Water Index as stated in her report. She offered to provide a copy of her report to anyone interested.

Item 15. Adjourn to Closed Session

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

- a. In Accordance with Exhibit A Attached Hereto, TCCWD v. City of Tehachapi, *Et al.*
- b. In Accordance with Exhibit B Attached Hereto, Rosedale-Rio Bravo WSD *Et al.* v. Kern County Water Agency *Et al.*

The Board went into Closed Session at 4:39 p.m.

Item 16. Return to Open Session

The Board returned to Open Session at 5:47 p.m.

Report Action Taken in Closed Session:

- a. The Board voted to ratify the direction to Legal Counsel to initiate a petition for Writ of Mandate and Complaint for declaratory and injunctive relief challenging the Sage Ranch EIR and Water Supply Assessment against the City of Tehachapi as defendant and Greenbriar Capital Corporation, Greenbriar Capital Hold Co. Inc., Greenbriar Capital US LLC, and Jeffrey Ciachurski as real parties of interest. This vote was originally taken at the Special Board Meeting conducted on September 3rd, 2021 and was ratified today in Closed Session. Directors Schultz, Cassil, Hall, and Zanutto voted in favor, Director Pack voted against.
- b. No reportable action.

Item 17. Adjournment

The meeting was adjourned at 5:48 p.m. on a motion made by Director Hall, seconded by President Schultz, and carried on the following vote: Ayes: Cassil, Hall, Pack, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None. Motion passed.



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: KCSC No. BCV-21-102184 KCT
Name of Case: TCCWD v. City of Tehachapi *Et al.*

2. Anticipated Litigation: _____
Gov. Code § 54956.9 (b): _____
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: _____



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: KCSC No. BCV 21100418 TSC
Name of Case: Rosedale-Rio Bravo WSD *Et al.* v. Kern County Water Agency
Et al.

2. Anticipated Litigation: _____
Gov. Code § 54956.9 (b): _____
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: _____