

MINUTES

**TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT
SPECIAL MEETING OF THE BOARD OF DIRECTORS
January 28, 2019 10:00 A.M.
22901 Banducci Road, Tehachapi, CA 93561**

Item 1. Call to Order and Roll Call

Directors Present: Cassil, Pack, Schultz, Zanutto. Director Hall arrived at 10:25 a.m.

Legal Counsel: Bernard Barmann

Staff in Attendance: Catherine Adams, Tom Neisler

Item 2. Flag Salute

The Pledge of Allegiance was led by Director Zanutto.

Item 3. Approval of Agenda

The agenda was approved on a motion made by Director Zanutto, seconded by Director Schultz and carried on by the following vote: Ayes: Cassil, Pack, Schultz, Zanutto; Noes: None; Abstain: None; Absent: Hall.

Item 4. Comments by any Party on Items of Interest and Within the Subject Matter Jurisdiction of the Legislative Body

Mr. Neisler stated he has a couple of items he'd like to discuss with Director Cassil before leaving today. He wants to circle back on some comments she made on the General Manager evaluation and he wanted the Board to be aware that they will be having that conversation. The District email accounts are up and active. He sent the Directors some information he wanted them aware of and also to test those accounts. Steve Lee, the District's IT Consultant, is here configuring Director Zanutto's device and is available to help anyone else who needs it.

Mr. Neisler stated that at the January meeting he spoke about a Water Operations Committee meeting on January 24th. He sat in on the meeting via GoToMeeting, and it was very informative. At the conclusion of that meeting, he anticipated an increase in the allocation. The DWR did in fact increase the allocation on Friday from 10% to 15%. Mr. Neisler is not encouraged by this. This is just for information only; he will provide a more substantive report at the regular February meeting. At this point, staff is not commencing operations on February 4th. Gas has not been purchased. With 15%, that gives the District about 2600 acre feet of water available this year so there is no reason to start pumping that in February. He is holding off on the 2018 summary and 2019 projections at this point. He is talking to the District's bank reserve customers about the 2018 final numbers.

Ms. Adams announced that Bank of the West has completed the new signature card, so she asked that all Directors please see her before leaving today to sign it.

Director Zanutto asked if the District were to receive a 45% allocation later, would there be enough time to bring up all that water. Mr. Neisler confirmed yes there would be. In the shoulder months, when staff runs a two-engine system, the rule of thumb is that is about 800 acre feet per month. When they go to a three-engine system, it increases to about 1200 acre feet per month. So if the District runs 4 months at 800 acre feet, and 6 months at 1200 acre feet, that will get the District to 10,000 acre feet of water. That would only be if the Board would like to import 10,000 acre feet. Therefore, at this point, it is not an imposition on our operations.

Director Cassil asked Mr. Lee if he could please meet with her regarding her email account. Mr. Lee agreed to.

Item 5. Discussion of Information for Board of Directors

Mr. Neisler introduced this item and stated the intent is to go through the Director's Reference Binder and give an overview of the sections with key points. Mr. Barmann is here today as well and will cover some of the sections. Mr. Neisler stated they are open to questions at any time, so feel free to stop he or Mr. Barmann at any point. Below are key points discussed from each section.

Section 1: The Mission and Vision Statements as currently drafted in the Draft Strategic Plan.

Section 2: The current Organizational Chart.

Section 3: Contact List. Mr. Neisler stated he would like a preferred method of contact for each Board member if an emergency should happen after hours. He clarified he no longer has a home phone so he can be reached by his cell phone at any hour.

Section 4: Enabling Legislation/State Statutes- These are statutes under which the District was formed and is operated. Mr. Barmann stated the Tehachapi-Cummings County Water District is a county water district which is a particular type that is created pursuant to the county water district law. It is part of the Water Code. For an understanding of how this District came about he encourages everyone to read the sections of the water code that are set out in this binder. These are what are called the Organic Statutes, the statutes that gave life to county water districts. These statutes discuss the District's powers, responsibilities, how it's supposed to operate, etc. The next subsection is CSDA laws governing special districts. The District is a special district and there are general laws that govern special districts with regards to things like reporting requirements, other duties, and constraints on their authority.

Section 5: Administrative Policies.

Resolution #15-18 Conflict of Interest Code- Mr. Barmann discussed the Conflict of Interest Code. Every public agency is required to have a Conflict of Interest Code and they are required to be updated periodically. The District's was updated in 2018. He encouraged the Board members to read this Resolution (Conflict of Interest Code is an attachment), because it applies to the District generally and to each of the Board members personally. Conflicts of interest are a very serious part of responsibility for any Government official, particularly members of public Boards. There are rules that require Directors not to act in certain ways where there would be a conflict of interest between personal financial interests and the interests of the public body on whose Board the Director sits. There are also disclosure requirements where Directors must disclose any financial interests, whether or not they conflict with the District's interests. The District and the public need to know about Director's personal financial interests so there can be a degree of oversight and accountability for any such potential conflict. This can be done on the Form 700, Statement of Economic Interests, annually. One key conflict of interest law that Directors should understand is Government Code section 190, which prohibits a member of this Board from participating in the consideration of any contract, with any entity in which that Director has a financial interest. It's not just abstaining from voting, that Director cannot participate in any fashion, in the consideration of such contract and in some cases may require that Director to no longer sit on the Board if it is going to go forward with that contract. This code is significant

because a violation of section 190 is a crime. There is also the Political Reform Act which is section 8710 and the statutes that follow that in the Government Code, and this applies to matters other than contracts. It relates to Directors' personal financial interests and are not limited to just the Director personally but may include interests of close family members including spouses. Mr. Barmann explained it is important to disclose interests on the Form 700 and if you have questions, please ask. He is going to share a copy of a privileged memorandum with advice that was given to this Board last year, with the new Directors so they have the same advice. He stated Directors' communications with his firm are cloaked with the attorney client privilege because they are counsel for the District.

Resolution #14-11 Establishing Policy Regarding Legal Counsel- Mr. Neisler stated the Board is directly responsible for hiring three entities; the legal counsel, the auditor, and the General Manager. The General Manager is responsible for hiring all other personnel.

Resolution #05-06 Adding Items to the Agenda for Board Meetings- This resolution states that the public or a Director can request an item be added to the agenda, one week in advance of the meeting. There is some flexibility there if needed.

Ordinance 1 (1973) Directors Shall Be Elected From Divisions- This Board is elected from divisions, by the entire District.

Resolution #09-10 Application for Elective Coverage of Disability through EDD- The District used to have a private disability insurance coverage and in 2010, it switched over to the EDD state coverage. That coverage is still in effect today.

Resolution #18-15 Designating Treasurer- When the County ceased being the District's treasurer, they elected their own. LaMinda Madenwald, Business Manager, currently holds that position.

Resolution #20-10 Purchasing Policies and Procedures- Staff is scheduling this policy to be updated this year. It was a recommendation from the auditor and there are some things that need to be updated to the way business is done today via online and credit cards. The District maintains a single credit card in the General Manager's name.

Section 6: Board of Directors

Map of District Boundaries and Divisions- This information is now in the District's GIS System as well to provide more specific information on a parcel basis.

Ethics for Public Agency Officials (AB 1234) and Sexual Harassment Training- The state requires Directors have both trainings every two years. Cat Adams will be scheduling these in the near future.

Directors' Insurance Coverage Information- This refers to liability insurance coverage during a term as Director. There are no health insurance benefits provided to Directors from the District.

IRS Rule Re: Taxability of Compensation- This section explains why Directors are paid through payroll and will receive a W-2 at the end of the year.

Training Opportunities- The District has an annual training budget for Directors and staff, and this section includes a catalog of trainings. The District encourages Directors to take advantage of those opportunities.

The Ralph M. Brown Act- This is the California Open Meeting Law which this District is required to follow. One main concern in this digital world is continuation type meetings. For example, if Mr. Neisler sends an email to all the Directors and one Director has a specific question and replies to all the Directors, this is a violation. There cannot be non-agendized discussions amongst a quorum of the Board.

Section 7: Finance

Current Fiscal Year Budget, Appropriations Limit, Investment Policy and Reserves Policy- The current Mid-Year Budget is posted on the website and the Appropriations Limit and Investment and Reserves Policy are discussed in the narrative.

Benefit Assessment- This includes the Benefit Assessment Zone #1 Map for reference and the annual staff report. The assessment is for the primary flood control district that is protected by Antelope Dam and most of Tehachapi is within that district. This shows up as an item on property tax bills for people who are within the limits of that district. This assessment hasn't been increased in years and years; it's \$106,000 a year to maintain those facilities.

Section 8: Personnel

Employee Handbook- The current handbook is going through extensive revision. It will be reviewed by the General Manager, and then given to JPIA for review. Once that is complete, it will be given to the Board for review. The document will show all the changes that have been made and once it is approved by the Board, it will be completed and distributed to the employees.

Job Descriptions- These are brief job descriptions. There are more comprehensive job descriptions for each position and employees are asked to review these each time they undergo a performance review.

Section 9: Memberships

ACWA- The Association of California Water Agencies is used for the District's insurance programs such as worker's compensation, liability, and health insurance. ACWA has lobbyists at the state and federal level and inform the members of legislative matters that pertain to their districts. They put on conferences that are very beneficial every year.

CSDA- The California Special Districts Association is a more general organization with a broader base of agencies. They distribute discussion forums that have topics of interest at times and offer trainings the District utilizes.

Others- This includes information on other agencies the District is associated with that provide some benefits.

Section 10: Water Service

This section provides the rules and regulations for water service. It discusses the importation system and Mr. Neisler offered to conduct Director tours of the facilities. There is an annual tour, the Pump Plant Tour, of the pumping system and the public attendance has dramatically increased the last couple of years. People find it very informative and the team does a great job.

Annually, the Board reviews the water rates and takes action to set those for the upcoming year. If there is a water rate increase, it has to go through a Proposition 218 election.

Section 11: Agreements/Contracts

KCWA and TCCWD Water Supply Agreements- This District is a member unit of the Kern County Water Agency (KCWA) and the KCWA is a member of the State Water Contractors which hold contracts for State Water Project water with the Department of Water Resources (DWR). The contract for this District's water is between DWR, KCWA and there is a subordinate contract with KCWA. Both the M&I contract and the Ag contracts were executed in 1966 and are included in this section. They underwent major amendments in 1994 that went into effect in 1998, known as the Monterey Amendments. Subsequent to those amendments, the differentiation between M&I and Ag allocations disappeared. The contracts were still written that way but the District has a firm entitlement of 19,300 acre feet a year and can be used for either purpose.

Brite Lake Campground (TVRPD)- This is the District's contract with the Recreation District for the Brite Lake Campground facility dated 1974. It was a 25 year agreement that was renewed without any amendments in 1999 for another 25 years. Mr. Neisler feels it is now inadequate for the operation as it is being conducted today and is on his list to address this year. He will be presenting some information to the Board in the future.

Section 12: Planning Documents

Strategic Plan- This section includes the current working draft.

Regional Urban Water Management Plan- This plan is updated every five years and the next update is scheduled for 2020 and will probably take place in 2021 and 2022. This regional plan includes all the M&I purveyors in the Tehachapi region; TCCWD, the City, Golden Hills, Stallion Springs and Bear Valley. It's a much better plan that way rather than everyone doing their own individual plan. The State provides the templates and formats that plan must follow and they have not started working on the 2020 templates yet. The District does this through a consultant and goes through the RFQ and RFP process. Typically, TCCWD is the lead agency and spearheads that operation. The District fronts the payments and then the other agencies pay their share. That will come to the Board as it comes timelier.

Tehachapi Basin Groundwater Model Report- This link is to the 2009 report and currently TCCWD, Golden Hills and the City all have amounts in this years budget to update this report.

Cummings Valley Groundwater Model Report- This link is to the 2015 model and Mr. Neisler will be reporting back to the Board at the next meeting on this report.

Section 13: Tehachapi Basins

Tehachapi Basin Watermaster Rules- The Board of Directors sits as the Watermaster for the three adjudicated basins; Tehachapi, Cummings and Brite Basins. The General Manager is defined as the Chief Executive Officer of the Watermaster who does the day to day administration items. Tehachapi Basin is fully adjudicated with prescribed rights and operates well. Cummings Basin does not have a formalized adjudication. The District has concerns about a number of management items including safe yield for that basin. The Brite Basin is full of water, operates well and no annual report filing is required for this basin.

Section 14: Public Relations

This section contains some resources for public relations. There are two local newspapers and Mr. Neisler works to maintain information flow back and forth to both of those publications. They attend the District's meetings regularly. Social media has changed public relations of today. The District does have a Facebook page and Mr. Neisler plans to have the District website updated and redesigned this year.

President Pack asked Mr. Neisler if it would be appropriate to expand the contact list in section 3 to include contacts such as legal counsel. Mr. Neisler stated he can do as the Board wishes but added that contact with legal counsel should be controlled. The attorneys work for a fee to the District and either Mr. Neisler or President Pack should be in the loop if a Director chooses to contact counsel. If there's a question about process or procedure, and if Mr. Neisler can answer it, it would be more efficient and cost effective for him to do so. This is not meant to deter contact with legal counsel, Mr. Neisler and the District have a great working relationship with the attorneys.

Mr. Neisler commented that he would like to add a section more specifically for Form 700 completion. Those forms are kept here at the District office under lock and key.

Item 6. Review of Date and Time of Regular Board Meeting Schedule

Mr. Neisler stated a member of the public made a comment at the regular January meeting about the time of the Board meeting and at the Board's direction, it has been placed on today's agenda. This Board used to meet at 4:00 p.m. on the third Wednesday of the month. In this agenda packet, Mr. Neisler included a list of other local agencies and their meeting times. He also prepared this on a calendar page for ease of use. The list of other agencies was reviewed, and the Board was appreciative of having this information so there is no risk of double booking with another meeting. Mr. Neisler stated that Staff is open to whatever the Board wants to do.

The last time the Board meeting was changed to utilize the Golden Hills facility, there was no formal action taken. The Board authorized the change and recorded it in the minutes. Mr. Neisler suggested that if the Board would like to take action and change the meeting time, that this be done through a Resolution at the next Board meeting.

President Pack started with the meeting day and asked if the third Wednesday of the month was still appropriate. Everyone agreed this is a good day and did not want to change it. Next, the time of the meeting was discussed. A long discussion took place recalling meeting times of the past, and there were a couple former Board members in the audience that were able to provide some historical information. Some members commented they didn't see a difference in meeting attendance when the meetings used to be at 4:00 p.m. The point was also brought up that in the past, the meeting time was set specifically during working hours to allow other agencies and businesses to be able to attend during working hours.

Director Zanutto commented that he has participated in other Board meetings in which the meeting was opened, the first few required items were addressed, and then they adjourned to closed session. There would be one hour for closed session and then the regular meeting would reconvene. This gave the public an extra hour before needing to come to the meeting. Then there wasn't a closed session afterwards unless for some reason it wasn't taken care of within that hour. In this situation, you could still start the District's meeting at 3:00 p.m., take care of closed session, and then start the meeting again at 4:00 p.m. This would help make it more available to the public but does run the risk of having a time lag if closed session takes less than an hour.

Director Cassil commented that agencies such as Golden Hills CSD or Bear Valley CSD have more public interest in the water Board as a provider of their water in that District, as well as some of the community issues. In the case of TCCWD, the people who receive water more directly from this District are mostly business oriented, such as agricultural customers and businesses, as well as CSD managers who might be inclined to stay up on activities in this District. She agrees that having these people attend the meetings is very important and feels the afternoon times are good to make the meetings available to these people.

Director Schultz commented that it's a tug-of-war because the public would like it later yet if it was moved to a later time, the agencies would probably want it earlier. It is hard to make everyone happy.

After all considerations were discussed, President Pack asked if anyone would like to change the meeting time and everyone agreed it should remain the third Wednesday of every month at 3:00 p.m.

Item 7. Adjournment

The meeting was adjourned at 11:34 a.m. on a motion made by Director Cassil, seconded by Director Hall and unanimously carried. Ayes: Cassil, Hall, Pack, Schultz, Zanutto; Noes: None; Abstain: None; Absent: None.



James Pack, Board President



Catherine Adams, Board Secretary