

MINUTES

**TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT  
REGULAR MEETING OF THE BOARD OF DIRECTORS  
September 19, 2018 3:00 P.M.  
22901 Banducci Road, Tehachapi, CA 93561**

**Item 1. Call to Order and Roll Call**

**Directors Present:** Pack, Prel, Worden, and Zanutto. Director Hall arrived at 3:04 p.m.  
**Staff in Attendance:** Catherine Adams, Troy DePriest, LaMinda Madenwald and Tom Neisler

**Item 2. Flag Salute**

The Pledge of Allegiance was led by Director Pack.

**Item 3. Approval of Agenda**

The agenda was approved on a motion made by Director Pack, seconded by Director Worden and carried on by the following vote: Ayes: Pack, Prel, Worden, 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**

Director Worden suggested it would be a good time to get the Board of Directors binder up to date for the new Directors coming in. Mr. Neisler stated that task is in progress now and will be ready in time for the December meeting.

Director Worden asked if anything was done to thank the Golden Hills CSD for the use of their facility while the Board room was being constructed. Mr. Neisler sent a letter thanking them for their cooperation in allowing the use of their facility. He clarified the letter was from staff on behalf of the Board. It was determined this should be an item on the next agenda.

There were no other comments.

**Item 5. 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 August 15, 2018
- b. Approve Financial Report and Payment of Bills

Director Worden removed Item a. and Item b.

Director Worden reviewed the section of the minutes where President Zanutto asked him if he still planned to attend the CSDA conference, and the minutes read, "he will sustain from going." Director Worden stated he believed the word he used was "abstain". Ms. Adams verified that in the recording, Director Worden used the word "sustain". Discussion took place and Director Worden confirmed his intent was to "abstain", so President Zanutto requested the minutes be revised.

There being no other questions or comments on the minutes, Director Hall made a motion to approve the revised minutes. The motion was seconded by Director Pack and it was carried on the following vote: Ayes: Hall, Pack, Prel, Worden, Zanutto; Noes: None; Abstain: None; Absent: None.

For Item b., Director Worden requested details on check #4322, for the second and fifth grade water education material. Mr. Neisler stated this check is half of the cost; the total cost the Board approved is \$10,000. He clarified this is not Project Wet; this is the curriculum materials that are distributed to all the public schools' second and fifth grade classes, as well as three home/private school ventures. This curriculum was developed specifically for Tehachapi. Director Worden stated he had no further questions.

Director Hall moved to approve Item b. The motion was seconded by Director Worden and it was carried on the following vote: Ayes: Hall, Pack, Prel, Worden, Zanutto; Noes: None; Abstain: None; Absent: None.

#### **Item 6. General Manager's Report**

Mr. Neisler reported on the following matters:

- The chart on the report and the description provided are El Nino conditions; significantly elevated water temperatures in the Pacific and significantly reduced water temperatures in the Atlantic. A very historic pattern for higher rainfall on the West Coast and drier temperatures on the East Coast. All the key indicators are in place. The water temperature is higher than it's ever been off the coast of San Diego. The staff is prepared for excessive rain and is as prepared as can be for a shortfall.
- The District is on track to import 10,000 AF this year. The flow will be reduced to a two-engine system on October 1<sup>st</sup> and will continue operating the two-engine system until the 10,000 AF is pumped.
- The lake is significantly higher this year than it was last year. There are two reasons for this. Work is being done at some of the recharges so a couple of them have been kept low intentionally, and there is plenty of time to get the lake to where it needs to be before the end of the year. All the recharges are in operation right now and the lake level will start to come down, even though the demand will decrease, the recharge operations will increase.
- Given the 10,000 AF importation and the current supply available, there will be no carryover in San Luis. There will not be a significant supply in San Luis to start off 2019. Plans will be made accordingly, given the forecast for the weather and given the levels in San Luis which are included in the charts.
- The topic of the Oroville spillway is discussed monthly. The state has admitted that the cost of the repairs has now exceeded \$1.1 billion and climbing. You may recall that the original estimate was for \$500 million so it's going to be significantly more expensive than what was forecast. They have not projected a final cost for those improvements at this time. Mr. Neisler has heard that FEMA is going to pay 75% of the cost and the state water contractors will pick up the remaining 25%. There are a lot of discussions going on at the state level about how that will take place.
- Staff was able to shut down the extraction wells, short of withdrawing all of the wheeled water that was sold. This is a good thing; it saves the pumping cost that is only \$170/AF for that wheeled water. It costs the District about \$100/AF to extract it from the ground. Because the 10,000 AF was imported, the District was able to meet the wheeled water demand as well as the regular system demand without extracting the full amount from Tehachapi Basin. That reduces the District's costs and keeps about 600 AF of water in the basin that is not being extracted and sold to customers.
- The state legislature adjourned at the end of August. The drinking water tax died in committee; it never made it to the floor of legislature. He suspects that it was withdrawn in anticipation of a new administration coming in next year that might be more favorable to that proposal. Perhaps, even an increasing super majority in both the assembly and the state senate.

- Ms. Madenwald successfully navigated another audit this year. This is the last year of the contract with the auditor, Greg Frankhanel. They will come in with their report and present to the Board later in the year, typically in November or December.
- The California WaterFix continues. It will be discussed more in Closed Session due to the ongoing litigation.
- There was a handout at the meeting of some back and forth guest commentaries that Mr. Neisler was engaged in in the Bear Valley Cub with a gentleman who lives in Bear Valley. It was a series of three months' worth of he-said she-said type of articles. It was cordial. Mr. Neisler's heard several positive responses for providing information that the general public just isn't aware of. He spoke to Faith Green, the editor of the Cub, and she was interested in more widely distributing this information. Mr. Neisler looks forward to participating in that when the time comes, and he will keep the Board aware. Bear Valley hired a new General Manager and he started work last Monday, so that is good news.
- Smart Growth Tehachapi Valley is holding an annual meeting on September 29<sup>th</sup> and they're going to have a panel talking about the County, the City, and the water District. Mr. Neisler will be presenting for the water District, Zack Scrivner, our Supervisor, for the County, and Greg Garrett, the City Manager, for the City. That flyer is attached to the packet, and if anyone is interested in attending it is open to the public.
- He discussed the lake graph attached to the staff report. You can see the low point where it was last year, and it is about 8 feet higher this year than last year. The statewide reservoir conditions graph is on there as well. Oroville shows 51% capacity; 116% of normal for this time of year. What that means is there is diminished storage capacity in the lake once the winter flow starts. State and Federal projects are operating at full capacity; State project's pumping 6,300 CFS and Federal project's pumping 4,200 CFS from the Delta into San Luis Reservoir.

Director Hall asked for clarification on the number of acre feet of water the District wheels. Mr. Neisler explained how much is wheeled, the process of wheeling and groundwater extraction, and addressed how this relates to the budget and reserves.

President Zanutto asked how much banked water will be left after pulling the 2,400 AF and Mr. Neisler stated, slightly more than 6,000 AF.

#### **Item 7. Operations Manager's Report**

Mr. DePriest reported on the following matters:

- The system is operating at full capacity; 21 CFS.
- The new conveyor system installed at the rotating screens is working well. The algae bloom in the aqueduct has subsided so the mechanics get a break from cleaning the heat exchangers constantly.
- There was mandatory third-party source testing on multiple engines this month. Two engines at each plant are tested. Aeros Environmental performs this service and all engines passed and remain in emissions compliance.
- On October 1<sup>st</sup> the system will go down to two engines operating at 14 CFS.
- Mr. DePriest is looking forward to coming to the Board with a Tank Asset Management Plan for the District's 8 water storage tanks. He is working on getting estimates for that program.
- There are some recharge projects going on in the Tehachapi Valley. Automation of the Antelope Dam Recharge facility is substantially complete. There is a solar powered control system at that site which allows staff to operate the recharge from the SCADA, similar to what is done with the 19 Acre Recharge. There are also plans to run a permanent line to the Gravel Pit Recharge this year.

- Staff met with the Superintendent of the new Walmart project. The District is providing them with construction water located at the Antelope Run Bike Path. Ultimately there will be a permanent turnout at that facility.
- The fixed steel ladders project is complete. Medford Construction did an excellent job and now there is a safe way to access the roof of the pump plant facilities.
- There were some gas pressure issues with the regulator at the main turnout and those have been rectified. A new spring was installed.
- At Pump Plant 1, the control modules of the four engines are being recalled so a Waukesha technician is scheduled to come out at no cost to the District. They will need to be reprogrammed.
- Brite Lake elevation was 4,352.1 feet on September 14<sup>th</sup> and the lake volume was 1,009 AF.
- Some gearheads had to be changed at Pump Plant 2 and Pump Plant 1. It was a proactive measure. The heads have been transported to Duran Gear in Texas for evaluation.
- The office well pump was pulled due to a failure down by the dam. That was replaced with a new pump and new well casing. The well was disinfected, tested and placed back in service.
- He described the pictures attached to his staff report.

Director Hall asked if the water going to Wal-Mart was a Term M&I Agreement. Mr. Neisler answered that it was Regular M&I. Once a permanent meter is installed, a Term M&I Agreement will be executed, and they will use an excess of 5 AF. Director Hall also commented that he was glad the ladders have been installed.

**Item 8. Approve Renewal of Term M&I Agreement with California Portland Cement Company**

Mr. Neisler stated that the District entered into a Term M&I Agreement with Cal Portland in 1976. At that time, Cal Portland funded the cost to install the water line that runs all the way from Pump Plant 5, about 8 miles of pipeline, and paid for a booster that was required to get the water to their facility. That was a good investment during the drought when their onsite wells ran dry and they had to operate the plant solely on the District water. If ever there was a good customer for a Term M&I Agreement, it would be them.

Their latest agreement expired on December 31, 2016; they are renewed every six years to the nearest December. At that time John Martin sent them a letter with a new agreement for execution. Typically, what staff does is have the client execute it and then bring it to the Board for execution. Cal Portland never responded to the agreement and it fell through the cracks. As you recall, that was about the time that John left. Mr. Neisler stated that now staff has instituted a very convenient spreadsheet and a tickler file that tells when all the agreements expire so this can very easily be tracked going forward.

Not signing the agreement was an oversight on Cal Portland's part. The new person called, and Mr. Neisler informed him it had expired and that another agreement can be put in place. This item is another six-year extension of the current agreement. As you may recall, a Term M&I Agreement requires that a customer use 5 AF of M&I water per year or pay for 5 AF at the Term M&I rate of \$676/AF for Zone 3. The Regular M&I rate is \$1,385/AF throughout the District so there is a significant cost difference. They have been a customer for more than 40 years, and from a staff perspective, there is no intention of changing that agreement. The agreement is identical; only the dates have been changed. The agreement and a copy of John's letter from 2016 are attached to the staff report. Staff has not received the fully executed contract from them yet. Mr. Neisler requests that the Board approve the extension and he won't ask the President to sign it until the executed agreement is received back from Cal Portland. Once the Board has taken the action, that can happen whenever it's convenient.

The Directors had questions regarding the how the expiration dates are determined, and Mr. Neisler showed section 10 of the agreement and explained the date used is, "the end of the calendar year which is closest to six years from the effective date of the agreement, whether six years is more or less than six years in total."

President Zanutto asked if Cal Portland has ever gone an entire year without using any water and if they had paid for the 5 AF. Mr. Neisler confirmed that has been the case and they have paid.

Director Hall moved to authorize the Term M&I Agreement and make it ready for the President's signature. The motion was seconded by Director Worden and it was carried on the following vote: Ayes: Hall, Pack, Prel, Worden, Zanutto; Noes: None; Abstain: None; Absent: None.

**Item 9. Approve Purchase of Vehicles, Declare Vehicle Surplus and Authorize Use of Surplus Vehicles as Trade-In**

Mr. DePriest stated staff distributed notices inviting bids for two new trucks; a one-ton with a service bed and a  $\frac{3}{4}$  ton for the pipeline superintendent. Ten dealers were contacted for bids and responses were received and can be reviewed in Attachment B. The District Purchasing Policy requires staff to prepare a list of potential surplus equipment to the Board for its approval, prior to any purchase. Mr. DePriest described the vehicles that are designated to use as trade-in and what vehicles they will be traded in for. Dealers were asked to provide a bid for a diesel and a gas option for the superintendent truck. Staff determined they would prefer the diesel option if it was within in the budget amount and it was.

The 2018-2019 Budget includes \$55,000 for the pipeline department truck with a service bed and \$40,000 for the pipeline department's superintendent truck. The total budgeted cost is \$95,000 and that is funded in the pipeline department budget. The actual cost for each of the recommend vehicles was less than the budgeted amount.

Mr. DePriest recommends that the Board authorize the General Manager to purchase the following vehicles: Ford F250 diesel truck from Jim Burke Ford for the net amount of \$39,621.58; Ford F350 cab and chassis from Jim Burke Ford, Bakersfield with a service bed from Scelzi Enterprises, Fresno for a total cost of \$43,881.33. Secondly, declare the following vehicle surplus to the District and direct staff to utilize it as a trade in for the above one-ton vehicle purchase: 2007 Chevrolet Silverado relinquished to Jim Burke Ford for a trade in value of \$8,000.

Director Worden asked if this vehicle was a special design or for special applications. Mr. DePriest stated the Chevy Silverado used for trade in is in poor condition and there are only two older vehicles with high miles on them left in the fleet. He wants to transition and continue to rotate those vehicles out of the fleet. The other new vehicle (F250) will go to the pipeline superintendent and his current truck will go to the new employee hired last year. This new employee makes multiple trips per week to Bakersfield for parts, so he needs a reliable vehicle. The other two trucks are back-ups and are used in the summer for the interns and as spares when another truck is getting serviced.

President Zanutto commented you can have all the best tools in the world but if you don't have the means of getting to where the problem is, they do you no good. Mr. Neisler commented that a lot is asked of these employees; operations run 24/7 and in the colder months the weather is questionable, and they are asked to go out on the pump plant road in the middle of the night. He appreciates the Board's consideration to keep them in safe vehicles.

President Zanutto moved to purchase the Ford F250 diesel and the Ford F350 cab and chassis. The motion was seconded by Director Hall and it was carried on the following vote: Ayes: Hall, Pack, Prel, Worden, Zanutto; Noes: None; Abstain: None; Absent: None.

Director Pack moved to declare the following vehicle surplus to the needs of the District and direct staff to utilize it as a trade in for the above one-ton vehicle to be purchased: 2007 Chevy Silverado to be relinquished to Jim Burke Ford, Bakersfield for the value of \$8,000.00. The motion was seconded by Director Hall and it was carried on the following vote: Ayes: Hall, Pack, Prel, Worden, Zanutto; Noes: None; Abstain: None; Absent: None.

**Item 10. Approve Director's Attendance at CSDA Conference**

Mr. Neisler stated he wanted to bring this back for reconsideration to make sure he was following the Board's direction clearly. The CSDA Annual Conference is next week in Indian Hills. At the July 18<sup>th</sup> Board meeting, the Board authorized Vice President Worden's attendance at the conference and staff made conference and lodging reservations accordingly. At last month's meeting on August 15<sup>th</sup>, during discussion of approval of the minutes, Vice President Worden's attendance was discussed, however no action could be taken as it was not on the agenda. During the discussion at the August meeting, Mr. Neisler understood Vice President Worden to state that he would not be attending the conference, so based on that understanding, not on Board direction, he instructed staff to cancel reservations and staff has done so. The longer you wait cancel, the larger the fee is, and, in this case, the District only paid \$75.00. After that meeting, Mr. Neisler became unsure as to whether that was the action that the Board wished staff to take. Consequently, he placed it on the agenda for today, solely to ensure that staff follows the direction of the Board. Mr. Neisler stated if there was a mistake or misunderstanding, the mistake is his and he apologized in advance if that was the case. Staff has checked and there still is capacity at both the hotel and the conference, at a higher rate of course, should the Board wish to send someone to attend that conference.

President Zanutto asked if there were any Directors that would like to attend the CSDA conference. No Directors were available to attend. Director Worden thanked Mr. Neisler for adding this to the agenda to address properly.

**Item 11. Approve Minute Order Updating the District's Signature Card at Bank of the West**

Mr. Neisler stated that the District needs to provide the Bank evidence that it is removing a retired employee, Lori Bunn, from the signature card and replacing her with the new Board appointed Secretary, Catherine Adams. If the Board will record this motion, this will be taken to the bank and the signature card will be updated accordingly. The same action will need to be taken in December when the new Board will be seated. This is just a step that must be gone through whenever the authority changes on those cards.

Director Worden questioned if this update could wait until December when the signature card must be updated for the new Board members. Mr. Neisler answered that for security purposes; the District should not have people authorized to sign checks or anything else on behalf of the District, that are not District employees. He stated he is not suggesting that there's a problem, it is just the right way to do it.

Director Pack moved that the Board update the signature card as recommended by the General Manager. Director Hall seconded the motion and it was carried on the following vote: Ayes: Hall, Pack, Prel, Worden, Zanutto; Noes: None; Abstain: None; Absent: None.

**Item 12. 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, DWR v. All Persons Interested in Authorization of WaterFix Revenue Bonds et al.
- b. In Accordance with Exhibit B Attached Hereto, Kern County Superior Court Case 97209, Tehachapi-Cummings County Water District, a Body Corporate and politic vs. Frank Armstrong et al.
- c. In Accordance with Exhibit C Attached Hereto, Dennis Carpenter v. Richard M. Jacobson, et al.

The Board went into Closed Session at 3:58 p.m.

**Item 13. Return to Open Session**

The Board returned to Open Session at 4:39 p.m.

**Report Action Taken in Closed Session:**

- a. No reportable action.
- b. No reportable action.
- c. The Board authorized Counsel to send a letter to Mr. Carpenter that the claim is untimely.

**Item 14. Adjournment**

The meeting was adjourned at 4:40 p.m. on a motion made by Director Hall, seconded by Director Pack and unanimously carried. Ayes: Hall, Pack, Prel, Worden, Zanutto; Noes: None; Abstain: None; Absent: None.

  
Richard Zanutto, Board President

  
Catherine Adams, Board Secretary

TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT

CLOSED SESSION ITEM DESCRIPTIONS

(Gov. Code § 54954.5)

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

Description of Property: \_\_\_\_\_

Negotiating Parties: \_\_\_\_\_

Subject of Conference: \_\_\_\_\_

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

1. Existing Litigation: \_\_\_\_\_  
Name of Case: DWR v. All Persons Interested in Authorization of WaterFix  
Revenue Bonds 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: \_\_\_\_\_



TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT

CLOSED SESSION ITEM DESCRIPTIONS  
(Gov. Code § 54954.5)

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

Description of Property: \_\_\_\_\_

Negotiating Parties: \_\_\_\_\_

Subject of Conference: \_\_\_\_\_

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

1. Existing Litigation: Case No. 97209

Name of Case: Tehachapi-Cummings County Water District  
a Body Corporate and politic, vs. Frank Armstrong 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: Not applicable

Unrepresented Employee: \_\_\_\_\_

TEHACHAPI-CUMMINGS COUNTY WATER DISTRICT

CLOSED SESSION ITEM DESCRIPTIONS

(Gov. Code § 54954.5)

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

Description of Property: \_\_\_\_\_

Negotiating Parties: \_\_\_\_\_

Subject of Conference: \_\_\_\_\_

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

1. Existing Litigation: Case No. Case No. BCV-18-101834  
Name of Case: *Dennis Carpenter v. Richard M. Jacobson, 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: Not applicable  
Unrepresented Employee: \_\_\_\_\_