

JOSHUA BASIN WATER DISTRICT
Minutes of the
REGULAR MEETING OF THE BOARD OF DIRECTORS

February 17, 2016

1. CALL TO ORDER: 7:00 PM

2. PLEDGE OF ALLEGIANCE

3. DETERMINATION OF QUORUM: Victoria Fuller Present
Bob Johnson Present
Mickey Luckman Present
Mike Reynolds Present
Rebecca Unger Present

STAFF PRESENT: Curt Sauer, General Manager
Susan Greer, Assistant General Manager/Controller
Seth Zielke, Director of Water Resources and Operations
Keith Faul, GIS Coordinator

CONSULTANTS PRESENT: Kathleen Radnich, Public Outreach Consultant
Gil Granito, District Counsel, Redwine & Sherrill
Jerry Eagans,
David O'Leary, USGS

GUESTS 21

4. APPROVAL OF AGENDA

MSC Luckman/Reynolds, 5/0 to approve the agenda for the February 17, 2016 meeting.

Fuller	Aye
Luckman	Aye
Johnson	Aye
Reynolds	Aye
Unger	Aye

5. PUBLIC COMMENT

Al Marquez, Joshua Tree: Mr. Marquez told a joke.

6. CONSENT CALENDAR

MSC Luckman/Johnson, 5/0 to approve Draft Minutes of the February 3, 2016 Regular Meeting of the Board of Directors.

Fuller	Aye
Luckman	Aye
Johnson	Aye
Reynolds	Aye
Unger	Aye

7. PRESENTATION BY USGS ON MONITORING ACTIVITIES FOR 2015

David O’Leary, Hydrologist with the USGS presented findings from 2015, including monitoring results at the recharge facility, other water quality findings, and upcoming geophysical data collection activities.

Public Comment:

A question was asked from the audience about Nitrate levels from the apartment complex approximately 100ft from the recharge ponds. Mr. O’Leary confirmed that nitrate levels at 16ft below the ground surface were naturally occurring, based on isotope fingerprinting.

Al Marquez, Joshua Tree: Mr. Marquez asked about the water inflow through the Yucca Barrier, and the nitrate content of that inflowing water.

Mr. O’Leary responded that according to the groundwater model, an estimated 83AF flows through the Yucca Barrier from west to east, and that the water has relatively low nitrate content because the eastern part of Yucca Valley is mostly undeveloped, and any nitrate has likely not yet made its way down to the water table.

GM Sauer clarified studies that indicate it may take from 45 to over 100 years for nitrate to reach the water table based on the degree of development in an area.

The Board received the presentation for information only.

8. UNITED STATES GEOLOGICAL SURVEY (USGS) STUDY CONTINUATION AT A COST OF \$63,450

GM Sauer gave the report. USGS has been working with JBWD since 2006 on a cooperative study, which includes data collection at existing unsaturated-zone monitoring sites at the recharge facility (JTUZ-3 and -4), continuation of the basin-wide water quality monitoring program, and groundwater –flow model applications, including a flow model between the Joshua Tree and Copper Mountain subbasins. The complete proposal from USGS for 2016 activities with a cost breakdown is included in the Agenda Packet.

MSC Luckman/Fuller 5/0 to approve \$63,450 extension to the Joint Funding Agreement with USGS.

Fuller	Aye
Luckman	Aye
Johnson	Aye
Reynolds	Aye
Unger	Aye

9. UPDATE ON NEXTERA SOLAR PROJECT, PROPOSED WILL SERVE LETTER AND WATER SUPPLY AGREEMENT

GM Sauer gave the report. GM Sauer presented a brief background of the drought regulations, the NextEra (JT Solar) project, the previous conditional will serve letter of October 2015, and current proposed draft will serve letter and water supply agreement. His recommendation is to move forward with the current draft will serve letter and water supply agreement included in the agenda packet, contingent on County approval of the project; particularly to avoid a well to be drilled into the aquifer by NextEra, as indicated as a potential alternative in the Initial Study.

Public Comment:

Tom O’Key, Joshua Tree: Mr. O’Key brought up the fact that the land for the proposed Joshua Tree Solar Farm is still owned by other people (not NextEra) and stated that the community adamantly opposes the

project, which he states offers nothing to the community of Joshua Tree. O'Key states JBWD should save and protect the water in our aquifers for drinking, and for the community citizens.

Karen Tracy, Joshua Tree: Ms. Tracy affirmed her agreement with Mr. O'key, and thanked the Board for the stipulations presented in the proposed will serve letter and water supply agreement to protect against a production well being drilled into the aquifer. Ms. Tracy encouraged the community to support and voice their opinion to San Bernardino County that NextEra is not wanted in the community of Joshua Tree.

Eva Soltes, Joshua Tree: Ms. Soltes wanted to go on record stating the community is opposed to the NextEra project in Joshua Tree and questioned whether, if in 9 months there is not a lift on drought regulations would the will serve letter expire? Ms. Soltes further emphasized that she questions why JBWD is even considering serving water to NextEra instead of preserving drinking water and the aquifers.

Jet Tucker, Joshua Tree: Ms. Tucker pointed out that the Joshua Tree citizens are being asked to cut back on water consumption due to the drought, and noted that the proceeds to NextEra/Joshua Tree Solar Farm and electricity generated will not benefit the community of Joshua Tree. Ms. Tucker stated that NextEra approached the Joshua Tree Chamber of Commerce in what appeared to be a bribe, asking what they could build to "get the community off our backs?" Ms. Tucker described NextEra as bullying the community and the JBWD.

Al Marquez, Joshua Tree: Mr. Marquez emphasized his opposition to the project. Marquez further stated his opposition of the project being in an urban area with homes and businesses, and so close to the National Park. Mr. Marquez suggested JBWD get adjudication on private wells to have more control over water being pumped from the aquifer.

David Fick, Joshua Tree: Mr. Fick requested clarification on what is being decided given the change in numbers in the water supply agreement from 49AF to 89 AF since October 2015 to the current documents in February 2016. Mr. Fick suggested the JBWD further research the process for well approval through the County of San Bernardino, and referenced a renewal of the drought proclamation at a recent Board of Supervisors meeting (agenda item #13). Mr. Fick pointed out that the only thing that had changed between October 2015 and February 2016 were the threats by NextEra to drill a well and suggested that NextEra was bullying the JBWD and reminded the Board that NextEra had solicited private well owners for water, which provides evidence that NextEra is willing to engage in illegal activity. Mr. Fick further stated that during the meeting with the County the attorney for NextEra stated the money for the sale of the airport goes to Joshua Tree; however Mr. Fick indicated the money will go to the current landowner, the ex-wife of Park Richardson, who lives in northern California, thus the community will not benefit financially from the sale of the land, and will also lose the historic airport.

Public Comment Closed.

GM Sauer answered questions brought up during public comment referring to the statement that NextEra is not currently the property owner, and clarifying that the water supply agreement is contingent upon NextEra being the property owner. GM Sauer's understanding is that the sale of the land to NextEra is contingent upon whether the County of San Bernardino approves the project.

GM Sauer encouraged continued water conservation and pointed out that the water to be used by NextEra would be replaced, to mitigate against water draw down in the aquifer.

GM Sauer indicated that the October 2015 Will Serve letter would go into effect when the drought regulations are lifted. The proposed February 2016 Will Serve letter and Water Supply Agreement removes reference to emergency drought regulations and conservation mandates because it is a commitment from the District to

supply the water rather than NextEra drilling a production well, and depleting the water in the aquifer without the mitigation to replenish the water supply.

GM Sauer stated the JBWD is looking into adjudication through the Sustainable Groundwater Management Act (SIGMA), and creating a Sustainable Groundwater Management Agency.

The difference between 49 AF in the October 2015 Will Serve letter and 89 AF in the February 2016 proposed Will Serve letter and Water Supply Agreement was derived from a recalculation of the numbers based on the numbers used in the Initial Study.

GM Sauer stated San Bernardino County Environmental Health looked at water quality with regards to well permits (as of January 21, 2016), not water quantity with regard to the state mandated drought regulations.

GM Sauer confirmed that NextEra and local well owners both informed him that NextEra was seeking to purchase water from private well owners.

President Fuller acknowledged that the Board meeting is a forum where the public has the opportunity to express their opinions, and is allowing additional public comment following the answers to questions and clarifications provided by GM Sauer.

Public Comment:

Tom O'Key, Joshua Tree: Mr. O'Key states that he believes the County has relinquished responsibility of following the State mandated drought regulations, and suggested JBWD defer to the State for answers regarding this situation. Mr. O'Key voiced his concern about the potential of the JT Solar Farm expanding, and questioned whether the requirement for NextEra not to drill a well is written into the agreement.

David Fick, Joshua Tree: Mr. Fick requested clarification on the summer pumping restrictions of pumping from the 2015 Will Serve Letter. Mr. Fick stated the renewal of the drought proclamation at the County Board of Supervisors occurred in early February (after January 21) and suggested it be investigated further with regard to well permits during state drought regulations.

Public Comment Closed.

GM Sauer clarified that the Water Supply Agreement stipulates that if JBWD provides water they will not use water from the well for the project. GM Sauer further indicated that NextEra has stated they do not intend to drill a well if JBWD serves water for the project.

The Water Supply Agreement accounts for NextEra being financially responsible for costs incurred during any time of use restrictions during the summer.

Gil Granito voiced his support for the proposed February 2016 Will Serve letter and Water Supply Agreement, stating it best diminishes impact to the aquifer, avoids NextEra drilling a production well, and acknowledged that JBWD is moving forward with adjudication.

Director Unger asked whether the October 2015 will serve letter was sufficient for the County. GM Sauer indicated that the letter was sufficient, but that because drought regulations were continuing, NextEra wanted more certainty with regards to obtaining water and therefore will subsequently apply for their own well permit with the County of San Bernardino.

Rob Bernheimer, Indian Wells, Ca, attorney representing NextEra responded to questions. Mr. Bernheimer acknowledged that the issue with the October 2015 Will Serve letter is a matter of timing. Mr. Bernheimer

stated that because of processing time, either the Water Supply Agreement needs to be in place or NextEra needs to move forward on the well permit to avoid a delay in obtaining water once the project is approved by the County.

Director Unger commented on the county recognized component:

Sensitivity to community opposition. Unger has concerns that approving a new will serve letter under the pressure by NextEra with their proposal to drill a production well will set a precedent that JBWD can be bullied, and the way paved for future solar development. Director Unger also pointed out that the renewables element of the General Plan update has not yet been completed, which could impact whether or not the project actually conforms with the County General plan.

Mark Lundquist clarified comment period closed on the 10th, however, comments are still welcome until the next procedural event.

Director Reynolds expressed disdain for the ultimatum by NextEra for JBWD to serve water in spite of drought regulations or to seek a well permit.

Director Johnson stated he would like to support the state mandate to conserve water.

Director Luckman reiterated the priority of protecting the water district, and thus to keep out the proposed production well, and leans towards supporting the proposed Will Serve letter and Water Supply Agreement.

President Fuller states it appears the proposed 2016 Will Serve and Water Supply Agreement will best protect the District and the aquifer, and requested an answer regarding the recent renewal of the drought proclamation at the County Board of Supervisors and whether that has any effect.

President Fuller emphasized that the goal and responsibility of the JBWD with the decision was not to increase revenue but to protect the aquifer.

President Fuller summarized the situation and decisions before the Board.

Director Johnson suggested the item be tabled pending further information.

GM Sauer clarified direction as being to obtain further information by contacting the State Water Resources Control Board Division of Enforcement regarding impacts to the District of potentially not meeting state mandated water production reduction goals if the project is permitted, and the potential for an alternative compliance order. GM Sauer will also research the County's recent actions at the Supervisor's board meeting regarding the state drought guidelines, and any ramifications of drilling a production well during a drought.

MSC Luckman/Unger 5/0 to table Item #9.

Fuller	Aye
Luckman	Aye
Johnson	Aye
Reynolds	Aye
Unger	Aye

10. ADOPT RESOLUTION 16-955, AMENDING THE RULES AND REGULATIONS, AS AMENDED, INCORPORATING CHANGES RELATED TO TRANSITIONAL AND INACTIVE METER CHARGES
GM Sauer gave the report. Rules and Regulations were amended to implement inactive meter charges. Discussion ensued regarding interpretation of regulations, and the permit requirement.

Public Comment:

Julian Gonzalez, North Joshua Tree: Mr. Gonzalez provided the Board with a written copy of his statement. Gonzalez spoke with Ed Dion of Land Use Services, who stated there is an agreement between the County and the JBWD regarding requiring a building permit when obtaining a water meter. Mr. Gonzalez asked about permits, as he had not been required to obtain a permit previously. Mr. Gonzalez further mentioned an Agricultural use permit.

Richard Fountain, Joshua Tree: Mr. Fountain stated he requested meters set for two properties in January 2016 and expressed his frustration at the delay and the idea of requiring a permit, because when he purchased the meters years ago the permit was not required, and when he requested to have them set in January, the building permit requirement was not in the Rules and Regulations.

GM Sauer responded reminding Mr. Fountain that he had been informed his request would be processed following the Board meeting. GM Sauer provided history of the water meters in question, pointing out that the parcels did not have county assigned addresses, and there is an unpaid bill on one parcel for \$171.00.

MSC Unger/Luckman 4/1 to adopt Resolution 16-955 with changes to Article 1.41 “after 12 months if non-use, water meters will be removed and account status will be changed to Inactive/Locked upon agreement with the customer in writing.”

Fuller	Aye
Luckman	Aye
Johnson	Aye
Reynolds	No
Unger	Aye

11. REQUEST THAT THE BOARD TAKE THE FOLLOWING ACTIONS: (1) APPROVE NEW JOB DESCRIPTIONS FOR HR/CONTRACT ADMINISTRATOR AND EXECUTIVE ASSISTANT, AND (2) AUTHORIZE HIRING OF SAME

Susan Greer gave the report, expressing the need for the positions.

Al Marquez, Sunfair Area, Joshua Tree: Mr. Marquez suggested that there may be more staff than needed already at the District and requested the Board consider the budget.

Director Johnson suggested a staff assessment survey, which had been requested previously, and continue temporary positions until the budget can be established to justify the positions.

Director Reynolds concurred with Director Johnson and would like a staffing assessment.

MSC Reynolds/Luckman 4/1 to approve new job descriptions for HR/Contract Administrator and Executive Assistant, and (2) authorize hiring of same:

Fuller	Aye
Luckman	Aye
Johnson	No
Reynolds	Aye
Unger	Aye

12. STANDING COMMITTEE REPORTS

A. LEGISLATIVE AND PUBLIC INFORMATION COMMITTEE: Vice President Luckman and

Director Unger: Kathleen Radnich, Public Outreach Consultant, gave the report. Routine recycle hazardous household waste collection is this Saturday. April 3rd is Water Education Day. The Next meeting is scheduled for March 2, 2016 at 9:30AM.

- B. FINANCE COMMITTEE: President Fuller and Director Johnson: There has not been a committee meeting since the last Board meeting. The next meeting is scheduled for February 29, 2016 at 10:00AM.
- C. WATER RESOURCES & OPERATIONS COMMITTEE: Vice President Luckman and Director Johnson: There has not been a committee meeting since the last Board meeting. The next meeting is scheduled for February 29, 2016 at 9:00AM.

14. DISTRICT COUNSEL REPORT

No Report.

15. GENERAL MANAGER REPORT

GM Sauer gave the report. GM Sauer provided dates for infrastructure maintenance and repair and water recharge. Water conservation targets have changed from 28% to 20%, and GM Sauer is looking into a space needs assessment.

16. FUTURE DIRECTOR MEETINGS AND TRAINING OPPORTUNITIES

Mojave Water Agency BOD Meeting, February 25: Mickey Luckman
Next ASBCSD meeting: February 22: Mike Reynolds

17. DIRECTOR REPORTS ON MEETINGS ATTENDED, COMMENTS/FUTURE AGENDA ITEMS

Director Unger attended the February 11th Mojave Water Agency Board Meeting and provided a synopsis of the meeting.

General Manager Evaluation ad hoc committee (Unger/Johnson) will be meeting on February 28th.

18. ADJOURNMENT

MSC Unger/Reynolds, 5/0 to adjourn the Regular Meeting of the Board of Directors of February 17, 2016 at 10:22 PM.

Fuller	Aye
Luckman	Aye
Johnson	Aye
Reynolds	Aye
Unger	Aye

Respectfully submitted:


Curt Sauer, General Manager and Board Secretary