

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

August 17, 2016

1. **CALL TO ORDER:** 6:30 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, Water Resources and Operations
Keith Faul, GIS Coordinator

CONSULTANTS PRESENT: Kathleen Radnich, Public Outreach Consultant
Gil Granito, District Counsel, Redwine & Sherrill
Steve Abbott, Counsel, Redwine & Sherrill

GUESTS 8

4. **APPROVAL OF AGENDA –
MSC/ Reynolds/Luckman 5/0 to approve the Agenda.**

Fuller	Aye
Luckman	Aye
Johnson	Aye
Reynolds	Aye
Unger	Aye

5. **PUBLIC COMMENT**

Steve Whitman, Joshua Tree commented, in reference to the Indemnification Agreement, he was incensed that the BoD would sign a document that would put the rate payers financially responsible to JT Solar.

PUBLIC COMMENT CLOSED

6. **CONSENT CALENDAR:**

Items on the Consent Calendar are considered routine in nature and will be adopted in total by one action of the Board of Directors unless any Board Member or any individual or organization interested in one or more consent calendar items wishes to be heard.

A. Approve Draft Minutes of the August 10, 2016 Special Meeting of the Board of Directors.

MSC/ Luckman/Reynolds 5/0 to approve the August 10, 2016 Minutes of the Special Meeting of the Board of Directors.

Fuller	Aye
Luckman	Aye
Johnson	Aye
Reynolds	Aye
Unger	Aye

7. **PRE-CLOSED SESSION COMMENT** - As required by Government Code Section 54956.9(e)(2), the record should reflect that at this time the Board will go into Closed Session pursuant to Government Code Section 54956.9 to consult with Legal Counsel on a matter of potential/anticipated litigation against the District. One matter concerning objections lodged by the Coalition for Responsible Solar relating to potential water service to the NextEra Joshua Tree Solar Farm Project.

CLOSED SESSION REPORT

At approximately 6:36 p.m. the Board of Directors went into Closed Session as reflected in Item #7 of tonight's Agenda. During the Closed Session, the District's General Counsel and General Manager led a discussion on a matter of potential litigation. No further reportable action was taken. The Closed Session ended at approximately 7:00 p.m. and the Board returned to Regular Session.

8. **UPDATE ON NEXTERA SOLAR PROJECT, PROPOSED WILL SERVE LETTER , WATER SUPPLY AGREEMENT AND THE INDEMNIFICATION AGREEMENT**

Recommendation: Contingent upon final approval of the Project by the County, recommend that the Board authorizes the General Manager to execute the Will Serve Letter, Water Supply Agreement and the Indemnification Agreement, substantially in the form and content as presented tonight.

PUBLIC COMMENT

Steve Whitman, Joshua Tree stated that it is unconscionable for the BoD to subject the rate payers to the Indemnification Agreement when no one really knows who JT Solar is financially.

PUBLIC COMMENT CLOSED

BOARD COMMENTS

Director Reynolds asked Counsel to clarify the Indemnification Agreement.

Steve Abbott, Counsel stated that the Indemnification clause requires the District to indemnify the other party for any negligence or willful misconduct on behalf of the District. This is a standard Indemnification Agreement to protect both parties. Mr. Abbott reiterated that the District is not indemnifying for any financial losses, bad investments or any wrong doing on the part of NextEra. In turn JT Solar is obligated to indemnify the District for any damages it or any of its employee's causes. **Director Reynolds** further clarified that we, the District, are liable for our mistakes and JT Solar is liable for their mistakes.

Vice President Luckman thanked Steve Abbott for clarifying and had no questions.

Director Unger asked when the Indemnification Agreement would be signed.

Gil Granito, General Counsel replied that the Agreement would only take days to be signed.

Director Unger also asked if the law suit would slow down the project at all.

Gil Granito, General Counsel stated that if the law suit is for an injunction, then yes it could slow it down. Mr. Granito stated that he couldn't answer the question because he hasn't actually seen the law suit.

President Fuller commented that the Project has been looked over and over and we have exhausted everything else. Now it comes down to our obligation to serve water.

Director Reynolds stated that there is a personal feeling and a duty that we have as a Water Board and as a Water District. We have the water to provide and NextEra will replenish the aquifer. We are bound by our responsibilities as a Water District to provide water.

Vice President Luckman concurred with Director Reynolds.

President Fuller added that the water mandates have not totally been lifted but they have been modified.

Director Unger stated that she was very disappointed with the County and that the people of Joshua Tree put in their own time and dime month after month. During this time, with all the hearings in the Community for the renewables element for the general plan update, the draft document has finally been released. The County, when they knew they were going to do a general Plan update, should have put a moratorium on all the big projects until the people got a chance to comment and it was voted into the County code. She feels that the County has been negligent and they let the Joshua Tree residents down.

Director Johnson commented that the Coalition for Responsible Solar did an admirable job with representing Joshua Tree.

MSC/ Luckman/Reynolds 3/2 to approve the Will Serve Letter, Water Supply Agreement and the Indemnification Agreement, substantially in the form and content presented tonight.

Fuller	Aye
Luckman	Aye
Johnson	No
Reynolds	Aye
Unger	No

9. **VOLUNTARY CONSERVATION TARGET**

Recommend that the Board determine a voluntary water conservation target for the period from June 2016 to January 2017.

GM Sauer reported that the District has already complied with the Self Certification process required by SWRCB, with an approved mandatory conservation target of zero for the period June 2016 to January 2017. This target does not mean there is no restriction to water production. Even with a mandatory conservation target of zero, we are still required to not produce more water than was produced in 2013. The Board will remember that the Governor's Executive Order, and SWRCB guidelines, indicated a State preference that Conservation be incorporated as a way of life in California, now and into the future. Our Customers continue to demonstrate a willingness to conserve, as indicated by a cumulative saving for June and July of 14 percent. Consider that less water produced means less water consumed. While that translates to less overdraft of the aquifer, it also translates into reduced revenues from sales. Reduced revenues affect dollars available to operate the District. A discussion with the BoD followed.

MSC/ Reynolds/Luckman 5/0 to approve the 20% Voluntary Conservation Target from June 2016 to January 2017.

Fuller	Aye
Luckman	Aye
Johnson	Aye
Reynolds	Aye
Unger	Aye

10. **STANDING COMMITTEE REPORTS**

- A. **FINANCE COMMITTEE MEETING:** President Fuller and Director Johnson. Next meeting is scheduled for August 29, 2016 at 9:00 a.m.
- B. **WATER RESOURCES AND OPERATIONS COMMITTEE:** Vice President Luckman and Director Johnson. Next meeting is scheduled for August 29, 2016 at 10:00 a.m.
- C. **LEGISLATIVE AND PUBLIC INFORMATION COMMITTEE:** Vice President Luckman and Director Unger. Kathleen Radnich, Public Outreach Consultant to report. Next meeting is scheduled for September 7, 2016 at 9:30 a.m.

11. **DISTRICT GENERAL COUNSEL REPORT - Gil Granito, General Counsel reported on the Little Hoover Commission, an independent oversight agency.**

12. **GENERAL MANAGER REPORT** – GM Sauer reported that the Chromium VI final report, from the Bureau of Reclamation on the Anion Exchange Program for Chrome VI, will be received the week of September 5, 2016. GM Sauer also reported on the partnerships that the District has with MWA and USGS. These partnerships enable JBWD to test for Chrome VI at USGS monitoring wells at the Cemetery. Chrome VI is at .5PPB, however, Arsenic is 3 times the acceptable mcl standard.

13. **FUTURE DIRECTOR MEETINGS AND TRAINING OPPORTUNITIES**

- **ASBCSD – (Reminder) No Meeting for August**
- Mojave Water Agency Board of Directors – August 25, 2016- Bob Johnson will be unable to attend. Director Unger will check her calendar.

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

Director Unger attended the Building Industry Association and went to the Victor Valley Water Reclamation Plant.

Director Johnson – No report

Director Reynolds thanked everyone for attending the meeting.

Vice President Luckman attended the San Bernardino Water Conference and commented on the session she attended about the Budget Based Water Rates. She also recognized Beverly Lowery, President of the Mojave Water Agency as receiving the Lifetime Achievement Award.

President Fuller commented on the Award that the MWA received for the Small Water Agency Funding. President Fuller reiterated that the BoD makes their decisions because of their obligations not because of their personal points of view.

15. **ADJOURNMENT**

MSC /Unger/Reynolds, 5/0 to adjourn the Regular Meeting of the Board of Directors of August 17, 2016 at 8:14 p.m.

Fuller	Aye
Luckman	Aye
Johnson	Aye
Reynolds	Aye
Unger	Aye

Respectfully submitted:



Curt Sauer, GM and Board Secretary