

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

September 2, 2015

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

GUESTS 7

4. APPROVAL OF AGENDA

MSC Luckman/Reynolds, 5/0 to approve the agenda for the September 2, 2015 meeting.

Fuller	Aye
Luckman	Aye
Johnson	Aye
Reynolds	Aye
Unger	Aye

5. CONSENT CALENDAR

MSC Luckman/Reynolds, 5/0 to approve Draft Minutes of the August 19, 2015 Regular Meeting of the Board of Directors.

Fuller	Aye
Luckman	Aye
Johnson	Aye
Reynolds	Aye
Unger	Aye

6. 4TH QUARTER ENDING 6/30/15 FINANCIAL REPORT

Susan Greer gave the report. The Board accepted the report for information only.

7. 2015/2016 MID-BUDGET REVIEW (CAPITAL)

Susan Greer gave the report.

MSC Johnson/Fuller, 5/0 to approve amendments to the 15/16 Capital Budget.

Fuller	Aye
Luckman	Aye
Johnson	Aye
Reynolds	Aye
Unger	Aye

8. CAPACITY FEE REPORTS

Susan Greer gave the report. The Board accepted the report for information only.

9. APPOINTMENT OF JBWD DIRECTORS TO ASSOCIATION OF CALIFORNIA WATER AGENCIES (ACWA) COMMITTEES

MSC Reynolds/Johnson, 5/0 to approve the appointment of Director Luckman to the ACWA Groundwater Committee and Director Fuller to the Local Government Committee.

Fuller	Aye
Luckman	Aye
Johnson	Aye
Reynolds	Aye
Unger	Aye

10. UPDATE ON CONSERVATION EFFORTS / SUPPLEMENTAL CHARGES

GM Sauer gave the report. The Board accepted the report for information only.

Director Reynolds pointed out that some of institutions, such as Hi Desert Medical Center, spent a lot of money to save water, and suggested rewards, incentives and recognition for conservers. GM Sauer indicated a press release commending Tier 4 conservers was already in process. All Directors commented with compliments for conservers.

11. STANDING COMMITTEE REPORTS

- A. LEGISLATIVE AND PUBLIC INFORMATION COMMITTEE: Vice President Luckman and Director Unger: Kathleen Radnich, Public Outreach Consultant, gave the report. Summer Splash was a success. Website will be updated for better access to drought information and conservation tips at the end of September. Fall Native Plant Sale will be November 14th at the Mojave Desert Land Trust. Next meeting is scheduled for October 7, 2015.
- B. FINANCE COMMITTEE: President Fuller and Director Johnson: Items discussed at the last Finance Committee meeting were discussed at the current Board meeting. Next meeting is scheduled for August 25, 2015.
- C. WATER RESOURCES & OPERATIONS COMMITTEE: Vice President Luckman and Director Johnson: There was not a meeting last month. The next meeting is scheduled for September 22, 2015.

12. PUBLIC COMMENT

Al Marquez, Sunfair Area, Joshua Tree: Mr. Marquez commented regarding the public comment periods within the Board Meetings. Mr. Marquez had concerns that President Fuller indicated on August 5th that the Public Comment periods during the Board meetings would be reduced from two to one. Mr. Marquez provided government codes regarding public comment and opined that the public comment time should be provided twice during the meetings.

President Fuller commented that it had been brought to her attention that JBWD was the only Board that had two public comment periods for the same thing, and it made sense to change it to one, but always open to change.

13. DISTRICT COUNSEL REPORT

Counselor Granito gave the report. Granito complimented staff on their attention to detail in analyses for conservation efforts. The Supreme Court rejected the petition of the Attorney General to have the City of San Juan Capistrano case decertified. The appellate decision for San Juan Capistrano did not say that Tiered rates were illegal, only that a good administrative record is necessary.

(Agenda had a numbering error with #14 left off).

15. GENERAL MANAGER REPORT

General Manager Curt Sauer gave the report. GM Sauer clarified that currently there are no fines in place to JBWD customers if 28% conservation is not achieved. There are penalties if Conservation Ordinances are being violated. Water from the state for Groundwater recharge will begin arriving on September 15th (684 AF).

Seth Zielke, Director of Water Resources and Operations presented a report regarding the requirement for a Tier 2 Notification to JBWD customers for coliform found in a water sample. Repeat samples taken immediately as required and those samples were absent of coliform. Sampling methods were evaluated and it was found that the bag containing the water samples had torn, and thus the water melting from a bag of ice had potentially contaminated the water sample bottles. Consequently JBWD has revised procedures for sampling, packaging and transport. GM Sauer complimented and commended Zielke and the field crew for their efficient and professional response.

The Board received the reports for information only.

16. FUTURE DIRECTOR MEETINGS AND TRAINING OPPORTUNITIES

Mojave Water Agency Board Meeting September 10th – Director Luckman
ASBCSD Meeting September 28th – Director Reynolds

17. INDIVIDUAL DIRECTOR REPORTS ON MEETINGS ATTENDED

Directors Luckman, Fuller, and Johnson attended the San Bernardino County 9th Annual Water Conference.

18. DIRECTORS COMMENTS/FUTURE AGENDA ITEMS

Director Johnson encouraged the public to attend finance committee meetings. Director Reynolds congratulated everyone for conservation efforts. Reynolds looked into water use of his swamp cooler and pointed out that swamp coolers can use 5 gallons of water per hour. President Fuller ran a similar experiment and her swamp cooler used 21 gallons of water in 9 hours. Director Luckman complimented staff on the insert enclosed with the water bill. BC Water News had an interesting story about drought. President Fuller complimented Susan Greer and Staff on their accounting work.

19. ADJOURNMENT

MSC Luckman/Unger, 5/0 to adjourn the Regular Meeting of the Board of Directors of September 2, 2015 at 8:51 PM.

Fuller	Aye
Luckman	Aye
Johnson	Aye
Reynolds	Aye
Unger	Aye

Respectfully submitted:


Curt Sauer, General Manager and Board Secretary

JOSHUA BASIN WATER DISTRICT
MEETING AGENDA REPORT

Meeting of the Board of Directors

September 16, 2015

Report to: President and Members of the Board

Prepared by: Curt Sauer 

TOPIC:
INACTIVE METER CHARGES

RECOMMENDATION:

Recommend that the Board take the following actions:

- 1) Approve memorandum from Bartle Wells Associates regarding inactive meters, which updates the 2013 Rate Study; and
- 2) Set the public hearing date to consider inactive meter charges for November 18, 2015; and
- 3) Approve the District's proposed notice to customers and property owners about the impending changes to the monthly charges for inactive meters.

ANALYSIS:

The District's customer base includes over 1,250 accounts with inactive meters that do not currently pay the District's monthly service charges. These accounts represent over 20% of the District's current active customer base. The District has two types of accounts with inactive meters including a) connections that applied for service and had the service connection installed, but subsequently never had their meter installed or had their meter removed, and b) transitional accounts that are temporarily inactive when they are in between prior and future account holders.

The 2013 Rate Study, based on input from the Citizens Advisory Committee, proposed that all customer accounts that are connected to the water system and which have access to water service contribute equitably towards the maintenance of the water system.

The Board adopted all other aspects of the 2013 Rate Study except these charges for inactive service, electing to further consider the charges for inactive meters. An updated memo is attached from Alex Handlers of Bartle Wells Associates, the independent rate consultant that authored the original Rate Study. The memo re-addresses this issue and once again proposes that the Basic Monthly Fee be imposed on inactive meters to be fair to existing ratepayers.

Historically, the District has allowed meters to be purchased and not installed until approximately 2008, at which time a building permit began to be required in order to purchase a meter. The District has charged for inactive meters in the late 90's and in 2005. In 2005, JBWD was the only local agency charging such a fee for inactive meters. Now, most other local water agencies have similar policies in effect already.

A promise that property owners would never have to pay for water service for inactive meters was never made by the District. Property owners who purchased meters were told what the policy was at

the time, to not charge for inactive meters, but no one at the water district has authority to say that policies would never change, nor would they make such an assumption. All District policies and charges are subject to change.

The original Bartle Wells proposal, from the 2013 Rate Study, was that the District would phase-in the charges, starting with a 50% charge for inactive meter accounts and increasing the following year to 100%. Since more than 1.5 years has passed since the rates were adopted in January 2014 and payment of 100% of the fee has been avoided by inactive meter holders during that timeframe, phase-in of the rates is no longer recommended by Bartle Wells. Staff concurs with this recommendation.

Since inactive customer accounts date back decades in some instances, some inactive meter customers may not actually need water service and may not have anticipated paying service charges, based on policy in effect at the time their meters were purchased. In recognition, we recommend that customers who don't anticipate needing water service be allowed to terminate their accounts, relinquish any service rights and not have to pay the monthly service fees. Such customers would have to complete some paperwork documenting this understanding in writing and requiring application for service and payment of all fees and compliance with all requirements in the future if water service is required. Staff recommends a 90-day period, which would commence after the public hearing, for property owners to make this decision about opting-out.

The District needs to hold a public hearing before enacting the fees for inactive meters. Staff proposes November 18 as the public hearing date. The public hearing will not be a discussion of the rates; the rates have already been legally adopted, back in January 2014. The public hearing will consider whether the existing rates should be applied to inactive meters. The proposed notice (also attached) will be sent to all JBWD property owners with paid water meters and inserted in bills for all account-holders; over 6,000 notices. The public hearing must be held at least 45 days after the date of mailing of the notice.

STRATEGIC PLAN ITEM:

N/A

FISCAL IMPACT:

Cost of mailing Notices estimated at \$6,800.

Estimated revenue of \$105,000 for fiscal 15/16; estimated revenue of \$210,000 for future years.



Water Service Charges for Accounts with Inactive Meters

TO: Joshua Basin Water District

ATTN: Susan Greer, Assistant General Manager/Controller

FROM: Alex Handlers, Bartle Wells Associates

DATE: August 18, 2015

Accounts with Inactive Meters

Joshua Basin Water District's customer base includes over 1,250 accounts with inactive meters that do not currently pay the District's monthly service charges. These accounts represent over 20% of the District's current active customer base. The District has two types of accounts with inactive meters including a) connections that applied for service and had the service connection installed, but subsequently never had their meter installed or had their meter removed, and b) transitional accounts that are temporarily inactive when they are in between prior and future account holders.

Water Service Connections Without Meters

Approximately 830 accounts without meters previously had the service connection installed and purchased a water meter, but subsequently requested that their water meter not be installed or be removed. Some of these accounts had no near-term plans to develop their properties, but purchased water meters during a period leading up to a substantial increase in the District's Basic Facility Charge, a capacity charge levied on new development to recover costs for facilities benefitting growth. Historically, the District charged minimal to no capacity charges.

By voluntarily applying for a connection to join the District at a time when the District charged minimal to no capacity charges, and then having the meter removed, these accounts have historically been granted permission to connect to the water system at any time in the future without ever paying a) the District's future capacity charges, or b) a proportional share of the ongoing costs of administration and maintenance of capacity in District infrastructure and

assets. This practice of allowing new connections to join the District as customers, but subsequently become inactive and avoid paying any charges, was historically allowed under prior District policies. Inactive accounts without meters were essentially allowed to gain all the benefits of becoming a District customer without ever having to pay any ongoing service charges for administration and maintenance of capacity in District facilities. In some cases, these accounts only paid a minimal capacity charge or none at all, and hence also never previously had to buy-in for their share of infrastructure and assets.

Transitional Accounts

Approximately 400 to 450 accounts are temporarily shut off while in transition between prior and future account holders each billing period. The District has historically not levied any service charges on these accounts during this transitional period. However, since these properties have immediate access to water service, the proposed basic water charge shall apply equally to these parcel owners as well.

Shortcomings of Prior and Current District Practices

The District incurs a substantial amount of costs administering and maintaining the water system so it will be ready-to-serve each customer on demand. A high percentage of District expenses are fixed costs that are incurred regardless of actual water consumption. The District's current practice of not recovering any of these costs from accounts with inactive meters indirectly places the full cost burden on other active District customers.

The District has already revised its capacity charge policy and no longer allows new customers to pay their capacity charge years in advance of needing water service. However, the District has not yet revised its historical practice of not levying any service charges on accounts with inactive meters.

Legal Basis for Charges to Accounts with Inactive Meters

Properties with inactive meters were previously provided connections to the District's water system at the property-owners request. As such, the properties served by these connections have immediate access to water service from the District pursuant to California law.

The legal question of whether California agencies can levy basic service charges on accounts with inactive service connections was resolved in a 2009 appellate court decision in *Paland v. Brooktrails Township CSD*. In this case, the court ruled that the base charge for water service provided through an existing connection, regardless of whether the connection is active or inactive, is a property-related charge and not an assessment. The court ruling further indicates

that base rates such as the District's Basic Monthly Fee can be imposed on parcels with water connections, regardless of whether they are active or inactive, and whether or not the property owner uses the services provided the District followed the procedural requirements of Article 13D, Section 6 of the California Constitution, established by Proposition 218.

The District previously fully complied with the procedural and substantive requirements of Proposition 218 in adopting its water rates. Notices of proposed water rates were mailed to all properties served by the District, including those with active and inactive meters. The notices went beyond the minimum requirements and included clear explanation of the District's intent to begin levying service charges on accounts with inactive meters. At the Public Hearing, the District received 10 written protests, which did not constitute a majority protest, and subsequently adopted the proposed rates by approval of Resolution 14-914 absent the proposed basic charge to accounts with inactive meters. Because the imposition of service charges on accounts with inactive meters represented a change in historical practice, the District temporarily deferred adopting charges on accounts with inactive meters pending additional evaluation.

Recommendations

In accordance with California law and to be fair to existing ratepayers, Bartle Wells Associates (BWA) recommends that the District consider once again, the adoption of a Basic Monthly Charge on all accounts, regardless of whether the account is active or inactive.

BWA had previously proposed phasing in service charges for accounts with inactive meters with a 50% rate reduction through January 1, 2015, after which these accounts would be treated consistently the same as all other customers. Going forward, BWA recommends the District adopt the full Basic Monthly Fee on all accounts, including accounts with inactive meters, as soon as feasible.

The goal of this recommendation is to treat everyone the same going forward, and end the practice of providing financial benefit to accounts with inactive meters at the expense of other District customers. Thereafter, Property owners who wish to apply for service will pay the District's capacity charges and any other charges in effect at the time the connection is made, just like all other properties without water service. Once the connection is established, the new customer will pay the District's ongoing service charges, just like all other customers.

Termination of Customer/Connection Status

Some of the District's inactive accounts without meters may not actually need water service and have not anticipated paying any service charges despite their initial voluntary connection to the water system. BWA recommends the District consider allowing these accounts to fully terminate their customer/connection status and relinquish any related service rights, in which case they would not have to pay any ongoing service charges, but also would have to pay the District's future capacity and/or other charges in effect in order to re-establish service. In order to initiate water service in the future, the property owner would pay the future capacity charge and meet any other requirements in effect at the time of their connection, similar to all other new connections. To provide clear indication of understanding, any accounts that wish to pursue this option should be required to sign some form of agreement or acknowledgement with the District that the property-owner or customer: a) is fully terminating their customer/connection status and will no longer be considered a District customer; b) will not be charged water service charges by the District; and c) agree to pay the future charges and meet all other District requirements in effect at the time they do apply for service.



P.O. BOX 675 • 61750 CHOLLITA ROAD • JOSHUA TREE • CALIFORNIA 92252
TELEPHONE (760) 366-8438 FAX (760) 366-9528 E-mail: JBWD@jbwd.com
www.jbwd.org

Dear Property Owner or Customer,

September 30, 2015

WHY AM I RECEIVING THIS NOTICE?

You are receiving this notice because you are the owner of record of one or more parcels of property located within the service area of Joshua Basin Water District and/or you are a customer.

Joshua Basin Water District ("JBWD" or "District") is a local, public agency that provides water service to over 5,600 homes and businesses in the community of Joshua Tree. There are 4,300 homes and businesses currently taking active water service and paying a Basic Monthly Fee. There are another 1,300 customer accounts with inactive meters and/or connections not taking water service that are not being charged a Basic Monthly Fee. JBWD owns and operates significant water infrastructure facilities— over 320 miles of pipelines, 5 wells, 17 water storage tanks, 11 pump stations and a water recharge facility – and is governed by a five-member Board of Directors elected from within our community. JBWD relies on a Basic Monthly Fee to contribute to funding the costs of operating and maintaining the JBWD water system ("Water System") which requires constant upkeep and maintenance.

In 2013, the JBWD Board of Directors authorized a water rate study that was performed by an independent rate consultant with input from JBWD's Citizens Advisory Committee. The rate recommendations provided by the consultant included the proposal that the Basic Monthly Fee be charged to customer accounts with inactive meters and/or connected to the Water System and not taking water service but having immediate access to water service when desired. In January 2014, the JBWD Board of Directors enacted all of the recommended rates fees and charges *except* for those proposed for customer accounts with inactive meters and/or customer accounts not taking water service but having immediate access to it, stating the Board's desire to further evaluate the issue. Now, after further consideration, the JBWD Board of Directors has determined that it is in the best interest of the District and the community it serves, to move forward with a more equitable and established standard so that all customer accounts that are connected to the Water System and which have access to water service, contribute equitably towards the maintenance of the Water System. Similar standards and policies are already in effect at most other local water agencies.

PROPOSAL

The Water System infrastructure requires constant upkeep to ensure safe and reliable drinking water upon request. Each water connection is a beneficiary and integral part of the community Water System that must be maintained. As such, the proposal is that each customer account (active and inactive) that is connected to the Water System will be charged a Basic Monthly Fee, whether water is used or not.

PUBLIC HEARING AND PROTEST PROCEEDING

The Governing Board of the Joshua Basin Water District will conduct a public hearing on November 18, 2015 at 7:00 p.m. in the Board Room of its Administrative Office located at 61750 Chollita Road, Joshua Tree, CA 92252. The purpose of the hearing is to consider the adoption of a Basic Monthly Fee on all accounts (active or inactive) that have a connection to the Water System.

Property Owners and Customers (inclusive of tenants of real property who are directly liable to pay water bills) may file written protests on the proposed charge on or before the close of the public hearing. Email protests will not be accepted, and oral protests at the public hearing will not qualify as a protest, unless accompanied by a written protest. The District is prohibited from adopting the proposed fee if a majority of the aggregate of Property Owners and Customers (inclusive of tenants of real property who are directly liable to pay water bills) file qualified written and signed protests (only one protest per parcel will be counted).

A protest must contain the address or Assessor's Parcel Number of the property. If you own or rent more than one parcel, you may file a single protest, but it must identify each parcel you own or rent.

Written protests may be mailed to: Joshua Basin Water District, P O Box 675, Joshua Tree, CA 92252 or personally delivered to: 61750 Chollita Road, Joshua Tree, CA 92252 on or before the end of the public hearing.

The table below provides the current and future Basic Monthly Fees, which are already in effect for customers currently taking active water service. The proposal is that property owners and customers not currently taking active water service, or those who in the future stop taking active water service, will also pay the Basic Monthly Fee in accordance with the table below.

CURRENT AND FUTURE BASIC MONTHLY FEE				
	Current Rates	Jan-1 2016	Jan-1 2017	Jan-1 2018
BASIC MONTHLY FEE				
<u>Meter Size</u>				
3/4 & 1 inch	24.80	25.29	25.78	27.58
1-1/2 inches	82.67	84.30	85.93	91.95
2 inches	132.27	134.88	137.49	147.11
3 inches	248.01	252.90	257.79	275.84

OPTION FOR PARCEL (PROPERTY) OWNERS WISHING TO TERMINATE THEIR CONNECTION STATUS

Some of JBWD's inactive customer accounts without meters may not actually need water service and have not anticipated paying any service charges despite their initial voluntary connection to the Water System. JBWD will allow these accounts to fully terminate their customer/connection status and relinquish any related service rights, in which case they would not have to pay the Basic Monthly Fee. However, in order to initiate water service in the future, the property owner would be required to pay the capacity charges and other fees & charges then in effect and meet any other requirements in effect at the time of their connection, similar to all other new connections. Any property owner that wishes to pursue this option will be required to enter into an agreement with JBWD which will provide that the property owner: (a) is fully terminating their customer/connection status and will no longer be considered a JBWD customer; (b) will not be charged the Basic Monthly Fee by JBWD; and (c) agrees to pay all future charges and meet all other District requirements in effect at the time the property owner applies for service.

WHY HAVE I RECEIVED MORE THAN ONE NOTICE?

Some of the District's property owners or customers own more than one parcel or have more than one water account. In order to ensure that each property owner or account-holder receives a notice, duplicate notices may have been sent; however, as noted above only one protest per parcel will be counted. We apologize for any inconvenience.

If you have any questions about the proposal, contact the District offices at (760) 366-8438.