

**MINUTES OF THE EXECUTIVE COMMITTEE MEETING OF THE
BOARD OF TRUSTEES OF JORDAN VALLEY WATER CONSERVANCY DISTRICT**

(Unapproved and subject to change)

Held January 10, 2022

The Executive Committee meeting of the Board of Trustees of the Jordan Valley Water Conservancy District was held in person and electronically on Monday, January 10, 2022, at 3:58 p.m. at JVVCD's office located at 8215 South 1300 West, West Jordan, Utah.

This meeting was conducted electronically in accordance with the Utah Open and Public Meetings Act (Utah Code Ann. (1953) §§ 52-4-1 et seq.) and Chapter 7.12 of the Administrative Policy and Procedures Manual ("Electronic Meetings").

Trustees Present:

Corey L. Rushton, Chair
Gregory R. Christensen
A. Reed Gibby (electronic)
Karen D. Lang (electronic)
Sherrie L. Ohrn (electronic)
Dawn R. Ramsey
Lyle C. Summers
Barbara L. Townsend (electronic)
John H. Taylor (electronic)

Staff Present:

Matt Olsen, Assistant General Manager (electronic)
Alan Packard, Assistant General Manager
Shazelle Terry, Assistant General Manager
Gordon Batt, Operations Department Manager (electronic)
Jason Brown, Information Systems Department Manager (electronic)
Brian Callister, Maintenance Department Manager (electronic)
Shane Swensen, Engineering Department Manager (electronic)
David Martin, CFO/Treasurer (electronic)
Reid Lewis, General Counsel (electronic)
Brian McCleary, Controller (electronic)
Kurt Ashworth, Human Resources Manager (electronic)
Linda Townes Cook, Public Information Manager (electronic)
Beverly Parry, Executive Assistant
Mindy Keeling (electronic)
Jacqueline Morgan, Administrative Assistant (electronic)
Marty Feil, Database Administrator (electronic)

Also Present:

Aaron Kraft (electronic)
Mark Stratford

Welcome

Mr. Corey L. Rushton, Chair, called the meeting to order at 3:58 p.m. All trustees were present either in person or electronically.

**Review agenda
for January 12,
2022, Board
meeting**

Mr. Rushton asked Mr. Alan Packard, Assistant General Manager, to proceed with the review of the proposed agenda. Mr. Packard reviewed the proposed agenda for the January 12, 2022, Board of Trustees meeting. Some of the topics for discussion and consideration for the Board meeting

included: consider approval of minutes of the Executive Committee meeting held November 8, 2021, the regular Board meeting held November 10, 2021, and the Trustees' expenses report for November and December 2021; consider ratification of General Counsel appointment; consider adoption of Petition Certification (Rowley Drive), certifying petition for annexation of lands into the Jordan Valley Water Conservancy District; consider adoption of Resolution No. 22-01, "Amending Jordan Valley Water Conservancy District's Policy Manual" (Personnel Rules and Regulations); establishing a level of service for preparation of fiscal year 2022/2023 budget; preliminary budget preparation calendar; preliminary budget parameters plan; consider award of construction contract for Jordan Aqueduct Reach 3 Cathodic Protection System; consider engineering contract amendment for 3600 West 10200 South pump station; verification of compliance with selected legal requirements and internal District practices; consider approval of determination that water right a32138a is surplus and can be made available for sale; core mission reports; standing committee reports; and various routine reporting items. A closed session was proposed to discuss sale or purchase of real property and/or water rights or water shares, and to discuss information provided during procurement process.

**Discuss
General
Counsel
position**

Mr. Alan Packard, Assistant General Manager, thanked Mr. Reed Gibby for participating with staff interviewing candidates. Mr. Mark Stratford, who was in attendance, was chosen as the best candidate and was offered the General Counsel position, to be effective February 1, 2022. Mr. Packard reviewed Mr. Stratford's experience which included his work with Ogden City, participation on the Utah Water Task Force, water rights, and his work with the Utah League of Cities and Towns. Mr. Stratford introduced himself and responded to various questions from Trustees.

**Discuss water
purchase
contracts**

Mr. Alan Packard, Assistant General Manager, said that in response to water use restriction messaging by JVVCD and the Governor, and late summer heavy rain, some of the Member Agencies finished the year taking delivery of less than the minimum purchase amount defined in their contract. He said that typical wholesale water purchase contracts state that the purchaser agrees to purchase annually, or in any event pay for annually, the minimum amount. This allows JVVCD to amortize costs with a high bond rating, to ensure infrastructure is installed in the most cost-effective way. Mr. Packard said that the JVVCD Wholesale Rules and Regulations include a provision which states that when a Member Agency does not take delivery of all its minimum contract amount, the Member Agency may take deferred delivery of purchased water up to five percent of contract amount in the following calendar year. Mr. Packard said there are three Member Agencies, Hexcel Corporation, South Jordan City, and Utah Department of Corrections, that took less than ninety-five percent of their minimum purchase amount. Staff is evaluating a potential adjustment in recognition of an extraordinary year such as 2021. Mr. Packard presented two alternatives; 1) allow an exception due to the conditions of 2021 of more than five percent deferred delivery of water and allow more than one year to take it, and 2) consider amending the water purchase

agreements that would retroactively change the 2021 obligation then ramp back up. He said input from the Board will help staff prepare a recommendation for the February 2022 Board meeting.

Mr. Taylor asked if the amounts used are less than the contract amount because of conservation or due to use of other supplies. Mr. Packard said it would be characterized as true conservation and that South Jordan City and Hexcel do not have any other water resources. Mr. Taylor followed up asking if this is short term conservation or if it is expected to be long term conservation. Mr. Packard said it is primarily a response to drought messaging. Mr. Taylor asked if Member Agencies have been asked directly why they are so low. Ms. Ramsey, Mayor of South Jordan City, said it is primarily due to drought messaging and conservation. Mr. Taylor asked if any of the entities had reached out for any solutions. Mr. Packard said JWCD is being proactive with its solutions but has not received any formal requests. Mr. Rushton mentioned that Member Agencies are fine tuning their contracts and JWCD should carry out the contract unless a drought emergency is declared.

Ms. Ohrn asked if penalties are implemented for cities going over their contract allocation. Mr. Packard explained Block 2 pricing was put in place for any water delivered beyond 120% of contract. As a result, several Member Agencies updated their water purchase agreements in 2021 after implementing JWCD's Water Efficiency Standards, to stay out of Block 2 pricing. Ms. Ohrn expressed concern whether the updated water purchase agreements possibly overestimate water usage needed, and did not want to penalize Member Agencies due to conservation, but also did not want to set precedence or change policy.

Mr. Taylor said JWCD's costs need to be recovered based on the minimum contract amounts. Mr. Packard clarified that Member Agencies will still pay the minimum purchase amount despite reduced usage in 2021, but now considering whether to allow more than five percent deferred delivery of purchased water as a one-time exception to be taken in 2022 or 2023. Ms. Ohrn asked what the time frame is for the exception. Mr. Packard answered that there would be a policy change, and if approved, a certain percentage of water could carry over a specific number of years. There would be a specific one-time action for each Member Agency. Ms. Ohrn asked that the language for a one-time action be more concise.

Mr. Christensen recommends no adjustment for Hexcel Corporation and asked what South Jordan would pay for unused water. Mr. Packard said South Jordan would pay their full contract amount, and the current policy allows for some benefit by taking five percent of the contract amount the following year. Per current policy, South Jordan would pay \$229,000 for additional unused water, Hexcel will pay approximately \$33,000 and the Department of Corrections approximately \$38,000 in payments for unused water.

Mr. Taylor asked what deliveries were for 2021 compared to the budgeted amount. Mr. Packard said deliveries for 2021 were 100,122 acre feet with 104,000 acre feet budgeted for the fiscal year.

Ms. Lang asked if JWCD can legally apply the recommended policy change to only one Member Agency or if it must be applied to all three Member Agencies being discussed. Mr. Packard said that change would apply to any affected Member Agency.

Mr. Taylor voiced his support of leaving the financial side of the water purchase contract alone but allowing the recommended deliveries to be spread over more than one year.

Mr. Packard said based on input from the Board, a recommendation will be brought to the Board in the February Board meeting.

Discuss retail service provided in Willowcreek and Creek Road areas

Mr. Alan Packard, Assistant General Manager, presented a discussion on retail service provided by JWCD in Willowcreek and Creek Road areas. He said there are approximately 800 connections with approximately 600-700 acre feet of annual deliveries. He said that many of the 800 properties served have annexed into Sandy City and JWCD has a policy providing for the transfer of retail customers and distribution facilities to a municipality if such a transfer would benefit the affected JWCD customers and would be in the best interest of JWCD. Currently Metropolitan Water District of Salt Lake and Sandy treats JWCD's water that is delivered to upper Willowcreek area but on a space-available capacity basis. To continue serving the upper Willowcreek area, JWCD will need to invest \$3.5 million for a booster pump station and storage tank. Mr. Packard said Sandy City's system is well situated to accommodate JWCD's retail service area. Mr. Packard said that following a preliminary analysis, it seems to be in the best long-term interest for both JWCD and the JWCD customers to transfer water services to Sandy City. He said the recommended next steps are a continued evaluation of transfer criteria, develop information materials jointly with Sandy City, inform affected retail customers, execute a service area transfer agreement with Sandy City, proceed with final design of transfer improvements, and competitively bid and complete construction of improvements to the transfer system, all subject to JWCD Board authorization.

Discuss vaccination policy

Ms. Shazelle Terry, Assistant General Manager, said in November 2021, an emergency temporary standard (ETS) was issued by OSHA to require all employers with 100 employees or more to implement a policy requiring COVID-19 vaccination or testing in lieu of vaccination. She said the Supreme Court is currently hearing the case regarding the temporary stay of the ETS issued by the 6th Circuit Court. Some additional issues to consider related to the ETS are a bill passed by Utah State Legislature contrary to the Federal standard and that Utah OSHA is responsible for implementing Federal standards. Federal OSHA does not believe Utah OSHA is developing an adequate plan to implement the standards and may choose to take over implementation of OSHA standards in the state. Ms. Terry said JWCD has put together a COVID-19 vaccination policy

that meets the requirements of the ETS as it was initially issued as a proactive measure in case the mandate is approved.

Ms. Townsend asked about clarification on requirements for regular testing for both vaccinated and un-vaccinated employees. She suggested combining the reporting and requirements for both in the draft policy.

Mr. Rushton said that the functionality of essential employees should be considered in any policy.

Mr. Gibby asked if there is any money at stake surrounding a vaccine policy. Ms. Terry said currently proposed fine is up to \$14,000 per employee, per inspection event, for non-compliance with testing or record keeping.

Ms. Ramsey thanked JWCD staff for drafting a policy in preparation of any mandate.

Adjourn

Mr. Rushton called for a motion to adjourn. Mr. Lyle Summers moved to adjourn. The meeting adjourned at 5:30 p.m.

Corey L. Rushton, Chair of the Board of Trustees

Barton A. Forsyth, District Clerk