

RECORD OF PROCEEDINGS
SAN JUAN WATER CONSERVANCY DISTRICT
AUGUST 15, 2022 REGULAR MEETING

Attendance

A Regular Meeting of San Juan Water Conservancy District (SJWCD) was held, Monday August 15, at 4 pm. Due to Covid concerns, the Regular Meeting was held by Zoom only.

The following SJWCD Directors were present on Zoom: Al Pfister, Joe Tedder, Susan Nossaman, Rachel Suh, Bill Nobles, Candace Jones, and Rod Proffitt.

Also present were Sally High (SJWCD Executive Assistant), Bill Hudson (Pagosa Daily Post), Dorothy Elder (Pagosa Sun), Terri House (Pagosa Sun), Jeffery Kane (SJWCD Legal Counsel), and Dave Frederick (SJWCD Board applicant).

Call to Order

The Regular Meeting of SJWCD was called to order by Chairman Allan Pfister at 4:06 p.m.

Revisions to Agenda

No revisions to the agenda were heard.

Disclosures of Conflicts of Interest

No Conflicts of Interest were disclosed.

Public Comment

No public comments were offered.

Consideration of Approval of June 2022 Regular Meeting Record of Proceedings and July 2022 Special Meeting Record of Proceedings

Director Nossaman moved. Director Nobles seconded. Unanimous approval.

Consideration of Attorney's Report

Directors considered Attorney Kane's report covering three topics: (1) Dry Gulch Reservoir Diligence Application Due October 31, (2) Wilson Water Group Contract and Public Outreach, and (3) Treasure Pass Ditch Cases.

Directors were reminded that Attorney Kane marks legal advice or confidential information as Privileged Information, but Directors hold legal privilege and may disclose information to the public, if the Board so decides. The Board may also enter Executive Session to discuss a privileged matter with the attorney.

Regarding Wilson Water Group Contract and Public Outreach, the original contract did not include substantially revising the report, doing public outreach, or responding to public comment. He advised that the Board enter a formal contract if WWG were asked to perform these additional duties.

Attorney Kane briefly provided some background about the Treasure Pass Ditch Water Rights Cases, explaining that Treasure Pass Ditch diverts water from a tributary of the San Juan River to the Rio Grande River. The Bureau of Land Management has applied for three changes, described in the Attorney's Report. The SJWCD opposes any transmountain diversions along with several other organizations. BLM's applications involve water in Division 3 and Division 7. After recent Status Conferences, the Water Court requests that comments by objectors be submitted by September 22, 2022. Comments will be coordinated with Southwestern Water Conservation District.

Diligence on Dry Gulch Water Rights is due October 31. SJWCD holds two conditional storage rights for the reservoir, one for 6,300 acre feet and another for 13,000 acre feet. A refill water right and releases for any water use are implied. Legal standards are described in the Attorney's Report.

Director Pfister asked whether this interaction with Water Court was the appropriate time and place to change the name of Dry Gulch project to San Juan River Headwaters Project. Recognition of this change is possible, although the name of the water right will not change. The Attorney described the process.

Directors approved the preparation of a draft application for diligence. The Attorney will confer with co-applicant Pagosa Area Water and Sanitation District. Directors will approve the filing after considering the draft at the October Regular Meeting. Director Jones moved. Director Pfister seconded. Approval was unanimous. Attorney Kane left the meeting, but remained on call if needed for further discussion in this meeting.

Consideration of Treasurer's Report and Preliminary Draft 2023 Budget

Directors considered the Treasurer's Report in a new format that tracks actual versus budgeted funds. Director Tedder pointed out deficits in some accounts. Director Pfister asked that funds for Support Services be increased and the Executive Assistant's contract be amended so that the District's Support Services can continue through the end of 2022.

Director Tedder moved that \$1,000 be transferred from Contingency to Support Services. Director Suh seconded. Director Proffitt suggested postponing budget discussions to the time

when the year-end budget is considered. Director Tedder explained his understanding of how single line items are to be changed. Directors Pfister and Nossaman agreed with Director Tedder's interpretation. Director Jones shared her understanding of transparency and consistency issues in budget matters. Director Tedder agreed to reach out to knowledgeable locals about how this matter should be handled. Director Nobles pointed out that a "floating" contingency fund would allow reallocating funds as needed.

Director Tedder added a friendly amendment to his original motion and moved that he clarify the appropriate procedure for mid-year budget changes. Director Nobles seconded. Approval was unanimous.

Director Tedder's original motion, seconded by Director Suh, was called to a vote. Approval was unanimous.

Budget questions regarding the Wilson Water Group contract were considered. Directors Jones and Pfister agreed, along with WWG, that tasks performed in the original scope of work were technical concerns. Soliciting and addressing public comments remain the responsibility of the District. Revising the presentation, an in-person presentation, and travel expenses resulted in an additional \$5,000 (contract amendment) expectation from WWG. WWG consulted Director Pfister and Attorney Kane in this matter. The original contract was \$15,600.

Director Nobles moved to allocate the anticipated \$5,000 increase. Director Jones seconded. Discussion ensued.

Director Tedder commented that retroactively paying a service provider without prior Board approval is not responsible fiscal procedure. Director Pfister agreed that an implied expectation to pay for additional tasks will not happen in the future. Director Suh suggested that future agreements with service providers be written to make the outcomes understandable to the public, as well as the Board. Director Nobles suggested tabling the approval of expending the \$5,000 until an itemized invoice (amended contract) in writing is reviewed. The additional \$5,000 does not include WWG addressing questions from the public. Director Proffitt stated that withholding funds (final payment) until completion of a contract is standard practice.

A vote was taken on the original motion by Director Nobles and seconded by Director Jones. Six directors voted yes. Director Proffitt voted no. The motion passed.

Consideration of the draft 2023 budget followed. Director Tedder explained that the same expenditure accounts and revenue accounts as recent years were used to create the draft. Approved budgets from recent years were included. Property taxes will be known in December 2023 and a 5% increase was projected. Engineering expenses should be considered in future Board discussion. Director Pfister points out that a \$25,000 engineering line item could be used as matching funds for engineering work. Additional diligence expenses will not be needed until 2026. The attorney can predict changes to the defense of water rights expenses. Director Jones states that actions to be considered in the Strategic Plan will determine the 2023 budget.

Consideration of PRS Three Communication and Outreach Events

Directors considered the two outreach events in recent weeks and the one event in the near future. Archuleta County Fair on August 5-6 was a successful outreach effort. Josh Kurz's participation was especially effective.

The Stakeholders Outreach Event at Aragon Community Center on August 9 from 6 to 8pm was well attended, with 27 attendees. A good exchange of ideas was facilitated by PRS and comments were recorded.

Business After Hours with Geothermal Greenhouse Partnership and Pagosa Chamber of Commerce will take place on Wednesday August 24 from 5:00 to 7:00 pm. Josh Kurz will participate. The location is the Geothermal Greenhouse Partnership site and Amphitheater in Centennial Park at 80 South 5th Street.

Update on Wilson Water Group Contract

Directors considered in the discussion of the year-to-date budget: (1) clarifying WWG tasks completed prior to and since the (July 25) presentation to the Board and (2) expending additional funds.

Consideration of Facebook Page Use and Fiduciary Duties

Directors considered the concerns in Director Pfister's AIR form: unauthorized, inappropriate posts and the lack of an administrator. Directors Suh and Proffitt met to determine the identity of the administrator. Director Tedder attempted to find the administrator through emails, but without a password. He reported a current unauthorized post to Facebook and messaged the unknown administrator(s), with the intention of finding the password so that the Board is able to control their Facebook page. He described the "next step" as a letter from the Board President to Facebook, since the administrator is unknown. Director Jones agreed. Director Pfister will write the letter with Director Jones. Discussion implied agreement to stop posting and disable the Facebook page after Board control was gained.

Consideration of Motion to Appoint Dave Frederick to SJWCD Board

Directors considered a motion to appoint Dave Fredericks to the 9th position on the SJWCD Board. Director Pfister addressed questions to the candidate who answered to the satisfaction of Directors. Director Nossaman moved that the Attorney send a motion to the District Court to appoint Mr. Fredericks to the Board. Director Proffitt seconded. Approval was unanimous.

Consideration of Draft Revisions to 2022 Strategic Plan

Directors agreed that Director Jones and the Executive Assistant break out the background materials from the action items in the Strategic Objectives. The comments submitted by Directors will be considered. The background materials do not need to be revised annually. The actionable objectives are subject to annual revision, as actions are achieved, changed, or abandoned.

A Special Meeting was scheduled for September 19 at 1 pm (through 4 pm), in person with a Zoom option.

Consideration of Website Design and Photographs

The Executive Assistant requested that Directors look at the website, sjwcd.org. She suggested that a new pull-down page be added to allow the list of Meeting Agendas to be kept separate from Public Documents. As public documents are compiled, for example the WWG Supply and Demand Study or the PRS-created brochure, they would be uploaded to this new Public Documents page. In this way Meetings Agendas would not be buried by Public Documents. All approved 2022 Records of Proceedings need to be posted so that the public has access. Directors were also asked to consider posting photographs or other graphics to assist the public in understanding the role of SJWCD.

There being no further business to come before the Board, the Regular Meeting was adjourned at 6:36 pm.

SAN JUAN WATER CONSERVANCY DISTRICT

By /s/ Sally High
For Board of Directors

DISTRICT SEAL