

SAN JUAN WATER DISTRICT

Board of Director's Meeting Minutes

May 25, 2016 – 7:00 p.m.

BOARD OF DIRECTORS

Pam Tobin	President
Ken Miller	Vice President
Ted Costa	Director
Dan Rich	Director
Bob Walters	Director

SAN JUAN WATER DISTRICT MANAGEMENT AND STAFF

Shauna Lorance	General Manager
Keith Durkin	Assistant General Manager
Donna Silva	Director of Finance
Teri Grant	Board Secretary/Administrative Assistant
Jennifer Buckman	Legal Counsel

OTHER ATTENDEES

Poster Contest Winners and Family Members	
Lisa Brown	SJWD
Rose Strohmaier	SJWD
Kristi More	The Ferguson Group

AGENDA ITEMS

- I. Presentation**
- II. Public Hearing**
- III. Public Forum**
- IV. Consent Calendar**
- V. Old Business**
- VI. Committee Reports**
- VII. Information and Action Items**
- VIII. Upcoming Events**
- IX. Closed Session**
- X. Open Session**
- XI. Adjourn**

President Tobin called the meeting to order at 7:00 p.m.

I. PRESENTATION

1. Poster Contest Winners – President Pam Tobin

President Tobin presented the Poster Contest awards to student winners in attendance, Angelica Christe, Tiana Uding and Tyler Lawrence. The Poster Contest winners for SJWD are as follows:

1st Place - Tiana Uding – Ms. Whitlow's 5th grade class

- 2nd Place - Tyler Lawrence – Mrs. Ashby’s 6th grade class
- 3rd Place - Angelica Christe – Ms. Noble’s 6th grade class

President Tobin awarded the Grand Prize award for the overall region winner to:

Tyler Lawrence - Mrs. Ashby’s 6th grade class

II. PUBLIC HEARING

1. 2015 Urban Water Management Plan

President Tobin opened the Public Hearing at 7:08 p.m.

Ms. Lorance confirmed that the Public Hearing was duly posted and published and that there were no formal written comments received.

Ms. Brown conducted a brief presentation on the Urban Water Management Plan (UWMP) and a copy of the presentation will be attached to the meeting minutes. Ms. Brown informed the Board that the UWMP Act requires suppliers to describe & evaluate the sources of water supply, efficient uses of water, and supply reliability. She explained that the District coordinated data sharing/plan review between wholesale customer agencies with the intent to provide consistent water demand, supply and reliability data for the region.

Ms. Brown informed the Board that the plan assumes surface water not used by retail and/or wholesale customer agencies will be used in the conjunctive use program. In addition, in 2010 the District was given four methods to choose from in order to comply with the Governor’s 20% by 2020 requirements. The District made the choice for a 20% reduction based on a ten-year baseline of 516 gallons per capita per day (GPCD). She informed the Board that the District was well under the 2015 interim target of 464 GPCD at 293 GPCD.

Ms. Brown informed the Board that the 2015 UWMP concludes that the water supplies available to the District’s retail and wholesale customer agencies are adequate over the next 25-year planning period, and the plan meets SBX7-7 requirements making the District eligible for State water grants & loans.

Ms. Brown informed the Board that adoption of the final UWMP will be considered at the June 8th Board meeting, in order to allow for comments. She explained that the plan will be submitted to DWR prior to the July 1, 2016 deadline and copies of the plan will be sent to the wholesale customer agencies and other interested parties.

President Tobin closed the Public Hearing at 7:21 p.m.

III. PUBLIC FORUM

There were no public comments.

IV. CONSENT CALENDAR

All items under the consent calendar are considered to be routine and are approved by one motion. There will be no separate discussion of these items unless a member of the Board, audience, or staff request a specific item removed after the motion to approve the Consent Calendar.

1. Minutes of the Board of Directors Minutes, May 11, 2016

Recommendation: Approve draft minutes

2. 2016 Proposed CSDA Bylaws Amendments

Recommendation: Affirmative vote on proposed bylaws amendments

Director Walters moved to approve the Consent Calendar. Director Costa seconded the motion and it carried unanimously.

V. OLD BUSINESS

1. Board Meeting Time Change

President Tobin reminded the Board that changing the time of the Board meetings was discussed at the last Board meeting. Ms. Lorance informed Board that the time was left blank on the resolution since the discussion was either 6:00 or 6:30 pm. The Board discussed the time to start the meeting and agreed that 6:00 pm was the best time.

Director Walters moved to adopt Resolution 16-08 to change the time of the Board of Directors meetings to 6:00 pm. Director Rich seconded the motion and it carried unanimously.

Ms. Lorance reminded the Board that the next Finance Committee meeting is on Tuesday, June 7th not June 14th.

ACTION AND INFORMATIONAL ITEMS

VI. COMMITTEE REPORTS

1. Legal Affairs Committee (5/17/16)

Director Walters reported that the committee met on May 17, 2016, and discussed the following:

- FO-40 Agreement on Payment Schedule (W)
- Groundwater Reimbursement Payment Schedule Agreement (W)
- Water Rate Restructuring Legal Constraints (W & R)
- Ordinance Review (W & R)
- Other Legal Affairs Matters
- Public Comment

The committee meeting minutes will be attached to the original board minutes.

FO-40 Agreement on Payment Schedule (W)

Director Walters reported that the committee discussed the agreement and the revised agreement that Fair Oaks Water District (FOWD) submitted regarding the second phase of the Fair Oaks-40 (FO-40) Pipeline Rehabilitation Project. He stated that the committee discussed the changes that were proposed by FOWD including their concern with paying in advance as they would be paying based on estimates not actual costs.

Director Walters informed the Board that it was suggested that the payment agreement be based on the schedule for receiving design and construction bids so that the payments are not based on estimates, but would be due prior to the District paying for design and construction. The final payment would true up all actual costs. He explained that staff will work with Legal Counsel to draft the revised payment agreement and forward to the committee and the WCAs in advance of the next meeting which is June 1st.

Director Costa commented that the committee expects this item to be finalized by the June 22nd Board meeting, which allows enough time for the Legal Affairs Committee to meet again and for the FOWD Board to review and discuss. Ms. Lorange commented that the capital facilities fees will continue to be billed until the agreement is signed.

For information only; no action requested

Groundwater Reimbursement Discussions (W)

Ms. Lorange reported that the Board agreed to the general concept to pay for the groundwater reimbursement charges. She explained that the financial plan will govern the payment schedule. She commented that the workshop to review the financial plans will be scheduled in late June. In the meantime, the WCAs are reviewing the groundwater reimbursement agreement which was revised. She explained that once the financial plan is completed then the payment information will be added to the agreement and the agreement will be finalized.

For information only; no action requested

Water Rate Restructuring Legal Constraints (W & R)

Ms. Lorange informed the Board that the continued requirement to reduce water use will continue to cause rate impacts. She commented that, with the anticipation of long-term water conservation, the Board should start considering changing the rate structure to cover more of the fixed costs in the fixed portion of the rates. Ms. Lorange commented that she has discussed this with Bob Reed, who is updating the District's financial plans.

For information only; no action requested

Ordinance Review (W &R)

For *Ordinance Review*, please refer to the committee meeting minutes.

Other Legal Affairs Matters (W/R)

Director Costa informed the Board that he had requested that the Board discuss adding a measure to the November ballot which addresses requiring a vote of the people when water rights are sold. He commented that he would like the Board to discuss this for the next election. Ms. Lorance commented that this would be a good topic for the long-term planning at the strategic workshop.

Director Walters reported that Mr. Durkin discussed Sacramento County's proposed paving requirements for utilities. Mr. Durkin commented that he will cover this topic under his Assistant General Manager's Report.

Director Walters reported that the next meeting was scheduled for June 1, 2016, at 4:00 pm.

VII. INFORMATION AND ACTION ITEMS

1. GENERAL MANAGER'S REPORT

1.1 State Water Resources Control Board Conservation Requirements

Ms. Lorance reported that the State Water Resources Control Board (SWRCB) held a meeting on May 18th to discuss how to comply with the recent Governor's Drought Executive Order. Ms. Lorance recently sent an email to the Board regarding a letter sent to the SWRCB pertaining to self-certification. She explained that demands are based on 2013-14 data and supplies are based on hydrology from 2013, 2014 and 2015. She informed the Board that based on these criteria the District has adequate water supplies should the next three years mirror the 2013-15 hydrology.

Ms. Lorance stated that she strongly recommends that the Board retain the existing conservation stage (Stage 2) and the 10% voluntary water reduction, in order to recognize the drought conditions in other areas of the state. She reviewed the Stage 2 and Stage 1 conservation differences, which the main difference is the 5-10% voluntary reduction in Stage 2.

Ms. Lorance read a portion of the Governor's Executive Order pertaining to long-term conservation. She commented that she interprets this to mean that water budgets will most likely be required in the future. She informed the Board that the proposed draft framework for agencies to follow is due in January 2017. Mr. Durkin mentioned that the SWRCB will most likely have to develop legislation in order to give authority for implementing this.

Ms. Lorance informed the Board that the Department of Water Resources (DWR) and SWRCB shall permanently require urban water suppliers to issue

a monthly report on their water usage, amount of conservation achieved, and any enforcement efforts.

For information, no action requested

1.2 Update on US Bureau of Reclamation Operations

Ms. Lorance informed the Board that National Marine Fisheries is requiring cold water be kept in Shasta, and that colder temperatures be delivered 10 miles further downstream in the Sacramento River than last year. At the same time, Fish and Wildlife Services, in an attempt to not lose the Delta Smelt this year, wants summer outflows increased to keep X2 at the 74 km point, and never past the 80 km point in order to keep X2 in the location of the best habitat. She commented that in order to accomplish this there is concern about the potential effect at Folsom. This topic will be discussed in Closed Session.

For information, no action requested

1.3 Report Back Item

There were no items discussed.

1.4 Miscellaneous District Issues and Correspondence

Ms. Lorance informed the Board that the Coordinated Operation Agreement (COA) is the agreement on how to operate the reservoirs between the CVP and SWP. She explained that CVP is responsible for 75% of in basin uses and SWP is 25%. The CVP is looking to review the assumptions used in development of the agreement. She informed the Board that she has been asked to sit on initial negotiation team as a representative of American River Contractors.

In response to Director Miller's question, Ms. Lorance explained that it is important to be represented in the discussions regarding Folsom so that any issues regarding the District's water supply can be addressed. Ms. More commented that it is important to get the sharing percentages between the state and federal projects in better balance so that the impact on Folsom is lessened.

Director Rich inquired about the extra funding for conservation that was discussed previously by the Board. Ms. Lorance explained that the funding was not needed this fiscal year due to the reduction in the conservation stage. Ms. Silva commented that the budget for FY 2016-17 will be based on the assumption of a 20% reduction from 2013 data.

Ms. Lorance informed the Board that the Mulch Mayhem event was held at the District on May 14th and was a great success. She commented that 100 yards of mulch were distributed in under three hours. President Tobin commented that she has mulch available if anyone wants to contact her.

Ms. Brown commented that the event was a great opportunity to thank our customers for their efforts to conserve water during the drought.

2. ASSISTANT GENERAL MANAGER'S REPORT

2.1 Sacramento County Proposed Paving Requirements for Utilities

Mr. Durkin informed the Board that Sacramento County is facing a huge budget shortfall related to paving maintenance. Their annual budget allows for \$8.4 million for paving maintenance; however, their paving needs range from \$32-36 million per year. Therefore, Sacramento County is considering changing their requirements for paving restoration after utility trenching is completed.

Mr. Durkin reported that Sacramento County is requesting that the Board of Supervisors adopt an ordinance change that would greatly increase the paving restoration requirements that are imposed on utilities due to trenching in the streets. He provided the Board with a written staff report that will be attached to the meeting minutes.

Mr. Durkin explained that the District was unaware of this proposed change which was on the County Board of Supervisors May 10th meeting agenda, but carried over to May 24th. He and Director Walters attended a community coffee meeting on May 18th held by Susan Peters, Board of Supervisor representative for District 3, and used the opportunity to discuss this issue and request that the item be tabled for at least 90 days. Roberta MacGlashan, Board of Supervisor representative for District 4, was contacted as well. At the May 24th Board of Supervisors meeting, the topic was carried over to August 9th.

Mr. Durkin stated that a joint meeting was held yesterday at SSWD with other local water utilities, SMUD, PG&E, and the Sacramento County Sewer District. The meeting was held to discuss a strategy to work with the County Department of Transportation (SacDOT) regarding reasonable options for trench reconstruction. A meeting has been scheduled for June 9th with Michael Pinrose, SacDOT, to discuss this issue.

Mr. Durkin requested that the Directors reach out to Supervisors Peters and MacGlashan, as well as any of the other supervisors and staff, to discuss this issue. Mr. Durkin will send a bulleted list of talking points to the Board. Director Miller commented that reaching out to staff, as they are the ones submitting the request to the Board of Supervisors, might not be of any benefit.

Director Costa commented that one of the taxes on gas should be going to cover road maintenance; however, he suspects that not all the funds end up for road maintenance. He commented that customers pay water fees for water not to fix the roads, and their rates should not be raised to pay for what

they are already paying for under gas taxes. Ms. Buckman commented that the proposed requirements will be disproportional to the impact caused by the utility project.

For information, no action requested

2.2 Report Back Items

There were no items discussed.

2.3 Miscellaneous District Issues and Correspondence

Mr. Durkin reported that he attended the last Army Corp of Engineers workshop for the Folsom Dam Water Control Manual Update. He informed the Board that the tentatively selected plan will incorporate forecast-based operations that include upstream storage, basin wetness factor, and weather forecasting via the National Weather Service. The modeling indicates that approximately 30,000 acre feet of additional water would remain in storage in Folsom in dry years. He commented that, if Folsom had been operated this year using the tentatively selected plan, an extra 50,000-75,000 acre feet of water would have been available for storage.

Mr. Durkin reported that the Army Corp of Engineers will complete the NEPA/CEQA process by August with a public review in August/September. It is expected that the Water Control Manual will be completed by April 2017, which should coincide with completion of the Joint Federal Project (spillway). Mr. Durkin informed the Board that he considers this a success story, since the District was able to be involved in the process and push for forecast-based operations. Ms. Lorange commented that, once this is completed, a press release should be considered.

Mr. Durkin informed the Board that Citrus Heights Water District (CHWD) directors and staff will take a tour of the WTP on May 30th. In addition, ACWA President Cathy Tiegs and ACWA staff will tour the WTP on May 25th.

Mr. Durkin informed the Board that he will be making a presentation to the CHWD Board on June 14th to provide an update on significant issues that might affect the District in the future.

3. DIRECTOR OF FINANCE'S REPORT

3.1 Report Back Items

Ms. Silva reported that she expects to receive the draft financials next week. She explained that once the financials are received then staff will finalize the management section. She scheduled the auditors to make their presentation to the Board at the June 22nd meeting. In addition, the auditors will also present their final report regarding the accounting system conversion.

Ms. Silva reported that the FY 2016-17 budget is underway and she has met with all of the departments to discuss their budget information. Ms. Lorance commented that the budget will be reviewed at the finance workshop at the end of June.

3.2 Miscellaneous District Issues and Correspondence

Ms. Silva reported that the Workers' Compensation rates for next year are going down 10%. She commented that JPIA provides excellent safety training programs that District employees have participated in which helped reduce the District's rates.

4. LEGAL COUNSEL'S REPORT

4.1 Legal Matters

Ms. Buckman commented that items will be covered in Closed Session.

In response to Director Costa's comment, Ms. Buckman informed the Board that HJTA has already filed three cases related to water rates, but not related to roads. She commented that the county should have mitigation fee act studies to support the amount of fees imposed on developers.

5. DIRECTORS' REPORTS

5.1 SGA

President Tobin reported that SGA meets June 9, 2016.

5.2 RWA

President Tobin reported that RWA met May 12, 2016.

5.3 ACWA

5.3.1 Local/Federal Government/Region 4 - Pam Tobin

No report.

5.3.2 JPIA - Bob Walters

Director Walters reported that JPIA met on May 2nd. He reported that another district was about to be terminated under JPIA coverage; however, that district conducted a presentation to the JPIA Board and the decision to terminate coverage was postponed until the ACWA Fall Conference. He commented that the JPIA Executive Director stated that if JPIA was a private company then they would be one of the largest insurance companies.

5.3.3 Energy Committee - Ted Costa

No report.

5.4 CVP Water Users Association

No report.

5.5 Other Reports and Comments

5.5.1 Call to Action

President Tobin inquired how the Board member extra projects were going. Director Miller reported that he attended the RWA Lobbyist Program meeting where they discussed the bills that could impact the District.

5.5.2 Other

President Tobin mentioned that ACWA Regions 2 & 4 are having an event on June 21st titled, "SGMA: The View From Above. She requested that the Board Secretary sign her up for the event.

Director Walters requested that the Directors save the date for a meeting between SJWD and FOWD on September 19th at FOWD. The other WCAs will also be invited. A time has not been set yet and the meeting purpose is to summarize the 2x2 meetings that Director Rich and Director Walters have been attending with two of the FOWD Board members.

President Tobin mentioned that RWA is holding their 15th Anniversary Luncheon on July 14th. Ms. Lorance confirmed that a table has been reserved for SJWD and requested that the Directors inform her if they are attending.

VIII. UPCOMING EVENTS

1. ACWA Region 2&4 Event – SGMA: The View From Above
June 21, 2016
Sacramento, CA
2. RWA 15th Anniversary Luncheon
July 14, 2016
Sacramento, CA

President Tobin called for Closed Session at 8:45 pm.

IX. CLOSED SESSION

1. Conference with legal counsel--anticipated litigation; Government Code sections 54954.5(c) and 54956.9(b); significant exposure to litigation involving state and federal administrative proceedings and programs affecting District water rights

President Tobin returned to Open Session at 9:28 pm.

X. OPEN SESSION

There was no reported action during closed session.

XI. ADJOURN

The meeting was adjourned at 9:28 p.m.

PAMELA TOBIN, President
Board of Directors
San Juan Water District

ATTEST:

TERI GRANT, Board Secretary

STAFF REPORT

To: Board of Directors

From: Keith Durkin, Assistant General Manager

Date: May 25, 2016

Subject: 2015 Urban Water Management Plan Public Hearing

RECOMMENDED ACTION

Receive staff presentation regarding the draft 2015 Urban Water Management Plan and receive public input.

BACKGROUND

The Urban Water Management Planning Act requires urban water suppliers, every five years, to develop a comprehensive water supply management plan that includes current and projected water supplies, water demands, supply reliability, and water efficiency actions including demand management measures. Staff worked with a consultant to develop the Plan and with regional stakeholders (including wholesale customer agencies).

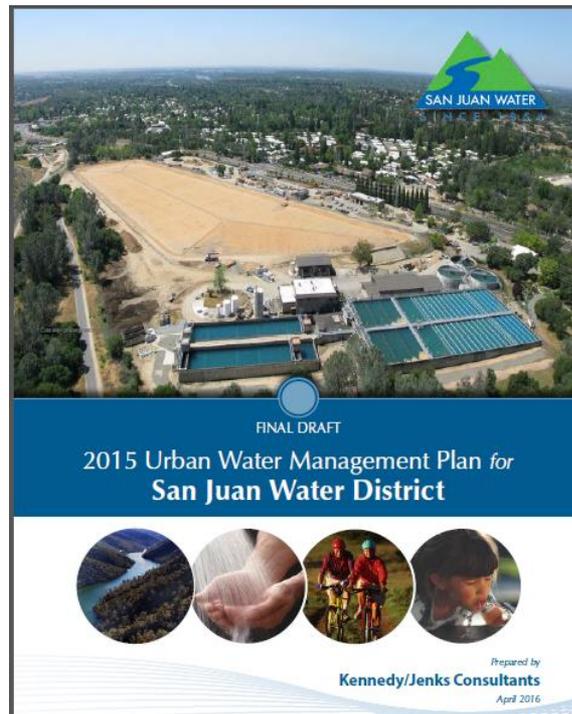
The Plan became available for public review on April 22nd. A hard copy of the final draft is available in the Administrative office and an electronic copy is available on the District's website. Notification was provided to all interested parties that the Plan is available for review. Public hearing information has been posted twice in the Sacramento Bee announcing the hearing and all testimony will be taken into consideration at the May 25th Board Meeting.

CURRENT STATUS

After the public hearing is closed, all comments will be considered. Any amendments to the plan will be incorporated and a final Plan will be presented to the Board at the June 8th Board meeting for adoption.

[Click here to view the Draft 2015 UWMP](#)

2015 Urban Water Management Plan Draft Public Hearing-May 25, 2016



UWMP Overview

- Hired Kennedy Jenks to prepare plan
- Tight timeframe.
 - Guidebook released 11/15
 - Plan due 7/1/16
- 60 day notification sent 2/10/16
- Draft available to public 4/22/16
 - Website
 - Hard copy at Admin office
 - Letters sent to interested parties
- Public hearing noticed in Sac Bee 5/4 & 5/11
- Public hearing being held 5/25/16

Purpose of UWMP

- Urban Water Management Planning Act requires suppliers to describe & evaluate:
 - Sources of water supply
 - Efficient uses of water
 - Supply reliability
 - Normal water years
 - Dry years

UWMP Coordination

SJWD coordinated data sharing /plan review between wholesale customer agencies with the intent to provide consistent water demand, supply and reliability data for the region.

Table 2-5: Coordination with Agencies

Agency	Contacted for Assistance	Participated in UWMP Development	Commented on the Draft	Attended Public Hearing	Received Copy of the Draft	Sent Notice of Intent to Adopt	Not Involved/ No Information
Citrus Heights Water District	✓	✓			✓	✓	
City of Citrus Heights					✓	✓	
City of Folsom	✓	✓			✓	✓	
City of Roseville					✓	✓	
Fair Oaks Water District	✓	✓			✓	✓	
Orange Vale Water Company	✓	✓			✓	✓	
County of Placer, Planning Department					✓	✓	
County of Placer, Public Information Office					✓	✓	
Placer County Water Agency	✓	✓			✓	✓	
County of Sacramento, Department of Water Resources					✓	✓	
County of Sacramento, Department of Planning & Community Development					✓	✓	
Sacramento Regional County Sanitation District	✓				✓	✓	

NOTES:

UWMP Key Elements

- System Water Use:
 - Assumes surface water not used by retail and/or wholesale customer agencies will be used in the conjunctive use program.
 - SBX7-7: Demand projections do not include 20x2020 targets
 - Provides conservative estimate of future demand and required supply needed to meet demand.
- SBX7-7 Baseline Target:
 - 10 year baseline: 516 GPCD
 - 2020 Target: 413 GPCD
 - 2015 Target: 464 GPCD
 - Actual 2015 GPCD: 293 GPCD

Baseline Period	Start Year	End Year	Average Baseline GPCD*	2015 Interim Target*	Confirmed 2020 Target*
10-15 year	1999	2008	516	464	413
5 Year	2003	2007	517		

*All values are in Gallons per Capita per Day (GPCD)

NOTES:
1. Based on DWR Table 5-1.

UWMP Key Elements

- Supply Reliability: Conservative availability in dry years
 - Supplies reduced to Water Forum Agreement maximum reductions (54,200 AF)
- Shortage Contingency Planning:
 - Current plan in effect
 - Amendments recommended in Plan
 - Staff suggests no action until State's long term plan identified
 - Wholesale customer agencies would reduce water demands based on current conditions, or by 15 %.
- DMMs: Submitted 2014 CUWCC reports as method of compliance + description of current/future programs to meet new UWMP requirements.

Result

- 2015 UWMP concludes the water supplies available to the District's retail and wholesale customer agencies **are adequate** over the next 25-year planning period.
- Plan **meets SBX7-7 requirements** making District eligible for State water grants & loans.

Next Steps

- Accept any comments from tonight's hearing
- Approve revised plan at June 8th meeting
- Staff to:
 - Submit to DWR before July 1, 2016
 - Send copies to wholesale customer agencies



**California Special
Districts Association**
Districts Stronger Together

AGENDA ITEM IV-2

MEMORANDUM

DATE: April 29, 2016

TO: California Special Districts Association (CSDA) Voting Members

FROM: Bill Nelson, CSDA Board President
Neil McCormick, Chief Executive Officer

SUBJECT: Proposed CSDA Bylaws Updates

The CSDA Board of Directors has approved recommended updates to the CSDA Bylaws to bring forward to CSDA voting members for consideration.

Highlights to the recommended updates include:

- General clean-up to reflect updates and organizational changes over the last two years
- Clarifying language to the CSDA Board nomination and election process to allow for electronic voting
- Clarifying language for the inclusion of electronic communication related to the CSDA Bylaws amendments

The full proposed changes to CSDA's Bylaws are indicated in mark-up form for your review and can be found online at www.csda.net/bylaws.

As a voting member in good standing, once your district has reviewed the proposed CSDA Bylaws updates, please use the enclosed official ballot to cast your vote by mail in favor or not in favor of the changes.

Completed ballots must be received by Friday, June 24, 2016 at 5:00 PM to be counted. Only official and fully completed ballots returned via regular mail to the CSDA office will be counted. The results of the Bylaws ballot will be announced in the CSDA e-News and on the CSDA website. If approved by the membership, the updated Bylaws will take effect on July 1, 2016.

If you have any questions or require printed copies, please contact Charlotte Lowe, Executive Assistant at charlottel@csda.net or (916) 442-7887.

Thank you for your participation and continued support of CSDA!

AGENDA ITEM V-1

San Juan Water District

**RESOLUTION 16-08
BOARD OF DIRECTORS MEETING TIME CHANGE**

WHEREAS, the Board of Directors of the San Juan Water District currently meets on the second and fourth Wednesday of each month at 7:00 pm.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the San Juan Water District that the Board of Directors of the San Juan Water District will meet on the second and fourth Wednesday of each month at ____ pm.

PASSED AND ADOPTED by the Board of Directors of the San Juan Water District on the 25th day of May 2016, by the following vote:

AYES: DIRECTORS:
NOES: DIRECTORS:
ABSENT: DIRECTORS:

ATTEST

PAMELA TOBIN
President, Board of Directors
San Juan Water District

TERI GRANT
Secretary, Board of Directors

Legal Affairs Committee Meeting
May 17, 2016
4:00 p.m.

Committee Members: Bob Walters (Chair)
Ted Costa, Director

District Staff: Shauna Lorance, General Manager
Keith Durkin, Assistant General Manager
Teri Grant, Board Secretary/Administrative Assistant
Josh Horowitz, Legal Counsel

Members of the Public: Misha Sarkovich, Fair Oaks Water District
Tom Gray, Fair Oaks Water District

Topics: FO-40 Agreement on Payment Schedule (W)
Groundwater Reimbursement Discussions (W)
Water Rate Restructuring Legal Constraints (W & R)
Ordinance Review (W & R)
Other Legal Affairs Matters
Public Comment

1. FO-40 Agreement on Payment Schedule (W)

Ms. Lorance reminded the committee of the history behind the Fair Oaks-40 (FO-40) Pipeline Rehabilitation Project, including FOWD Board's request for capital costs to be included in rates so that SJWD paid for the projects prior to billing the wholesale customer agencies (WCAs). She explained that SJWD developed the capital facility charge as a result of the FO-40 Phase 1 settlement. The FOWD Board requested an alternate payment schedule for Phase 2 of the FO-40 project; therefore, the FOWD Board was sent an alternate payment schedule agreement which included quarterly payments paid in advance of anticipated expenses for the subsequent quarter.

Ms. Lorance informed the committee that the FOWD Board made substantial edits to the agreement and provided the revised agreement to the SJWD Board at the last SJWD Board meeting which included reimbursement of costs after SJWD receives contractor invoices. Staff and Legal Counsel have since reviewed the proposed changes and noted some key changes, such as removal of payment for design and construction management costs by FOWD, addition of a clause for reviewing invoices with ability to dispute and not pay any of the invoiced amount, and other changes to the standard legal provisions. Ms. Lorance informed the committee that she does not recommend that the District approve this revised agreement since it does not agree to cover all of FOWD's payment obligations for the FO-40 project and would essentially require the other WCAs to cover those costs.

Mr. Sarkovich commented that FOWD does not want to pay the costs in advance of the project and stated that business is not completed this way. In addition, he confirmed that FOWD would pay the design and construction management costs but did not expect to pay for administrative costs. Ms. Lorance confirmed that there were no administrative costs included in the payment agreement.

Mr. Durkin informed the committee that Phase 2 of the FO-40 project is expected to be designed in the summer of 2017, with construction starting in the fall of 2017 and completion of the project in the spring of 2018; therefore, under the District's proposed payment agreement the project would be paid for over four quarters with the last payment being trueed up to actual costs.

The committee discussed the payment agreement with FOWD and Legal Counsel. Mr. Sarkovich questioned the legal basis to charge in advance. In response to Director Walter's comment regarding another lawsuit, Mr. Sarkovich commented that FOWD would not head in that direction. Director Walters suggested that the Phase 1 settlement agreement be reviewed. In addition, Director Walters requested a copy of FOWD's attorney opinion on the revisions regarding payment in advance which were made to the alternate payment agreement. Mr. Sarkovich stated that FOWD would provide a copy of legal counsel's opinion. The committee would like Mr. Horowitz to revise the agreement and bring it back to the committee for review.

Mr. Durkin suggested that the payment agreement be based on the schedule for receiving design and construction bids so that the payments are not based on estimates, but would be due prior to commencement of design and construction. The final payment would true up all actual costs. Mr. Durkin will work with Legal Counsel to provide the information. Ms. Lorance will provide the draft revised payment agreement to the committee and the WCAs in advance of the next meeting.

For information only; no action requested

2. Groundwater Reimbursement Discussions (W)

Ms. Lorance informed the committee that revisions were made to the groundwater reimbursement agreement and it was sent to the WCAs for review. A copy of the agreement will be attached to the meeting minutes. She explained that the payment information was not filled in since SJWD is in the process of updating the financial plan which will govern the payment schedule. She explained that SJWD would be paying FOWD and CHWD for the 2014 pumping charges out of wholesale reserves and then those cost would be recovered through rates.

Ms. Lorance requested that the committee review the agreement and provide any comments. In addition, the Board should also review the agreement. She explained that once the financial plan is completed then the payment information will be added to the agreement and the agreement will be finalized.

For information only; no action requested

3. Water Rate Restructuring Legal Constraints (W & R)

Ms. Lorance informed the committee that, with the economic downturn and then the recent drought, the district's wholesale and retail revenue has been affected. She explained that the current retail rate structure maintains an approximate 50/50 split between fixed and volumetric costs. She informed the committee that, with long-term conservation on the horizon, the District needs to start restructuring the rates. In addition, it is uncertain whether or not water budgets will be required in the future.

Ms. Lorance informed the committee that she discussed with Bob Reed, who is updating the District's financial plans, the proposal to move most, if not all, of the fixed costs to the fixed portion of the rates. She explained that, by moving the fixed costs, wholesale and retail customers would be paying for all of the fixed costs regardless of how much water they use. Ms. Lorance informed the committee that the process to restructure the rates will involve public outreach.

For information only; no action requested

4. Ordinance Review (W &R)

Ms. Lorance reported that the District's ordinances need to be reviewed and some of them might need to be moved to either Board Policies or the Employee Manual. She informed the committee that the revisions will be reviewed by the committee at a later date.

For information only; no action requested

5. Other Legal Affairs Matters (W/R)

Director Costa requested that the Board discuss adding a measure to the November ballot which addresses requiring a vote of the people when water rights are sold. Ms. Lorance will add this item to the Board agenda.

Mr. Durkin informed the committee that Sacramento County is considering changing their requirements for paving restoration after utility trenching is completed. He explained that currently the District paves the area that was disturbed after utility trenching is completed according to stringent County standards; however, the proposed requirements will make the District responsible for paving an entire lane or roadway along with increased thickness. He explained that this will increase the cost of projects substantially.

Mr. Durkin explained that the District was unaware of this proposed change which was on the County Board of Supervisors May 10th meeting agenda, but carried over to May 24th. He informed the committee that he plans to attend a community coffee meeting in the morning held by Susan Peters, Board of Supervisor representative for District 3, and will use this opportunity to discuss this issue. In addition, he requested that one of the committee members assist by contacting Roberta MacGlashan, Board of Supervisor representative for District 4. Mr. Durkin will also send comments to the Board of Supervisors through Ms. MacGlashan. Director Walters requested that a bulleted list of the top five speaking points be provided to the committee members.

5.1 Next Meeting Date

The next meeting was scheduled for June 1, 2016, at 4:00 pm.

6. Public Comment

There were no public comments.

The meeting was adjourned at 5:34 p.m.

AGREEMENT AMONG SAN JUAN WATER DISTRICT WHOLESALE CUSTOMER AGENCIES FOR REIMBURSEMENT OF COSTS TO PUMP GROUNDWATER

This Agreement for Reimbursement of Costs to Pump Groundwater (“Agreement”) is made effective on June _____, 2016, by and among San Juan Water District (“SJWD”), Citrus Heights Water District (“CHWD”), and Fair Oaks Water District (“FOWD”). SJWD, CHWD and FOWD are collectively referred to herein as the “Parties” and individually as a “Party.”

RECITALS:

A. In 2008, a surface water shortage agreement to provide groundwater supplies during times of surface water shortage as defined by the Sacramento Water Forum Agreement was prepared ~~but not executed by all WCA's and included as a reference in the 2008 Wholesale Water Supply Agreements executed by all Parties.~~

B. Due to changed conditions concerning the water supply situation and other agreements, the surface water shortage agreement was not implemented and the Parties therefore agreed that a new method was needed for reimbursing the Parties that owned, operated and maintained the groundwater facilities ~~for the portion of their costs of pumping groundwater in times of shortage that benefited other agencies for a the time~~ period of ~~time of~~ 2009-2014.

C. CHWD and FOWD (collectively, the “Groundwater Pumpers”) are owners and operators of groundwater production facilities that provided water supply for the benefit of ~~all wholesale customer agencies (“WCAs”). the WCAs. CHWD, Folsom, FOWD, OWWC, and SJWD-R received a benefit from the groundwater supply produced by the operation and maintenance of the Groundwater Pumpers' groundwater production facilities.~~

D. SJWD in its capacity as the wholesale supplier to the WCAs determined that there was a need for groundwater pumping in 2014 due to a shortage in surface water supplies caused by a third year of drought, which pumping benefited all of the WCAs.

E. Because of the Groundwater Pumpers' making groundwater supplies available in 2014, ~~all WCAs owe SJWD-Wholesale for the benefit received and~~ the Groundwater Pumpers ~~in turn~~ are entitled to reimbursement from ~~SJWD-Wholesale~~ for the costs of the groundwater pumped.

F. ~~In addition, the WCAs desire to reimburse t~~The Groundwater Pumpers ~~are due reimbursement~~ for the operation and maintenance of their facilities ~~since 2009~~between 2009 and 2013 to maintain their readiness to supply groundwater in times of a shortage of other water supplies.

G. ~~The five WCAs~~The Parties have agreed to the terms set forth in this Agreement to fully and finally compensate the Groundwater Pumpers for all of their expenses to produce groundwater supplies ~~for the benefit of the WCAs~~ between 2009 and 2014.

AGREEMENT:

1. Payment Terms. ~~All WCAs will be billed according to for the benefit that they received from the Groundwater Pumpers over the 2009-2014 period as part of their quarterly water supply invoices. Due to the amount owing to compensate the Groundwater Pumpers for maintaining their facilities from 2009 through 2014 and for groundwater supplies actually provided in 2014, SJWD Wholesale will invoice the amount due from each WCA in 20 relatively equal amounts on the regular water supply invoices. Once SJWD has received payment from the WCAs, SJWD will distribute credits on the next regular quarterly water supply invoices issued to CHWD and FOWD.~~

1.1 — ~~SJWD will invoice each of the agencies a total amount listed below as their share of the benefits received in 2009-2014 from the Groundwater Pumpers:~~

~~CHWD: \$406,775
Folsom: \$78,628
FOWD: \$316,877
OVWC: \$253,693
SJWD-R: \$740,150~~

1.2 — ~~SJWD will provide a total credit in the total amounts listed below to each of the Groundwater Pumpers:~~

	<u>2014</u>	<u>2009-2013</u>	<u>Total</u>
<u>CHWD</u>	<u>\$264,698</u>	<u>\$794,095</u>	<u>\$1,058,793</u>
<u>FOWD</u>	<u>\$230,662</u>	<u>\$691,985</u>	<u>\$922,647</u>
<u>Total</u>	<u>\$495,360</u>	<u>\$1,486,080</u>	<u>\$1,981,440</u>

~~The Groundwater Pumpers will receive a one-time credit for the reimbursement of 2014 costs in _____, 2016. The 2009-2013 credit will be spread out over _____ years in quarterly credits amounts of \$ _____ for CHWD and \$ _____ for FOWD. The credits will be shown on and deducted from SJWD's invoices for wholesale water service fees and charges issued to the Groundwater Pumpers.~~

- ~~a. CHWD \$838,193~~
- ~~b. FOWD \$957,929~~

1.3 — ~~A WCA will not incur any interest charges on their invoices for the described groundwater charges unless payment is not received within 45 days of the date of each invoice. Any interest charged for late payments will be at 6% annual interest.~~

2. Sole Remedy and Release of Claims. All of the Parties acknowledge and agree that this Agreement and the payments hereunder are intended to effect the full and complete compromise of all claims related to or arising out of ~~outpayment for the costs~~ of all activities associated with the Groundwater Pumpers' operation and maintenance of groundwater pumping facilities and groundwater supplied by them to the WCAs from 2009 through 2014. Each Party understands and agrees that the compromise set forth in this Section 2 shall act as a full and final release of all claims, known or unknown, whether or not ascertained, existing as of the date of the execution of this Agreement. Each Party expressly waives any rights or benefits available under Section 1542 of the Civil Code of the State of California, which provides as follows:

"A general release does not extend to claims which the creditor does not know, or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

3. 2015 and Future Groundwater Pumping. Parties further acknowledge and agree that any additional groundwater pumping by the Groundwater Pumpers in ~~2015 and~~ future years will not occur prior to the benefitted WCAs Parties entering into an agreement ~~with the Groundwater Pumpers~~ that provides the costs and terms for such groundwater pumping.

4. Entire Agreement. This Agreement is freely and voluntarily entered into by the Parties after having the opportunity to consult with their respective attorneys. Any prior agreements, promises, negotiations, or representations specifically related to the subject matter of this Agreement, but not expressly set forth in this Agreement, are of no force and effect. No amendment or other modification of this Agreement shall be effective unless it is in writing and signed by the Parties.

5. Cooperation. Each Party agrees to do all things that may be necessary, including, without limitation, the execution of all documents which may be required hereunder, in order to implement this Agreement.

6. Supporting Resolutions. Each Party represents that it has legal authority to enter into this Agreement and to perform its obligations hereunder, and will provide to the other Parties concurrent with execution of this Agreement, a duly-authorized resolution or other document authorizing the person executing this Agreement to do so.

7. Interpretation of Agreement. Each Party has reviewed and actively participated in the negotiation of this Agreement, and agrees that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not apply to this Agreement or to documents executed and delivered by any Party in connection with the transactions contemplated by this Agreement.

8. Waiver of Rights. Any waiver by a Party of its rights with respect any matter arising in connection with this Agreement shall not be deemed to be a waiver with

respect to any other breach, default or matter.

9. ~~Relationship of Parties. Nothing in this Agreement will be construed to create an association, joint venture, trust or partnership, or to impose a trust or partnership covenant, obligation or liability, among the Parties.~~

10. Remedies. In the event of a breach of this Agreement, each Party reserves the right to pursue any remedy provided under law or in equity.

104. Counterparts. Signatures may be obtained on multiple copies of this Agreement, and together will have the full force of a single executed Agreement. This Agreement will not be effective until signed by all Parties.

SAN JUAN WATER DISTRICT

FAIR OAKS WATER DISTRICT

By: _____

Edward J. ("Ted") Costa
President, Board of Directors

By: _____

Michael McRae
President, Board of Directors

CITRUS HEIGHTS WATER DISTRICT

~~ORANGE VALE WATER COMPANY~~

By: _____

Allen B. Dains
President, Board of Directors

By: _____

President, Board of Directors

~~CITY OF FOLSOM~~

By: _____

[Name]

[Title]

STAFF REPORT

To: Board of Directors
From: Keith Durkin, Assistant General Manager
Date: May 19, 2016
Subject: Proposed Changes to Sacramento County Utility Trench Paving Restoration Requirements

RECOMMENDED ACTION

None at this time; for information only.

BACKGROUND

To minimize the impact of utility cuts on street pavements, Sacramento County requires utility companies to restore trench cuts in accordance with County adopted trench restoration standards. Current County requirements for pavement reconstruction following trenching activities are among the most stringent we are aware of in order to mitigate potential impacts.

The County has over 5,400 lane miles of aging roadway to maintain. They have identified a funding need of approximately \$35 million annually to maintain the roadway system, but recent funding has only averaged \$8.4 million. The County is trying to identify new revenue sources to bridge the funding shortfall.

As part of their efforts to address their paving maintenance challenges, the County Department of Transportation (SacDOT) proposed significant changes to paving restoration requirements imposed on utility trenches within the roadway. SJWD, as a “water utility” is affected by these requirements. Revised paving restoration standards were on the County Board of Supervisor’s May 10th meeting agenda for consideration and adoption. Because SacDOT did not do any outreach to affected utilities before this meeting, and utilities did not have time to review the standards and provide input, the Board agreed to carry this item over to the May 24th meeting.

CURRENT STATUS

The County’s proposed changes to trench restoration requirements require, at a minimum, repaving entire traffic lanes and adjacent bike lanes and shoulders without consideration of the condition of the aging pavement, or the location of the utility within the roadway (for instance, even if it’s entirely in the shoulder). For SJWD, this could increase the cost of a typical pipeline replacement project by 20 to 40-percent. The new standards appear to shift the County’s obligation to maintain and reconstruct roadways that are reaching the end of their useful life to public utilities.

We have reached out to our supervisor representatives in coordination with other local water utilities, SMUD, PG&E, and the Sacramento County Sewer District to request a postponement of any County action on changes to pavement standards to allow time to meet with SacDOT to discuss reasonable options for trench reconstruction. Supervisors Peters and MacGlashan have indicated that this item will be postponed for 90 days.

We will work with SacDOT staff and the Board of Supervisors to advocate for a solution that:

1. reflects the need for utilities to ensure trench reconstruction is sufficient to not unreasonably decrease the remaining service life of existing pavement,
2. does not unreasonably shift pavement reconstruction costs to public agencies that operate buried utilities, making the cost of necessary replacements of aging public infrastructure prohibitive, and
3. Increases the coordination of County paving projects with buried infrastructure projects by other public utilities.