

# San Juan Water Commission

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MEMBERS:  
City of Aztec  
City of Bloomfield  
City of Farmington  
San Juan County  
S.J. County Rural Water Users Association

**Final Minutes Approved on September 6, 2017**

## SAN JUAN WATER COMMISSION REGULAR MEETING MINUTES AUGUST 2, 2017

The San Juan Water Commission met in a Regular Meeting pursuant to due notice, Wednesday, August 2, 2017 at 9:00 A.M. in the San Juan Water Commission's conference area in the San Juan Water Commission Office Building, 7450 East Main Street, Farmington, New Mexico.

### **CALL TO ORDER**

Vice-Chairman John Beckstead called the regular meeting of the San Juan Water Commission (SJWC) to order at 9:05 A.M.

#### **Members Present**

City of Aztec	---
City of Bloomfield	Eric Strahl - Alternate Commissioner
City of Farmington	Jay Burnham - Alternate Commissioner
San Juan County	John T. Beckstead - Commissioner Margaret McDaniel - Alternate Commissioner
S.J. Rural Water Users Assoc.	Jim Dunlap - Commissioner Keith Lee - Alternate Commissioner

#### **Members Absent**

City of Aztec	Josh Ray - Commissioner Austin Randall - Alternate Commissioner
City of Bloomfield	Elwin Roark - Commissioner
City of Farmington	Cy Cooper - Commissioner

#### **Legal Present**

Doug Echols  
Liz Taylor

#### **Staff Present**

Aaron Chavez  
Shaun Bishop  
Jacqueline Allcorn  
Jimmy Hodges  
Gordon Miller

#### **Visitors:**

(4)

In the absence of Chairman C. Cooper, Vice Chairman J. Beckstead conducted the meeting. In the absence of Commissioner E. Roark, Alternate Commissioner E. Strahl was the voting member for the City of Bloomfield. In the absence of Commissioner C. Cooper, Alternate Commissioner J. Burnham was the voting member for the City of Farmington. There were no voting members for the City of Aztec.

## **APPROVAL OF AGENDA**

Vice-Chairman J. Beckstead called for approval of the Amended Final Agenda. A. Chavez said the Agenda was amended to show Agenda Item 11, which read OSE UPDATE BY MR. TOM BLAINE, P.E., NM STATE ENGINEER. A. Chavez asked that Agenda Item 13. LACEY ACT UPDATE, be moved up to Item 11 to accommodate St. Eng. T. Blaine's schedule. St. Eng. Blaine moved to Item 12 and subsequent Agenda Items moved down sequentially.

Motion was made by J. Dunlap and seconded by J. Burnham to approve the Final Agenda as amended, and upon voice vote the motion carried unanimously (J. Beckstead, J. Burnham, J. Dunlap, and E. Strahl all voted yes).

## **CONSIDERATION OF APPROVAL OF THE APRIL 5, 2017 REGULAR MEETING MINUTES**

Vice-Chairman J. Beckstead called for approval of the April 5, 2017 Regular Meeting Minutes. Motion was made by E. Strahl, and seconded by J. Burnham to approve the April 5, 2017 regular meeting minutes, and upon voice vote the motion carried unanimously (J. Beckstead, J. Burnham, J. Dunlap, and E. Strahl all voted yes).

## **COMMENTS FROM THE PUBLIC**

There were no comments from the public.

## **DISCUSSION RELATING TO ARCHIVING AND DIGITIZING SJWC DOCUMENTS**

A. Chavez said during the April 5<sup>th</sup> Commission meeting staff presented an update on the Commission's digitizing project. At the conclusion of the digitizing update, staff was directed to investigate several document management companies, and report staffs finding at the next scheduled Commission meeting.

A. Chavez said staff contacted three document management companies; E-File Cabinet, Upland Software/File Bound (formally Optiview) and ADV Document Systems. Each company provided a product tutorial and price quote. A. Chavez said of the three researched companies, staff found ADV Document Systems to be the best fit, based on ease of use, and compatibility with the SJWC's existing cloud based repository system - Net Documents (NetDocs). A. Chavez said ADV will provide direct consultation in setting up the correct digitizing frame work, and to provide training on how to efficiently digitize documents and place them in the NetDocs repository for easy retrieval. A. Chavez said within a short period of time, staff could be trained to scan and annotate SJWC's present and historical documents with staff incorporating scanning tasks into their existing daily work, as their schedules allow. It is projected that digitizing the SJWC's historical documents will take about 7 to 10 years. A. Chavez added that SJWC's current budget provides for ADV's set-up and training (a one-time fee of up to \$12,000 dollars), and remarked, if needed, an additional employee could be hired to assist in the digitizing process. After a brief discussion, staff was directed to proceed in using ADV as SJWC's document management and training source, and as the budget allows, to look into the possibility of hiring a temporary employee to assist staff in the digitizing process.

## **CONSIDERATION OF RESOLUTION 2017-03 ~ A RESOLUTION TO PROPOSE THE DISPOSITION OF WORN-OUT, UNUSABLE, AND OBSOLETE PROPERTY OF THE SAN JUAN WATER COMMISSION**

A. Chavez said because San Juan County served as the Commission's fiscal agent, that the Commission was required to approve a resolution each time the Commission needed to surplus worn-out, unusable and/or obsolete equipment. A. Chavez said the Commission needed to surplus various pieces of office and peripheral computer equipment at this time, thus the need for the resolution.

Motion was made by J. Burnham, seconded by J. Dunlap to approve Resolution No. 2017-03 "A Resolution To Propose the Disposition of Worn-out, Unusable, and Obsolete Property of the San Juan Water Commission", and upon voice vote the motion carried unanimously (J. Beckstead, J. Burnham, J. Dunlap, and E. Strahl all voted yes).

## **CONSIDERATION OF RESOLUTION 2017-04 ~ A RESOLUTION TO PROPOSE THE DISPOSITION OF WORN-OUT, UNUSABLE, AND OBSOLETE PROPERTY OF THE SAN JUAN WATER COMMISSION (RE: 2006 FORD EXPLORER VEHICLE)**

A. Chavez said staff recommends the 2006 Ford Explorer XLS be surplused due to the vehicle being worn out and no longer economical or safe for continued use by the Commission - noting that the vehicle had over 143,000 miles. A. Chavez said because San Juan County served as the Commission's fiscal agent, that

the Commission was required to approve a resolution each time the Commission needed to surplus worn-out, unusable and/or obsolete property of the San Juan Water Commission. A. Chavez said the Commission needed to surplus the 2006 Ford Explorer XLS at this time, thus the need for the resolution.

Motion was made by J. Dunlap, seconded by E. Strahl to approve Resolution No. 2017-04 “*A Resolution To Propose the Disposition of Worn-out, Unusable, and Obsolete Property of the San Juan Water Commission (RE: 2006 Ford Explorer vehicle)*”, and upon voice vote the motion carried unanimously (J. Beckstead, J. Burnham, J. Dunlap, and E. Strahl all voted yes).

#### **CONSIDERATION OF PURCHASING A NEW VEHICLE**

A. Chavez said staff recommends replacing the 2006 Ford Explorer XLS with a new vehicle. A. Chavez said staff recommends purchasing a 4X4 – Sport Utility Vehicle (SUV) which will be able to accommodate the Executive Director and possible passengers for in-town use and extended travel. A. Chavez said the new vehicle purchase of up to \$40,000 is within SJWC’s current budget and would be purchased following the State’s guidelines and processed through the San Juan County Purchasing Department.

Motion was made by J. Burnham, seconded by J. Dunlap to approve the purchase of a new 4X4 Sport Utility Vehicle at a cost of up to \$40,000 dollars, and upon voice vote the motion carried unanimously (J. Beckstead, J. Burnham, J. Dunlap, and E. Strahl all voted yes).

A discussion ensued relating to the Ford F150 SuperCab. A. Chavez said he is presently using the Ford F150 SuperCab but will begin using the new 4x4 SUV when it arrives. A. Chavez said it is his recommendation that the Ford F150 SuperCab be used as a field vehicle until a more suitable vehicle can be acquired. A. Chavez said the Commission’s field work and other travel needs do not require a Ford F150 SuperCab and that it was his recommendation that the Commission replace it with a smaller 4x4 SUV. Staff was directed to obtain a certified appraisal on the Ford F150 SuperCab and research the possibility of trading it in for a new vehicle using the guidelines of the New Mexico General Services Department Purchasing Division. Upon obtaining an appraisal, staff was further directed to place the purchase of a new vehicle to replace the Ford F150 SuperCab as an agenda item for consideration at a future Commission meeting.

#### **CONSIDERATION OF CONCURRENCE TO ALLOW ANNEXATION OF THE ANIMAS-LA PLATA PROJECT TRIBUTE GARDEN BY THE CITY OF DURANGO**

A. Chavez distributed an updated Tribute Garden Concurrence letter, noting the change in signatory to the SJWC’s Executive Director. Chavez said the Bureau of Reclamation was currently working with City of Durango on the annexation of 500-acres on the east side of Lake Nighthorse, including 1,500 water surface acres. A. Chavez said during the July 6, 2017 A-LPOM&R board meeting it was discussed and proposed that the Tribute Garden be included in the annexation, which would allow the City of Durango to maintain the Tribute Garden and provide necessary law enforcement. A. Chavez noted the request for written concurrence is due to the San Juan Water Commission’s repayment contract with the Bureau of Reclamation and the Tribute Garden is an appurtenant facility and part of the A-LP transfer works. A. Chavez added that the Tribute Garden is an excellent way to show the members of our community that project participants worked together to complete the project, saying - it is a ‘jewel’ and everyone should see the Tribute Garden once it is open to the public.

Motion was made by J. Dunlap, seconded by J. Burnham to approve A. Chavez signing the Tribute Garden Concurrence letter, to allow annexation of the Animas-La Plata Project Tribute Garden by the City of Durango, Colorado, and upon voice vote the motion carried unanimously (J. Beckstead, J. Burnham, J. Dunlap, and E. Strahl all voted yes).

#### **CONSIDERATION OF THE “AGREEMENT BETWEEN SAN JUAN COUNTY AND THE SAN JUAN WATER COMMISSION CONCERNING REVENUES FROM LEASE OF ALP AND NON-ALP WATER”**

A. Chavez said the draft Agreement between San Juan County and the San Juan Water Commission concerned the distribution and use of revenues that will be generated through contracts for the lease of water owned or administered by San Juan Water Commission, including the La Plata Conservancy District’s Animas La Plata project water. A. Chavez said the following are the three main points in the Agreement:

1. *The creation of the La Plata Conservancy District (LPCD) Expenditure Line Item.*

A. Chavez explained that San Juan County (SJ County) and San Juan Water Commission (SJWC) will work together to create an “LPCD Expenditure Line Item” within the SJWC’s Line Item Budget. The LPCD Expenditure Line Item will be used as an accounting system to accurately record the funds received from LPCD’s ALP Project water leases and to record the disbursements made to pay for the LPCD’s ALPOM&R

annual costs and other costs associated with the administration of LPCD's ALP water and the operation of the ALP.

*2. The creation of the San Juan Water Commission Revenue Line Item.*

A. Chavez said SJ County and the SJWC are working together to create a "SJWC Revenue Line Item" within the SJWC's Line Item Budget. All funds received from the lease of water under SJWC's OSE Permit Numbers, 2883-B, 2883-C, and any other SJWC permits will be deposited in the SJWC Revenue Line Item. Funds in the SJWC Revenue Line Item shall be retained year-to-year by the SJWC and shall remain the SJWC's property (the funds shall not revert or be transferred into the County's Water Reserve 293 Fund).

*3. Restricted use of funds created for the San Juan Water Commission Revenue Line Item.*

A. Chavez said the SJWC Revenue Line Item shall be used to pay for the ALP Project OM&R costs, the acquisition of additional water rights, facilities for the storage and distribution of untreated water, or other capital costs authorized under the JPA, and other costs that the SJWC may deem appropriate to fund from the SJWC Revenue Line Item.

Motion was made by J. Dunlap, seconded by J. Burnham to approve "Agreement Between San Juan County and the San Juan Water Commission Concerning Revenues from the Lease of ALP and Non-ALP Water", and upon voice vote the motion carried unanimously (J. Beckstead, J. Burnham, J. Dunlap, and E. Strahl all voted yes).

### **LACY ACT UPDATE**

A. Chavez said the United States Court of Appeals for the District of Columbia Circuit issued a decision in United States Association of Reptile Keepers, Inc. v. Zinke, noting the case removes the authority of federal agencies, including the US Fish & Wildlife Service ("USFWS"), to prevent interstate water transfers under Title 18 of the Lacey Act. A. Chavez said the Commission may be in violation of the Lacey Act if mussels were found in Lake Nighthorse and water releases from Lake Nighthorse hit New Mexico's state line. A. Chavez said the court case neutralized the Lacey Act to where the USFWS cannot prevent transfers of listed injurious species between States of the continental United States. Rather, "it prohibits the shipment of injurious species between the listed jurisdictions, including to and from the continental United States, but it does not speak to shipments between the 49 continental States". A. Chavez said there's federal legislation in the Senate and the House and Congressman Gomer is still very active in wanting to fix the Lacey Act to ensure environmental protections. A. Chavez said staff's recommendation is to continue to review the pending federal legislation in the Senate and House and talk to other Congressional supporters. A. Chavez stated it is critical to ensure that the San Juan Water Commission's allocation of ALP water can be moved across state lines.

### **OSE UPDATE BY MR. TOM BLAINE, P.E., NM STATE ENGINEER**

New Mexico State Engineer Tom Blaine was introduced to all meeting attendees. St. Eng. Blaine described his personal and professional background and accomplishments, and his philosophical goals for the NM State Engineers office including the necessity to solve problems before they become court issues. St. Eng. Blaine briefly explained several issues and/or controversy facing New Mexico's water including North West New Mexico's San Juan Basin Adjudication, the Navajo Irrigation Project, the water shortage in the Middle Rio Grande and sediment issues associated with Elephant Butte. St. Eng. Blaine also noted the Lower Rio Grande's Endangered Species concerns and the U.S. Supreme Court case of Texas vs. NM. Following St. Eng. Blaine's perspective on New Mexico water, St. Eng. Blaine opened the floor for questions. Several Commissioners and others asked question relating to the following; New Mexico Water Law (beneficial use, forfeiture, and the legal right to hold water), San Juan Basin Adjudication, status of Return Flow Study, the need to update the Water Rights Database, the Supreme Court case of Texas vs. NM and its effect on the San Juan Basin water supply. Other questions and comments concerned the Forty-Year Water Planning for Rural and Urban areas, the Rural Water Districts' significance in New Mexico, facilitating the New Mexico Regional Water Planning process, and the challenge of moving water through federal ditches for municipal and industrial use. Compliments were given to the State Engineer's Office for their efficiency in streamlining the applications under the Leasing Act. St. Eng. Blaine was thanked for his appearance and in-turn, thanked the Commission for their time and consideration.

### **CLOSED EXECUTIVE SESSION**

Motion was made by J. Burnham and seconded by J. Dunlap to go into a Closed Executive Session pursuant to Sections 10-15-1(H)(7), and (8) NMSA 1978, under the attorney-client privilege to discuss matters pertaining to threatened or pending litigation in which the public body is or may become a participant and the

acquisition or disposal of water rights a.) *Colorado Water Court Case 17CW3002*, b.) *Discussion of potential lease of SJWC's water to Southland Royalty Company, LLC.*, and upon voice vote the motion carried unanimously (J. Beckstead, J. Burnham, J. Dunlap, and E. Strahl all voted yes).

Vice-Chairman J. Beckstead closed the meeting at 10:45 A.M.

Motion was made by J. Burnham, seconded by J. Dunlap to reopen the meeting, and upon voice vote the motion carried unanimously (J. Beckstead, J. Burnham, J. Dunlap, and E. Strahl all voted yes).

Vice-Chairman J. Beckstead reopened the meeting at 11:10 A.M.

J. Burnham stated that no discussion, other than that [discussion] pertaining to threatened or pending litigation in which the public body is or may be a participant and the acquisition or disposal of water rights and a.) *Colorado Water Court Case 17CW3002*, b.) *Discussion of potential lease of SJWC's water to Southland Royalty Company, LLC*, took place during the Closed Executive Session.

#### **COMMENTS FROM THE COMMISSIONERS, ALTERNATES, AND STAFF**

A. Chavez offered his congratulations to Aaron Lee as the new president for the San Juan County Rural Water Users Association.

A. Chavez announced plans for scheduling a workshop on Wednesday, September 6, 2017 during the regular monthly meeting to discuss the Water Request Process. The purpose of the workshop is to discuss moving forward with the Water Request Criteria. Staff suggests a total of three (3) representatives for each member entity of the San Juan Water Commission. This workshop will be for discussion purposes only, no formal action will be taken on this item

#### **ADJOURNMENT**

There being no further business, Vice-Chairman J. Beckstead adjourned the meeting at 11:16 A.M.

**APPROVED THIS 6<sup>TH</sup> DAY OF SEPTEMBER, 2017  
SAN JUAN WATER COMMISSION:**

Signature on File

**John Beckstead, SJWC Vice-Chairman**