



JOSHUA BASIN WATER DISTRICT

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JOSHUA BASIN WATER DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS
WEDNESDAY NOVEMBER 17, 2010 7:00 PM
61750 CHOLLITA ROAD, JOSHUA TREE, CA 92252

AGENDA

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. DETERMINATION OF QUORUM
4. APPROVAL OF AGENDA
5. PUBLIC COMMENT
- Pg 1-2 6. REJECTION OF ROBERT ELLIS DAMAGES CLAIM
Recommend that the Board reject a claim from Robert Ellis for alleged damages.
- Pg 3-4 7. PROPOSITION 26 INFORMATION
Information only.
8. PUBLIC OUTREACH CONSULTANT REPORT
Information only.
- Pg 5-7 9. PROJECT PRIORITY LIST
10. PUBLIC COMMENT
11. GENERAL MANAGER REPORT
12. DIRECTORS COMMENTS/REPORTS
13. ADJOURNMENT

The Board of Directors reserves the right to take action on items reserved for discussion only.

INFORMATION

During either "Public Comment" Item, please use the podium microphone. State your name and have your information prepared and be ready to provide your comments to the Board. The District is interested and appreciates your comments. A 3-minute time limit may be imposed. Thank you.

Any person with a disability who requires accommodation in order to participate in this meeting should telephone Joshua Basin Water District at (760) 366-8438, at least 48 hours prior to the meeting in order to make a request for a disability-related modification or accommodation.

Materials related to an item on this Agenda submitted to the Board of Directors after distribution of the agenda packet are available for public inspection in the District's office located at 61750 Chollita Road, Joshua Tree, California 92252 during normal business hours.

JOSHUA BASIN WATER DISTRICT
SUPPLEMENTAL DATA SHEET

Regular Meeting of the Board of Directors

November 17, 2010

Report to: President and Members of the Board
From: Susan Greer, Assistant General Manager/Controller

TOPIC: REJECTION OF ROBERT ELLIS DAMAGES CLAIM

RECOMMENDATION: That the Board reject a claim from Robert Ellis for alleged damages.

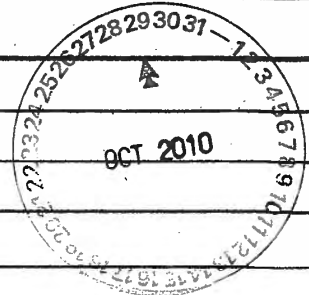
ANALYSIS: Generally speaking only, California's Government Code provides that before an individual/entity can file suit against a public entity such as the District, they must first present their claim to the District, usually within 6 months of the cause of action. If they fail to submit a claim within 6 months, it can likely prevent them from taking any further action against the District. If a timely claim is filed the District has 3 options: (1) the Board can not act on the claim, in which case, after 45 days, the claim is deemed rejected by operation of law. However the 6 month statute of limitations to bring a suit will not commence to run unless and until the District notifies the claimant in writing of the rejection by operation of law. If the District does not notify the claimant of the rejection by operation of law, the claimant will have two years to file a suit from the date of the accrual of the cause of action; (2) the Board can reject the claim which, generally speaking, gives the claimant 6 months to file a suit in state court; or (3) the Board can approve the claim in which case the timing is irrelevant.

The District policy is to automatically reject claims in order to limit the amount of time that the claimant has to file a suit.

Claims must be acted upon if at all by the Board in open session and should not be discussed in great detail in open session, especially if liability is at issue. If detailed discussions are desired, it is best to discuss same in closed session with the District's legal counsel prior to taking action on the claim in open session. This requires appropriate Brown Act references in the agenda.

Legal Counsel has reviewed and concurs with this process. Legal Counsel has observed that this area of the law has many exceptions and nuances that regularly come into play.

JOSHUA BASIN WATER DISTRICT



1 Claimant name, address (mailing address if different) and phone number.

Name: **ROBERT ELLIS, ND**

Address(es): **61870 Aberdeen**
Joshua Tree, CA 92252

Phone Number: **(949) 838-5065**

2 List address to which Claimant desires notices to be sent.

Name: **Same as above.**

Address:

Phone Number: ()

3 List the **date, time, place and other circumstances** of the occurrence or transaction which gave rise to the claim asserted. **CIVIL CONSPIRACY AGAINST RIGHTS; ABUSE AND MALICIOUS ABUSE OF PROCESS; HONEST SERVICES FRAUD**

Date: **July 6, 21 2010** Time: **10:30** Place: **SUPERIOR COURT, JOSHUA TREE JUDICIAL DISTRICT, CA**

Tell What Happened (Give Complete Information): **District Officials abused the "License Agreement" process by entering into a Conspiracy against my property rights with the Corkett Living Trust by securing a fraudulent easement license to install a meter on a nonexistent well on APN-10; in exchange for dismissing the Trust from litigation regarding APN 7; then, corruptly filed the document with the court; alleging, I refused to grant access to the Trusts' landlocked property; and, that the Trust would not object to signing a license for APN-7 authorizing trespass on my property; resulting, in tortuous litigation.**

NOTE: Attach any photographs you may have regarding this claim.

4 Give a general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim.

General Damages: **Attorney fees and Ancillary costs.**

Consequential / Continuing Damages: **Loss of Business and Financial Opportunities.**

Punitive Damages RE: **Malicious Abuse of Process / Intentional infliction of emotional distress.**

Treble Damages RE: **Honest Services Fraud / Loss of Right thereto Under Color of Law and Authority.**

5 Give the name or names of the public employee or employees causing the injury, damage, or loss, if known.

JBWD Board of Directors [And each of them.] , General Manager (Guzzetta), Employees Faul and Bock, and Representative Attorney's; in corrupt association with The Corkett Livint Trust and Representative Attorney's, et al. and DOES/ROES 1 thru 10

6 If the actual amount of your claim is less than \$10,000 indicate the exact amount of your claim, and if possible show specific itemization and/or include copies of any documents in support thereof. **If the amount of the claim exceeds \$10,000, no dollar amount should be included in this claim form.**

Date: **Oct 29/2010** Time: **10:23 AM** Signature: *Robert Ellis ND*

ANSWER ALL QUESTIONS, OMITTING INFORMATION COULD MAKE YOUR CLAIM LEGALLY INSUFFICIENT!

JOSHUA BASIN WATER DISTRICT
SUPPLEMENTAL DATA SHEET

Regular Meeting of the Board of Directors

November 17, 2010

To: President and Board of Directors
From: Susan Greer

TOPIC: Proposition 26 Information

RECOMMENDATION: Information Only

ANALYSIS: California voters recently approved Proposition 26, nicknamed the "Stop Hidden Taxes Initiative". The proposition recategorizes many state and local fees as taxes, which require a two-thirds voter approval.

The following information has been obtained from professional organizations and is not a legal opinion. As always, we will continue to consult with counsel as fees are proposed or revised to insure compliance with all applicable laws. With respect to the rate study that will be brought to the Board for approval, any consultant will be very knowledgeable about the new Proposition 26 as well as Proposition 218 that also relates to rates and fees.

Proposition 26 was aimed particularly at regulatory fees which provide public programs to mitigate impacts of a regulated activity. For example, businesses that make products containing lead are charged a fee that is used for programs to screen and treat children for lead poisoning. Fees charged for these types of programs are considered taxes because the programs are deemed to benefit the public broadly rather than providing a direct and distinct benefit to the fee payor.

This is an important issue, relating to how fees can be approved. Taxes require two-thirds voter approval for local governments. Generally, revenues that are properly classified as fees may be adopted by a simple majority of the Board, with voter approval not being required.

Proposition 26 adds language to the California State Constitution providing a new definition of "tax", specifying that any government imposed charge of any kind is a tax unless it meets one of seven specific exceptions. Exceptions are provided for charges imposed for a specific product or service, charges imposed as a condition of property development, assessments

and property related fees imposed in accordance with Proposition 218, charges for fines and penalties and charges for permits, inspections and plan checks. Most exceptions, as well as law existing prior to Proposition 26 approval, require that fees may not exceed the estimated reasonable costs of providing the service for which the fee is charged. Fees must be reasonable, fair and equitable and proportionately representative of the costs incurred by the public agency.

For local governments, Proposition 26 provides that any fees adopted prior to the election date are not subject to the measure, but, if taxes, would require voter approval to increase.

A review of our existing fees indicates that each fee meets one of the exceptions provided by Proposition 26. Therefore, the fees are not considered taxes and do not require voter approval to change.

FISCAL IMPACT: None

Project Priority List

PROJECTS NEARING COMPLETION

Personnel Policy Manual (Joe Guzzetta)

This will be considered during labor negotiations this year.

PROJECTS UNDERWAY

Update Urban Water Management Plan (Joe Guzzetta – Year 1)

Contract was awarded to Kennedy Jenks at the August 4th 2010 Board meeting. State law requires this update to be completed by July 1, 2011.

Property Acquisition for Future Water Facilities (Joe Guzzetta – Year 1)

The Master Plan identifies 27 to 37 million gallons of additional reservoir storage that will be needed to operate the District in the future. Staff proposes to begin acquiring the land before the most ideal parcels are developed, especially for reservoirs which are constrained by altitude, proximity to the existing system, and other considerations. Potential sites are under evaluation.

Recharge Basin & Pipeline Project (Joe Guzzetta)

Property has been purchased. Monitoring well has been installed. Final design contract was awarded to Krieger & Stewart Engineers at August 4th Board meeting. Construction is contingent on Proposition 84 and other funding.

Final Phase of 4" Pipe Replacement (Joe Guzzetta, Joe Bocanegra, Keith Faul)

Priorities have been established. 15,000' of pipeline has been designed with 60,000' yet to be designed. Completion design and construction of this project is pending a financial strategy to be considered by the Board.

Record Archival System (Susan Greer – Year 1)

Staff had second presentation. This will eventually enable the District to maintain more electronic files for easier access and less physical storage.

PROJECTS COMPLETED

Well #16 (Randy Little)

The well has been completed and is permitted by Department of Health Services.

Hot Master + Backup Computer – SCADA (Randy Little – Year 1)

Complete. This computer provides backup to the Telemetry System.

PROJECTS NOT BEGUN: YEAR 1

Develop/Update Board Policies and Procedures (Susan Greer)

Update 3030 Plan (Joe Guzzetta)

Staff intends to solicit proposals for this project.

Election to Charge Private Wells for Replacement Water

Attorney is reviewing election options.

Fire Cabinet for Maps (Keith Faul – Year 1)

Custom Software Programming (Susan Greer/Keith Faul – Year 1)

Adds lacking features to the District's main software program, such as reports or functions, and specific items not yet identified.

Conduct Fee Study/Update Rate Study (Susan Greer – Year 1)

Miscellaneous fees are being developed based upon resources used; staff, vehicle, equipment, etc. A rate study update will determine what rate changes are needed in the next several years to maintain services.

Space Needs Assessment for Office Building Addition (Joe Guzzetta – Year 1)

A needs assessment will determine how much space the District needs for an Emergency Operations Center in order to apply for grant construction funds. This item was discussed at the August 4, 2010 Board meeting, and deferred.

LAFCO Mandatory Municipal Services Review (Joe Guzzetta – Year 1)

State law requires LAFCO to conduct a review of each agency's boundaries and services (at agency cost) to determine the appropriateness and to recommend any changes. LAFCO must take the initiative to conduct this.

GIS Server for Field Login (Keith Faul – Year 1)

Field crew will receive laptop computers to be used in the field for more accuracy and efficiency. This server is needed in order to connect to the GIS system.

Field Laptop Computers (Keith Faul – Year 1)

Storage Bays for Rock, Sand, Asphalt (Jim Corbin – Year 1)

This will allow for more orderly storage of rock, sand, and asphalt which are used regularly in normal district operations.

Hauling Station Coin/Card Reader – Under Study (Jim Corbin – Year 1)

Staff is considering a system to enable selling of water at the hauling station.

Pressure Reducing Station Replace/Refurbishment (Randy Little – Years 1-2)

Assess and overhaul or replace PRV/PSV/Altitude valve over a three year period. Twelve in use, one completed.

PROJECTS NOT BEGUN: YEAR 2

Carpet for Office (Terry Spurrier – Year 2)

D31 New Booster Pumps and Housing (Randy Little – Year 2)

The pumps at this booster station operate at a low efficiency rate such that it is timely to replace them.

Chlorine Analyzers With Telemetry Programming (Randy Little – Year 2)

Install analyzers to monitor chlorine residual at up to four remote sites.

Flow Meter Refurbishment (Randy Little – Year 2)

Four remaining flow meters (2 this year) with digital displays and telemetry plus DTS programming.

Asphalt Installation Equipment – Under Study (Jim Corbin – Year 2)

Pipe Holder (Jim Corbin – Year 2)

The District stores small amounts of plastic pipe for repairs. There is nowhere out of the sun to do so. Over time the pipe can deteriorate when exposed to the sun. This will provide shade.

Altitude Valves at C2B, SCADA Electric Controls C1 and C3 Tanks (Randy Little – Year 2)

These valves will prevent the overflowing of the C Zone tanks.

Relocate C2 Tank & J Booster (Randy Little – Years 2-3)

This project has been designed and would relocate a 500,000 gallon tank from the C Zone where it is no longer needed to the H Zone where it is severely needed. The project was deferred pending funding.

System Reliability Upgrade for Hospital and County Complex; C, B and D3 zones (Jim Corbin – Years 2-3)

This entire area has one single water supply feed. It does not have a redundant water supply for emergency situations. Staff has proposed a secondary "emergency" source.

PROJECTS NOT BEGUN: YEAR 3

Security (Motion Sensors) at Shop and Well 10 (Randy Little – Year 3)

This would provide security to an expanded area at the shop.

Emergency Preparedness Projects: (Postponed to determine funding potential)

Well 10 and 14 Soft Start Bypass – Generator Controls (Randy Little – Year 1)

The new 600 KW generators need this equipment in order to operate properly at the two largest producing wells.

Earthquake Shutoff Valves for Three Tanks (Randy Little – Year 1)

Currently, if a pipe from a reservoir is broken the entire reservoir can be drained unless a valve is manually located and shut off. This will provide automatic shutoff in case of earthquake to the two major C tanks and the B tank serving the hospital.

Transfer Switches at Remaining Booster Sites (Randy Little – Year 1)

The switches are needed in order to be able to use the emergency generators at the pump stations.

Large Meter Bypasses (Jim Corbin – Year 1)

Currently, in order to test or remove a large meter, the service needs to be disconnected. This is a serious problem for some large meters such as the hospital. The bypass will allow the meter to be removed and replaced without discontinuing service.

Emergency Supplies (Rick Cook – Years 1-2)

These include food, water, cots, etc. for serious emergencies for employees.