

**Bear River Water Conservancy District
Special Public Meeting
Wednesday, March 5, 2014 7:00 p.m.
Bear River Water Conservancy District Conference Room
102 West Forest Street, Brigham City, Utah**

Minutes

Present: Trustees: Chairman Clinton Burt, Vice Chairman Ross Rudd, Jay Carter, Charles Holmgren, Brent Baugh, Richard Day and Roger Fridal

Staff: General Manager Voneene Jorgensen, System Operator Bob Phippen, System Operator Robert Thayne and Administrative Assistant Cassee Harper

Visitors: Bill Bigelow, Hansen Allen and Luce
Laura Scott, Parsons Behle & Latimer
Mark Larson, Ukon Water Company

Excused: LaRall Thompson, Jeff Scott, Tyler Vincent and David Forsgren

Invocation: Board Member Brent Baugh

Pledge of Allegiance: Lead by Board Member Roger Fridal

Adoption of the Agenda – Chairman Clint Burt

There were no changes to the agenda.

A motion was made by Vice Chairman Rudd to approve the agenda as written. The motion was seconded by Board Member Carter. Chairman Burt, Vice Chairman Rudd and Board Members Baugh, Fridal, Day, Holmgren and Carter voted in favor of the motion.

Public Meeting

A SPECIAL PUBLIC MEETING TO RECEIVE INPUT FROM THE
MARK PETER JENSEN FAMILY TRUST REGARDING THE WATER
TANK SITE FOR THE COLLINSTON CULINARY WATER SYSTEM

Presentation – General Manager Jorgensen

General Manager Jorgensen thanked all the Board Members for coming to the Special Public Meeting to discuss the purpose of Eminent Domain for the 2 acre parcel of land the District needs for the north tank site for the Collinston Culinary Water Project. General Manger Jorgensen welcomed and introduced Laura Scott who was in attendance and thanked her for her support. She works for Parsons, Behle & Latimer and is the Legal Counsel for the Eminent Domain process and she has given us direction and guidance.

General Manager Jorgensen stated there are some important issues that need to be discussed. One is the purpose of eminent domain and why it is necessary. The purpose of the Collinston Culinary Water System is twofold; 1) Culinary water has been needed in the Collinston area for a long time. We have 54 connections sold and the project has been in the planning for the past 20 years, and 2) To bring high quality drinking water to the Ukon water storage tank to dilute the arsenic level that comes in from their springs. This project is for the good of the public and the communities that it will serve. Bill Bigelow will address how the location of the reservoir site was selected and why it will be compatible with the greatest public good and the least private injury.

Selection of Tank Location Site – Bill Bigelow

The District had been considering two tank sites and in both cases the families involved indicated they did not want the tank site on their land. The Potter family currently has their land in a Conservation Reserve Program (CRP) and it went a little beyond just a CRP as they are grooming a portion of the land for a specific wildlife habitat. The Marble family members were pretty adamant that they wanted to build single family homes on their land and that one of the sons had picked that specific site for his home in the future. Subsequently, Mr. Burke Jensen came into the District office and talked with us for several hours and basically offered us land across the road from the Marble property. We met with Mr. Jensen on his parcel of ground and became convinced it would be a good site for the water storage tank and he said it would be fine with his family for the District to use that site. The construction cost was less on the Jensen site because the drain line for the tank overflow is quite short; just a couple of hundred feet long, and made it the least expensive site. The Jensen's land is also in CRP but doesn't appear to have been cultivated for a long time and they didn't seem to have any plans for it. After negotiating with Mr. Jensen for about six weeks he did mentioned later in the discussions that they might want to build a gravel pit on that land. The District couldn't see that selling a 2 acre parcel to the District on the NW corner of their 160 acres would negatively affect the plans they would have for a gravel pit on their land. One other topic to address is the time frame for construction and use of the project. The District is ready to proceed with construction. In January the decision was made to go ahead and build the tank on the Jensen property. If access by the court is granted fairly quickly the District will be able to begin building this tank within 30 to 60 days and the tank will be in service in about 9 months.

Negotiation with the Jensen Family – General Manager Jorgensen

Mr. Burke Jensen came into the District office on November 26. The District worked very cooperatively with him. As we were able to walk on the property with Burke Jensen we talked about a lot of options. He had some ideas on fencing and drainage and we talked about a livestock tap and different reservoir options. We talked about him using extra soil that came out of the construction that we didn't need so he could fill in some of the gulley's, etc., so there were lots of ideas and lots of things discussed. One thing he mentioned was he wanted a culinary line extended to his home on Highway 38. There was a lot of cooperation in the beginning and the District felt very good about that tank site and a lot of time and engineering services went into the site plan. We mailed the first offer to the Jensen's on the 10th of January. On the 17th of January Burke Jensen called to say that we had forgotten to include the 1,400 foot extension of the water line to his mother's house. I told him that was never part of the negotiation for the 2 acres of land and it had to be equal value given to value received and Mr. Jensen said if the line extension was not included in the trade for the land then they weren't interested. We then had a meeting with Board Officers to get some guidelines and direction. The Board Officers suggested we talk with some other property owners in the area and those did not work out. We tried really hard to look at alternatives but others were too expensive. On the 20th and 22nd of January, Bill Bigelow and General Manager Jorgensen made phone calls to Burke Jensen to see if the family would reconsider and again he declined and said they weren't interested if there wasn't an extension of the water line and that it would be of no value to their family. He said they weren't interested at all and basically shut down all communication. The District mailed out a final offer on February 14th telling the Jensen's we needed to move forward with the project and their land would be the best place for our reservoir site and that we would be moving toward eminent domain but we prefer to work things out in a cooperative manner. On February 19th we sent the Jensen's notice of this meeting. We have given them notice in the proper time frame and as appropriate and as required and outlined in the Utah Code. We have sent them the brochure from the Ombudsman's office and we received a letter from Brent Bateman today requesting mediation. We have also received a letter from Daryl Jensen, the Trustee, stating that he is the contact person to work through and the trust has declined our final offer because they feel their future intended use for their land as a gravel pit is worth more than the offer we gave them. We have engaged an appraiser, Phil Cook, and we should have an appraisal within the next 3 weeks and he will determine the fair market value. In my conversation with Burke Jensen earlier when asking him if he would be willing to work with us on paying a proportionate share of the water line he wants extended to his mother's house or if he would purchase additional connections to make it financially feasible for the District he declined. We feel like we have made a good faith effort in trying to negotiate with the Jensen Family and it is very important that we move forward with the project. We will go into a closed session as we have a resolution we need to discuss and decide what we need to do to move forward. These decisions are so important because we have gone out to bid and we have nine months to complete this project before Ukon Water Company needs to have that blending in place so they can come into compliance with the state and also so we don't miss the good bidding climate.

Mark Larson – Ukon Water Company

When the MCL for arsenic was reduced to 10ppm, Ukon Water Company thought we could blend our own sources and stay within that range but with changing our practice we had actually hurt ourselves more than helping because with time we had reduced the flow of our lower springs by changing our practice of how we use our springs in the winter. So, in January 2007 Ukon started looking at filtration options and toured different filtration facilities. With the expense of a filtration system for our small water company and being a private company, funding was very difficult to get. Grants were not available and commercial loans were the best source of funding but are very expensive. The District offered to help us however they could. They had Hansen, Allen & Luce propose two or three different plans that could possibly help us blend with the current connection we had with the District but those would not work because of the volume of water we needed to move up line to blend with the other parts of the system and it was just not feasible. Then we heard they were going to move forward with a tank in Deweyville. We committed to buy increasing blocks of water from the District when it was put in and abandoned our other option of filtration. At the end of 2012 with changes in the way the EPA started looking at arsenic and our sources, Ukon fell out of compliance with arsenic; we are just barely over the MCL. The State has granted us an extension and we have signed an agreement that we will comply by a certain deadline; however, we can extend that deadline with enough notice if necessary. The fines are \$1,200 per day for being out of compliance and with a system our size it doesn't take many days to use all our annual revenue. Ukon Water Company is committed to this project and without it we will have to go back and reappraise everything and look at filtration. We have 365 connections depending on this project and there are people and systems that would like to connect but we have been told by the State that until Ukon is in compliance they cannot provide water to any of those new customers and we are unable to provide water to any other entities. The State has allowed us to make single, individual connections, but not any wholesale or subdivisions.

Open Special Public Meeting – Jensen Family Trust

There were no members or representatives from the Jensen Family present.

Closed Meeting – To discuss the sale of purchase of real property and to discuss pending or reasonably imminent litigation.

Chairman Burt asked for a motion to go into a closed meeting.

Board Member Fridal made a motion to go into a closed session to discuss the sale, purchase or lease of real property. The motion was seconded by Board Member Day. A roll call vote was taken.

Clint Burt – Aye
Brent Baugh – Aye
Richard Day – Aye
Jay Carter - Aye

Ross Rudd – Aye
Roger Fridal – Aye
Charles Holmgren – Aye

Board Member Fridal moved to leave the closed session and return to the regular meeting. The motion was seconded by Vice Chairman Rudd. A roll call vote was taken.

Clint Burt – Aye	Ross Rudd – Aye
Brent Baugh – Aye	Roger Fridal – Aye
Richard Day – Aye	Charles Holmgren – Aye
Jay Carter - Aye	

Open Meeting - Adoption of Resolution 01–2014 to Exercise Eminent Domain Action

A motion to approve the Adoption of Resolution 01–2014 was made by Board Member Fridal. The motion was seconded by Board Member Holmgren. Chairman Burt, Vice Chairman Rudd and Board Members Baugh, Fridal, Day, Holmgren and Carter voted in favor of the motion.

Bothwell Fire Protection Project Update – Cassee Harper

After we had received bids on the Bothwell Fire Hydrant Project we mailed out another letter and survey informing all the property owners that the cost came in a lot lower than what we had originally estimated. The first letter we sent out, we had estimated it would be \$1,000 - \$1,200 per lot owner and it turns out it would actually be \$700. Since then we have received several surveys back, many of those surveys have come back with the same answer but some have changed their minds with the cost being lower. As of today we have received 37 of the 62 surveys back, 25 of those have said they want fire protection and 12 said they didn't. Of those completed surveys, 19 are willing to pay for hydrants and 17 aren't willing to pay and there was 1 undecided. It seems they want fire protection but they don't want to pay for it.

General Manager Jorgensen explained it would be an assessment for each lot owner of \$700 versus \$4,500 which is the cost of a fire hydrant if an individual homeowner wanted to install a hydrant themselves. Board Member Carter asked exactly how they would pay or if it would be collected with taxes. General Manager Jorgensen said it is a special assessment where they could pay all up front or they could pay installments but if they don't pay it becomes a lien on their property and can be collected with their property taxes.

One big concern came from lot owners who have empty lots and they don't want to pay. Another concern was response time from the fire department. Another comment was that the hydrants should have been put in when the subdivisions were developed; these are questions and concerns that we could address at a public meeting or we can send out information answering these questions.

Commissioner Stan Summers was the one who got requests from people in Bothwell for fire protection. General Manager Jorgensen asked the Board if they want us to make one final effort to those that have not responded. We have responded in a positive way to the County Commissioner and the Fire Marshal's request. We have made a good faith effort.

Board Member Fridal commented that the Bothwell residents who want fire hydrants need to talk to their neighbors. Board Member Day suggested we respond to Commissioner Summers and let him know what the residents have said. Board Member Fridal volunteered to take a letter to Commissioner Summers and talk to him about the fire hydrant project. He also suggested that we pursue putting a hydrant in on the Thatcher/Penrose line by our property by Chanshare as we to protect our property.

Board Member Day made a motion to put a fire hydrant on the Thatcher/Penrose line to protect the District's property. Board Member Baugh seconded the motion. Chairman Burt, Vice Chairman Rudd and Board Members Baugh, Fridal, Day, Holmgren and Carter voted in favor of the motion.

Adjourn

A motion to adjourn the meeting was made by Board Member Baugh. The motion was seconded by Board Member Day. Chairman Burt, Vice Chairman Rudd and Board Members Baugh, Fridal, Day, Holmgren and Carter voted in favor of the motion.

The meeting adjourned at 8:10 p.m.