

TRUCKEE MEADOWS WATER AUTHORITY
MINUTES OF THE JUNE 18, 2014
MEETING OF THE BOARD OF DIRECTORS

The Board of Directors met on Wednesday, June 18, 2014, at Sparks Council Chambers, 745 Fourth Street, Sparks, Nevada. Vice Chairman Cate called the meeting to order at 10:00 a.m.

1. ROLL CALL

Members Present: Mike Carrigan, Mike Cate, Vaughn Hartung, Neoma Jardon, Geno Martini and Sharon Zadra. Members Absent: Kitty Jung. A quorum was present.

2. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Member Martini.

3. PUBLIC COMMENT

Mr. Charles Albright, a local river runner, commented on the safety of dams along the Truckee River, especially the dam at Glendale Bridge. Mr. Albright expressed concern that the new dam structure, built using fractured rock, is not a native structure to the Truckee River and has created a safety hazard for the public who want to boat that section of the river. He pointed out that anyone who enters the river is risking their lives and that the rough and loose rock make it unsafe to walk around and difficult in case someone needed rescuing. He indicated that the City of Reno has two white water parks along the river which has created an image to the public that it is safe to raft, tube, kayak, etc. along the river. He stated this is not the case with the Glendale Dam.

Mr. Albright further commented that the Stateline (Steamboat Ditch Diversion) Dam, which was structurally built as a concrete slab, is unsafe to paddle. Mr. Albright believed it is TMWA's responsibility to keep the dam safe. He also stated that Sierra Pacific conducted illegal activities, such as building Chalk Bluff dam without any permits or holding public meetings to obtain public feedback on design and implementation. He claimed he was pleased with TMWA for taking away the original dam because it was a hazard, but would have greatly appreciated the opportunity to provide comment during the design and building process. He is advocating for TMWA to speak to the public more effectively and increase the use of signage at Glendale Dam in order for the public to more aware of the dangers.

Mr. Will Farris, also from Reno, thanked the Board for hearing his thoughts and comments on the river safety issues. He reiterated that the Glendale Dam area has a lot of foot entrapments and is unsafe, and it needed to be made safe and attractive to the public. He encouraged the Board to address the safety issues on the public river. He seconded Mr. Albright's thoughts on the Steamboat Ditch/Stateline Dam. Finally, he requested the Board conduct safety studies and make

improvements.

Ms. Kathy Bowling, a resident of the Callahan Ranch area in Galena, also spoke to the Board. She expressed concerns regarding protecting her well from unreasonable draw-down. The area where she lives in Galena will be taken over from Washoe County as part of the consolidation process. She requested that some of the policies put in place by Washoe County be carried forward by TMWA.

4. APPROVAL OF THE AGENDA

Chairman Carrigan motioned to amend the agenda with two changes: After Agenda Item #5 adjourn to a closed door legal briefing and move Agenda Item #14 after Agenda Item #6.

Upon motion by Member Martini, second by Member Zadra, which motion duly carried by unanimous consent of the members present, the Board approved the amended agenda.

5. APPROVAL OF THE MAY 15, 2014 MINUTES

Upon motion by Member Zadra second by Member Cate, which motion duly carried by unanimous consent of the members present, the Board approved the May 15, 2014 minutes.

Chairman Carrigan recessed the Board for a closed door legal-briefing at 10:15 a.m. and resumed at 10:37 a.m.

6. DISCUSSION AND REQUEST FOR DIRECTION REGARDING TREATMENT OF CUSTOMER DATA AND RENO GAZETTE JOURNAL PUBLIC RECORD REQUEST COMPELLING TMWA TO DISCLOSE CUSTOMER NAME, ADDRESS AND WATER USAGE DATA.

Mike Pagni, TMWA Legal Counsel, addressed the Board and presented this item. He stated that a public record request from the Reno-Gazette Journal (RGJ) was received on June 2, 2014. The request was asking for the names, addresses and usage information of the top 100 water users in four different rate categories: Residential Flat Rate, Residential Metered Rate, Commercial and Metered Irrigation Tariffs. RGJ indicated that this information would be used in a series of articles related to drought and water usage issues. TMWA is a public agency and subject to NRS 239.010, so TMWA is required to provide public records as required under Nevada law. That act generally provides that all public records not otherwise deemed by law to be confidential are

subject to disclosure and copying upon request.

Historically, TMWA has treated customer data as confidential and rejected requests from vendors for customer information for the purpose of soliciting their products. In those circumstances, TMWA does not believe that commercial purposes outweigh privacy interests of our customers. This is the first time TMWA has received a public records request from the media. TMWA initially responded in accordance with the law by providing the RGJ with the usage information, but not the names and addresses of customers. In response, the newspaper renewed their demands for usage data and name and address information, contending all such information was public record and indicating a willingness to litigate the issue. On June 13, 2014 TMWA received a letter from the newspaper's attorney asserting that this data is in fact public record and that the newspaper would seek a writ from the court if TMWA did not disclose it.

Since that initial request, TMWA notified all customers on the Top 100 lists of the possibility of release of this information. We have received a number of responses, all of whom are concerned about the release of their information, asserting interests of privacy, security concerns, and concerns about what the information would be used for. They also expressed their concerns that the newspaper consider that if their usage was high in the past, to know that they have done a lot of things to change their water usage and conserve and that they pay for every drop. All of the responses received are generally opposed to the disclosure.

Mr. Pagni discussed recent trends in Nevada court decisions which generally conclude that any information in governmental hands should be disclosed unless there is a specific statute on point that exempts that information from disclosure. Mr. Pagni stated there is no statute on point that protects the names and addresses of TMWA customers. There are a lot of statutes protecting social security numbers and driver's license, bank account and credit card information; all are clearly confidential under the law. But unfortunately there is no specific statute on point protecting the names and addresses of TMWA customers. Mr. Pagni noted that there is a statute that protects this information if held by a regulated public utility, but that statute is unavailable to TMWA as it is not regulated by the Public Utility Commission.

TMWA has done additional research in terms of other similarly situated water companies and found the Southern Nevada Water Authority treats this information as public and discloses it. They have recently submitted such data in response to similar public requests from the newspapers and media outlets in Las Vegas. Mr. Pagni noted that recent trends in the Supreme Court indicate that where private citizens express generalized concerns for harm, whether it is safety, privacy or security interests, that those types of concerns in the Supreme Court's words were 'speculative, and absent an actual demonstration of harm that this isn't sufficient to rise above the public's interest in knowing information that is held by a public agency. He advised the Board that based on these trends, even though TMWA understands and respects the customer's desire to retain their information as private, from a legal perspective, TMWA had no ability to withhold the information and recommends TMWA disclose this data to the newspaper.

Chairman Carrigan opened the floor for Public Comment.

Michael Malloy, an attorney representing a customer, spoke. He stated that he is concerned that by revealing their name he puts them at risk. He expressed his hope that the disclosure would not be used by the newspaper and that they use some discretion. The point of his clients' having him speak here is to echo some of the points Mr. Pagni has mentioned, that others have stated, and that the Board is sensitive to as well. Also, he believes that Mr. Pagni has been directed appropriately. His client's name is Rosalie Reviglio. She is a widow who lives alone and has received the public records letter from TMWA. He understands the process, has worked with other public agencies, and knows how these boards work with respect to public records act requests. He hopes that there is some discretion by the newspaper in how they use the information and hopes that representatives from the newspaper who are here take what he has to say to heart. He explained that his client has been on Flat Rate for decades and has paid basically the same price in recent history for many months. The metered rate would be less than a \$5 difference and yet she's in the top 100 flat rate water residential users. His concern is that her name is going to be disclosed, causing her unnecessary embarrassment, if the newspaper gets its way and doesn't use discretion. She was unaware of how much water she uses and this issue has focused her attention and she is willing to change her behavior. She doesn't need to be prodded by embarrassment in the newspaper and he doesn't think that anyone should be embarrassed either. He stated that the newspaper "can use better, more thoughtful criteria than this blanket one-size fits all approach." He stressed the fact that the newspaper should talk about people who are truly excessive users if there is an established pattern of excessive use. But to say that the top 100 people are going to get their names in the paper is inappropriate, unfair and an invasion of her privacy and a potential risk to her security.

Bruce Mundy is an attorney representing two clients who both received TMWA's top 100 letters - Pauline Helms who lives in Reno and Gerald Helms who lives in Sparks. His clients are concerned about the invasion of privacy and potential security issues and embarrassment. They value their anonymity as it relates to where they live and don't want to be subjected to scrutiny that an article in the paper will result in with their names and addresses being published as one of the top 100 water users. He said that without knowing the gist of the RGJ article, it is only natural to believe that these people will be criticized as water wasters without regard to how much property is involved. His clients both own properties with more than one acre, have it professionally landscaped and maintained, and have never had a complaint about the water usage nor received a citation for wasting water. As Mr. Malloy stated, they are open to reasonable ideas to control their use if in fact there is waste. Mr. Mundy implores the newspaper and to the extent the board can influence the newspaper, to temper the article and present the situation as it really is, not as a generalized comment that these are the top 100 users. His client is 93 years old and lives alone, and therefore, she's not looking forward to her name being in the paper. She also fears that disclosing where she lives would cause her to receive the misguided attention of someone who says that she's a water waster and she has money and can get all the water she wants. He also said that in his opinion there's been excellent research done by the TMWA legal counsel, and he doesn't disagree with any legal points, but his two clients feel so strongly about this that they have offered his expertise at their expense for whatever research and help he can provide if the Board decides to oppose this request and challenge it.

Mark Wray is an attorney in Reno and has spoken with Mr. Pagni and respects the opinions the

Board has received thus far. He wants to address this issue from a commercial standpoint. His client owns a commercial business and doesn't want the public to get the idea that he is a water user to an extreme which he believes is implied by being on the top 100 list. It's like being on the worst 100. He's explained to his client the details of the law, and that Nevada's Supreme Court has said, "A mere assertion of possible endangerment does not clearly outweigh the public interest in access to records." In the PERS people's case and the Haley case, those were public pension benefits. They were people who applied for CCW permits. Arguably both connected to voluntary government connection by the people whose records were in question. The Supreme Court says that his clients' information may be disclosed if this Board proves by evidence that his concerns are more than highly speculative. His client cannot do anything, but the Board can. To his commercial clients' standpoint, this is a lot different than a concealed weapons permit or a PERS benefit, this is purely private information. He used to do public records cases in LA. Often do public records request to agencies, but it was also about the business you were doing, it was about the deliberative process things that were happening as a public agency. It was not asking about private citizens' information that happens to be in the public domain, because it's required to be and it's a monopoly. His position is that nobody can get away from it and that it's not an option. It's not a pension benefit or a CCW permit. It is something we have to do, which is have water for our houses/businesses and is materially different. Mr. Wray asks the Board to take this into consideration. He's not asking for the Board to take this to court and lose to the newspapers and have to pay their attorney's fees, but he does want them to know that many people are counting on them, including his client. It is important for them.

Bruce Wallace is a citizen of Reno who received a letter from TMWA about the RGJ's request. He has lived on his one-acre lot off of Mayberry for about 14 years. At the time of purchase, they decided to put in a lawn, but didn't realize how much it was going to cost to maintain the lawn. They've had some problems with the lawn including areas dying, lawn fungus, or not watering enough. They want to maintain the value of their home so they have worked on fixing these ongoing issues. They have never been cited for water waste, have observed assigned water days, always pay for the water they use, and are law-abiding citizens. He finds it difficult to see their names in the paper being accused of something. They have cut down on water usage, replaced sprinklers with more efficient ones and are doing what they can to conserve. He stated that if the goal of the paper is to embarrass people, it is poor journalism. If they have suggestions to cut back on water usage or have an article that can help with that, it will serve a more useful purpose.

Michelle Hulbert is a private citizen. Her comments are similar to Mr. Wallace's. They have a home off of Plateau Road and have lived there for 14 years. They maintain a love of their yard and landscaping and have never been fined or cited for water wasting. They are always looking for different ways to cut water consumption. She "finds it incredulous that the consideration of bowing to the media in this is to be considered." To disclose people who are wasting water and are being fined, is one matter, but they are paying customers. They believe paying their bills is important as is having a nice yard and environment and property that holds its value. She asks that TMWA to tread lightly on this "because it does open up a can of worms for private citizens, and consider the safety issue. It is a ploy for embarrassment when they are paying their fair share and paying their bills." She hopes the media will consider this and look for the violators and not

those who are paying their bills on a monthly basis.

Scott Glogovac, the attorney for RGJ, then addressed the Board. He spoke and stated his support for this item and thanked the Board for putting this on the agenda to discuss. This is the first time he's seen this happen in the many years he's worked for RGJ. He thinks it's a positive thing to do and has given everyone a chance to provide input and guidance to the Board. He commends Mr. Pagni for an absolutely correct analysis of the law. In response to one of the remarks made by Ms. Hulbert that "she doesn't want to see the Board to bow to the media," that's not what this is about; this is about the Board recognizing what the law says and complying. If compliance with the law equates to bowing to the media, then unfortunately that's the result of a situation like this.

Mr. Glogovac made a few points. First, this is a question of whether the privacy rights of TMWA's customers overcome the public's presumed right to public information. The Nevada Supreme Court, in the PERS and CCW cases, made it very clear that in order for privacy rights to overcome the public's right to access information the privacy rights have to be specific and actual, not hypothetical or merely generalized. The information that the RGJ has requested has been made available by the Southern Nevada Water Authority and that information is available through media sources. He said that on the Las Vegas Sun's website anyone can click on a button which will take you to a database where you can type in an address and gain access to the same information requested here. This access to such information has been going on for some time, but there is no evidence of anyone incurring harm because this data has been released. Mr. Glogovac understands how people feel and is not insensitive to it, but unfortunately the law is as Mr. Pagni described it and there is no other option for the Board. He stressed that no one wants to end up in a litigation situation. He heard the comments about the responsibility of reporting. He said that the RGJ reporter, Mr. Jeff DeLong, and his editor, Mr. Brian Duggan, were both present. They've been involved in other public request matters that he's handled. The PERS matter he's handled along with Mr. Duggan. He doesn't think the paper can be accused of irresponsible reporting relative to that information and they won't be irresponsible in this instance. One last response to what Mr. Ray said he attempts to differentiate between the PERS people who actively sought out and took public employment and CCW permit holders who took affirmative action and applied for those things versus TMWA users who are customers and are captive. The Supreme Court didn't point out in either case that the individuals whose information was at issue waived their right to privacy because they sought out the government benefit or permit. That was irrelevant, the issue was only "is this public issue, which it is and is there an actual privacy right that's going to be harmed, which it is not and it is not in this case." He encourages the Board to adopt the recommendation by Mr. Pagni and have the information be disclosed.

Chairman Carrigan then asked Mr. Glogovac why the RGJ stopped at 100. Mr. Glogovac could not answer that, saying that he's handling the legal aspect not the reporting aspect. He said that it was a question better directed to the newspaper. Mr. Carrigan responded that he was willing to give out the top 120 users, because the RGJ is in the top 120.

Member Hartung commented on the fact that TMWA's customers cannot opt out and go

somewhere else to get their water resource. It is no different than NV Energy, where customers can't opt out. Our clientele has no option and he has a very difficult time with this issue and it doesn't create any good will.

Member Martini commented on the fact that he was contacted by a citizen who made the top 100 list and no longer owns the property. His question is if the RGJ is making any allowances for such changes. Mr. Pagni's response is that based on the recommendation by the Board, staff will go back and regenerate the list and verify names and addresses to make sure we have updated records.

Member Zadra had a similar question. She received a letter from a constituent who said that there are multiple users and at least two other lots on one meter. She asked if it would be possible to bifurcate that information. Mr. Pagni replied that one of the difficulties in the nature of the information requested is that they are just looking at a meter. There are some historic services, called party-line services, where multiple homes or businesses operate off of the same meter. This is a legacy issue inherited when TMWA was formed and are in the process of cleaning it up. Mr. Pagni hopes that it is part of the questioning process being posed to the paper that the RGJ follows up and inquires about the property and circumstances, because there are situations where there are two or three homes on one meter.

Ms. Zadra followed up with more letters from constituents saying that they had a leak they didn't know about and have since fixed it, but are still on the list since the information is based on last year's data. She asked Mr. Pagni if the media would take into account for those one time issues. Mr. Pagni responded that he cannot speak to what the media will or will not take into account, but those situations do exist and hopes that there would be an opportunity to share the information and they would act accordingly with that information.

Member Jardon read into the record her statement. She stated that as a public figure she and her family's privacy were forfeited when she took office. She stated that she has concerns for release of customer information without knowing how this information is going to be used. Her home is number 91 on the list and she received a letter from TMWA informing her of the status. She went on to say that she pays her bills, uses xeriscape and is careful about their water use. She appealed to the RGJ to be judicious and considerate of how this information is used. *Copy of the written statement has been requested and will be attached once received.*

Member Cate commented that he hopes when the RGJ does their reporting, that they report not only the size of the water users, but those that are extremely efficient at what they do. Some of the largest water users in the area are the most efficient. He stated they need to take heed, and conduct proper investigating and reporting. This is a very touchy issue and he's not happy with it, but unfortunately in some cases the law is the law, but so is being a good citizen in this valley.

Chairman Carrigan asked for final comments.

Member Zadra had one final appeal for the RGJ's attorney, Mr. Glogovac, to answer the

question posed by the speakers on how they would use the information provided by TMWA. Mr. Glogovac replied that he's not in a position to respond to this question because he's not in the newsroom nor does he know what the reporting is going to be. He stated that at this moment the paper doesn't know because they are not sure what they are going to get. He thinks they have to look at the information and have heard the comments that responsible investigation needs to happen and questions to be asked, and inquiries made if something appears irregular to allow for the public to provide input. He is certain that the paper will do that. He asked for Mr. Duggan, the editor of RGJ, to address the Board.

Mr. Duggan stated that he doesn't know what the outcome will be from their reporting. He's asking for information that is of public interest. Ultimately, he doesn't know what that will be, but he knows that there will be responsible reporting, and will take into account the various aspects brought up during public comment. There are many variables in this situation and it will not be a list. It will be an investigation that is thoughtful and thorough. Member Jardon commented that she is an easy target and if she will be their headline. Mr. Duggan responded "probably not."

Member Hartung asked why the RGJ won't add them to the list and make it the top 150 water users. Mr. Duggan was surprised that they were not on the top 100, but will disclose and will very open on where they stand in the list. He asked where they stand on the list. Mr. Foree responded that they need to check, but it is in the top 120. Mr. Duggan stated that it is fair to acknowledge where they stand on the list. Chairman Carrigan commented that is why he put his comment on the record.

Upon motion by Member Martini, second by Chairman Carrigan, which motion duly carried five to one with Member Hartung dissenting, the Board approved the Reno Gazette Journal public record request compelling TMWA to disclose customer name, address and water usage data.

14. REQUEST FOR BOARD APPROVAL OF A SETTLEMENT AND RELEASE AGREEMENT WITH SIERRA PACIFIC POWER COMPANY IN RELATION TO THE FARAD HYDROELECTRIC PLANT.

Michael Pagni, TMWA counsel, addressed the Board and reported on this item. He stated that the agreement relates to issues arising from the transfer of the Farad Hydro facility and property under the 2001 purchase agreement with Sierra Pacific Power Company (Sierra). At the time TMWA purchased the water system, the Farad facility was not operational because the dam had been destroyed by the 1997 flood.

In 2001, the purchase agreement proposed a post-closing delivery in exchange for some payments. Since that time, Sierra has been involved in extensive litigation with their insurance company over coverage of their diversion facilities and the reconstruction. Litigation is ongoing

and is pending in federal court in Reno. Sierra has taken the position that it needs to resolve these legal proceedings prior to transferring the hydro facility to TMWA, but in the interim, TMWA has lost more than 13 years of potential hydro generation and the benefit of an operational facility while waiting for the insurance company to address its responsibilities.

Mr. Pagni stated that the agreement represents a settlement and release where both parties have agreed to procedures for transferring the hydro facility; to release TMWA from its responsibility to pay \$2,000,000 under the asset purchase agreement for the transfer of the hydro; and for Sierra to assign to TMWA 100% of all future payments from the insurance company under the existing coverages. Sierra will continue with litigation in the same manner at its own cost. Upon transfer, TMWA will have the right to elect between two insurance coverages and it will also have the ability to determine reconstruction options. Finally, the agreement allows for TMWA to choose when the transfer date will occur, but will most likely occur after the insurance litigation has been resolved.

The settlement also includes some provisions regarding TMWA's recent consideration of exiting the Sierra system under the provisions of NRS 704B. Under this agreement TMWA has agreed to remain a full-service customer of Sierra for at least twelve years. Sierra is pursuing a new rate tariff with a PUC that will provide some savings for off-peak (time of use) pumping which results in savings for qualifying customers which would include TMWA. All staff believes this settlement provides a fair resolution of the disputes and recommends approval.

Member Hartung commented on a job well done.

Member Zadra added that they had a very good provider and responsible positioning from Sierra. She thanked Sierra.

Ms. Mary Simmons, VP of External Affairs at NV Energy (formerly Sierra), provided public comment. She also thanked the staff at TMWA, Mr. Mark Foree, TMWA General Manager, and Mr. Pagni. She stated that it was a great collaboration and everyone was reasonable and worked hard to accomplish the settlement agreement that is being presented to the Board.

Upon motion by Member Martini, second by Member Zadra, which motion carried unanimously by the members present, the Board approved the Settlement and Release Agreement with Sierra Pacific Power Company in relation to the Farad Hydroelectric Plant.

7. REQUEST FOR BOARD ADOPTION OF RESOLUTION NO. 204 APPROVING THE TRANSFER OF A PORTION OF TMWA'S VERDI POWER PLANT PARCEL (APN 038-060-29) CONSISTING OF APPROXIMATELY 1,394 SQUARE FEET TO THE ADJOINING PROPERTY OWNER IN EXCHANGE FOR A DRAINAGE EASEMENT FOR THE FUTURE MOGUL PUMP STATION, AND TO AUTHORIZE THE

GENERAL MANAGER TO EXECUTE DOCUMENTS TO COMPLETE THE TRANSACTION.

John Erwin, TMWA Director of Natural Resources, referred to the issues of remnant parcels that TMWA has had with its neighbors. The exchange is straightforward where TMWA is yielding 1400 square foot of property from the Verdi Power Plant parcel in exchange for drainage easement for the future Mogul Pump Station. Staff recommends approval of Resolution No. 204.

Upon motion by Member Zadra, second by Member Hartung, which motion carried unanimously by the members present, the Board approved the adoption of Resolution No. 204 approving the transfer of a portion of TMWA's Verdi Power Plant parcel in exchange for drainage easement for the future Mogul Pump Station.

8. REQUEST FOR BOARD ADOPTION OF RESOLUTION NO. 205 APPROVING THE TRANSFER OF A PORTION OF TMWA'S CHALK BLUFF PARCEL (APN 039-161-18) CONSISTING OF APPROXIMATELY 9,580 SQUARE FEET TO THE ADJOINING PROPERTY OWNER IN EXCHANGE FOR AN EXPANDED EASEMENT AND OTHER PROPERTY, AND TO AUTHORIZE THE GENERAL MANAGER TO EXECUTE DOCUMENTS TO COMPLETE THE TRANSACTION

Mr. Erwin also presented this item. He stated that this parcel is also a "remnant" parcel, located on the west side of the Chalk Bluff property. The existing easement currently crosses property owned by the Seventh Day Adventist Church (SDA). This enables TMWA staff to have access to the head of the siphon of the Highland Ditch, which leads into the Chalk Bluff plant. This parcel is roughly 9000 square feet and triangular in shape, and the Seventh Day Adventists have expressed interest in acquiring it in order to add additional parking. Additionally, there is a major slope on the property that is part of the Chalk Creek drainage basin which requires coordination with the City of Reno to properly manage the area. The transfer of property will allow TMWA to take over this coordination, which will likely be easier for TMWA than it will be for the current owner. The easement that will result will be expanded in size and be more of a floating easement which will move as needed in response to SDA future modification of their parking area, and allow for more flexibility, which has advantages for both sides.

Upon motion by Member Hartung, second by Member Zadra, which motion carried unanimously by the members present, the Board approved the adoption of Resolution No. 205 approving the transfer of a portion of TMWA's Chalk Bluff parcel (APN 039-161-18) consisting of approximately 9,580 square feet to the adjoining property owner in exchange for an expanded easement and other property, and to authorize the General Manager to execute documents to complete the

transaction**9. REQUEST FOR BOARD ADOPTION OF RESOLUTION NO. 206 TO AMEND ITS DISPOSAL OF SURPLUS PROPERTY POLICY.**

Mr. Erwin explained that this resolution was being brought to the Board so that the process currently in use to handle property exchanges could be streamlined. This would result in the ability to handle items similar to those in Resolutions 204 and 205 on an internal basis. If approved, the resolution would allow for exchanges, such as the ones just discussed, to be treated as boundary line items instead of transfers. It would also adjust the appraisal requirement for parcels from \$1000 to \$10,000; and since each property requires two appraisals, often this means the appraisals cost more than the actual value of the property. Eliminating this requirement on parcels valued under \$10,000 would be both more efficient and more cost effective. Additionally, staff is requesting a few “language cleanup” edits and a revision which will simplify transfers between entities such as the City of Reno, Washoe County and other government agencies. The final change is one which will update the policy to allow the disposition of abandoned easements similar to the relinquishment of public utility easements that may be abandoned because they are no longer needed.

Upon motion by Member Zadra, second by Member Hartung, which motion carried unanimously by the members present, the Board approved the adoption of Resolution No. 206 to amend its Disposal of Surplus Property Policy.

10. PRESENTATION OF FY2015 COMMUNICATIONS PLAN, DISCUSSION AND POSSIBLE DIRECTION TO STAFF.

Marlene Olsen of GoodStanding and Robert Charpentier, TMWA Communications Specialist, presented the FY2015 Communications Plan (“plan”) to the Board. Ms. Olsen referred to the staff report and explained that if adopted, it would be put into effect as of July 1, 2014. She also stated that the report contained the “Responsible Water Use and Drought Campaign” and the “Summer Campaign and Media Placement rationale.” She then introduced Andy Gebhardt, TWMA Customer Services Manager and the “voice of TMWA.” Mr. Gebhardt’s vocal talents have been a very popular messaging tool, and also a great example of the commitment to keep costs as low as possible through the use of in-house resources whenever possible. Additional Communications team members are Kim Mazeres, TMWA Director of Customer Relations, and Jessica Atkinson, TMWA Human Resources Administrator. The group met initially in February 2014, where they identified any issues that needed to be addressed for the upcoming year, reviewed the customer satisfaction results and also reviewed TMWA’s business objectives. The goal of that meeting was to ensure that the plan is aligned to the business objectives.

One of the key priorities has been to find ways to reduce the budget; and, as previously mentioned, to look at ways to bring more projects that were previously outsourced in-house. With the addition of Robert Charpentier to the staff, very good progress has already been made towards this goal. Currently there is one more month left in the fiscal year and the projection is that communications items are currently 25 percent under budget.

Member Hartung asked if a program was in place to identify and to help TMWA customers who have high water usage. Andy Gebhardt replied affirmatively, stating that there is a program in place that is utilized during the winter months and identifies high water users. The winter months are selected simply because water use should be very low, so any excessive use is easily identified. A list of excessive water users is created and TMWA staff then contact the customers and offer to help them find out if there is a problem, such as a leak or other issue that is the cause of the high usage. This program has been in place for several years and started with a baseline of anything over 100,000 gallons of use. The program now has been modified through the years and the baseline is closer to 25,000 gallons.

Member Hartung then expressed his desire that TMWA continue to find ways of helping users become more efficient and also a way to communicate with customers so that they are aware of high usage.

Ms. Olsen agreed and said that she had been giving this topic a lot of thought, and expressed the hope that somehow “lemons could be turned into lemonade” with a possible result being that perhaps a partnership could be reached between the Reno Gazette and TMWA to aid customers instead of “excoriate them.” Member Hartung stated that he thought that in many cases customers who were on the top 100 list were unaware that they had such high usage.

Chairman Carrigan then commented that his main problem with the issue was that he would prefer to see an article on the top 100 customers who don't pay their bills. If someone is using water and paying for it, that is really no different than someone who chooses to drive gas-guzzling car; they end up paying more for gas, but that is their prerogative. He questioned the logic behind it, wondering if those people then should have an article written about them for driving a large truck instead of driving an electric car. “That’s a decision that everyone has to make.” He also stated that “I don't have a problem with someone who has two acres and has to water it, as long as they are paying their bills.” He also emphasized that “I don't think people understand that although we are in a drought, we do have drought reserves to take care of that.”

Ms. Olsen also commented that people also don't realize how much is currently done, and has been historically done, to conserve water.

Mr. Foree then mentioned that TMWA has a free water audit program that many customers take advantage of. Mr. Gebhardt agreed and said that over 18,000 audits have been done since TMWA began in 2001. Mr. Foree said that many people have been helped and the service is free. This program also receives partial funding by the Western Regional Water Commission.

Upon motion by Member Hartung, second by Member Zadra, which motion carried unanimously by the members present, the Board approved the FY 2015 Communications Plan.

11. PRESENTATION OF THIRD QUARTER FISCAL YEAR 2014 FINANCIAL REPORT

Jeff Tissier, Chief Financial Officer, presented this item. He stated that the financial performance is very positive for the first nine months of the year. TMWA continues to have more robust water sales than expected and hydroelectric production exceeded what was planned for the year due to excellent plant availabilities. Operating expenses were significantly less than budget and may come in less than last year. Investment income is picking up and TMWA has secured better rates of return on investment, targeting the steepest part of the yield curve which is two years out. The option to reinvest at higher rates is alive and interest expense is on budget.

Mr. Tissier started a project in February to replace TMWA's letter of credit banks, Wells Fargo and JP Morgan, with Bank of Tokyo-Mitsubishi. This deal closed on May 30, 2014 and allowed for all \$68 million in outstanding notes to be remarketed. The \$34 million "A" tranche: a) with Goldman extended maturities out to October for 10 hundredths of one percent, the second "B" tranche for \$34 million extended maturities out to September for 8 hundredths of one percent. On average TMWA has been able to borrow \$68 million and pay \$17,000 in interest for several months. All in the program costs 0.50%.

The liquidity facility has been expanded so that the publicly issued debt of Washoe County can be taken out with additional issuance of Commercial Paper and based on Federal Reserve policy these low rates will persist into 2015.

On another positive note, there are more developer activities and residential construction returning to the area. TMWA is holding onto its treasury which is significant considering the recession. As of March 31st there is about \$63.5 million of unrestricted funds. TMWA is in excellent position, and post-merger will continue to be a stronger utility.

12. DISCUSSION AND ACTION ON POSSIBLE APPROVAL OF A FOURTH AMENDMENT TO THE INTERLOCAL AGREEMENT AMONG THE WESTERN REGIONAL WATER COMMISSION ("WRWC"), TRUCKEE MEADOWS WATER AUTHORITY ("TMWA") AND WASHOE COUNTY (THE "COUNTY") FOR REIMBURSEMENT OF CERTAIN EXPENSES, NOT TO EXCEED \$300,000, INCURRED IN EVALUATING AND IMPLEMENTING RECOMMENDATIONS REGARDING INTEGRATION/CONSOLIDATION OF PUBLIC WATER PURVEYORS; AND, IF APPROVED, AUTHORIZE THE GENERAL MANAGER TO EXECUTE THE FOURTH AMENDMENT.

Mr. Mark Foree, General Manager, stated that as the Board knows this project has been going on for quite some time. Under this fourth amendment to the agreement, WRWC will reimburse TMWA and Washoe County for up to a total of \$300,000 for FY 2015 expenses related to consolidation. This will be the last one. WRWC approved this amendment at their May meeting.

Chairman Carrigan commented on the fact that this is something that has been in the works for five years.

Upon motion by Member Zadra, second by Member Jardon, which motion carried unanimously by the members present, the Board approved the Fourth Amendment to the Interlocal Agreement among WRWC, TMWA and Washoe County for expenses of \$300,000 incurred due to consolidation for FY 2105.

13. DISCUSSION REGARDING PROPOSAL TO DELAY THE TIMING OF PAYMENT OF REGIONAL DEVELOPMENT FEES, INCLUDING TMWA SCHEDULE WSF CHARGES, TO THE TIME OF ISSUANCE OF A CERTIFICATE OF OCCUPANCY AND POSSIBLE DIRECTION TO STAFF.

Scott Estes, Director of Engineering, presented this item. He stated that as of July this initiative to delay the payment of development fees will be probably be implemented by the Cities and the County. He asked for direction from the Board on participation by TMWA. For TMWA, “the deferred fees will be Schedule WSF fees, which are the feeder main fees, supply treatment fees, and storage fees.” If the Board wants TMWA to participate, staff had provided a couple of recommendations in the staff report. The first recommendation is to have payment of TMWA fees occur prior to meter set and not at Certificate of Occupancy (C of O). This timing should actually benefit all participants since water services are required to obtain a C of O and TMWA would not have to worry about collecting fees from another entity.

Mr. Pagni commented on the concern TMWA had with tying the delayed payments to the C of O. Since TMWA does not issue C of Os, collection could be an issue, therefore, it is easier for TMWA to control the meter set as the trigger date.

Member Hartung inquired about the impact on cash flow. Mr. Estes responded that he did not think it would be a factor at all. Member Hartung stated that he was part of this at Washoe County and “it is a great way to encourage development and it leaves money in the developer’s hands for longer period of time.”

Chairman Carrigan stated they just looked at this in the City of Sparks and have a second reading coming up.

Mr. Foree responded in regard to the question about cost, that TMWA updates the facility

charges and finance charges on a regular basis so there should not be any impact on finances.

Upon motion by Member Hartung, second by Member Cate, which motion carried unanimously by the members present, the Board directed staff to develop proposed Rule changes to allow a delay in the timing of payment of regional development fees, including TMWA schedule WSF charges for subsequent action by the Board.

15. DISCUSSION AND ACTION ON NOMINATION OF CHAIRMAN AND VICE CHAIRMAN AND REQUEST FOR BOARD ADOPTION OF RESOLUTION NO. 207 APPOINTING A CHAIRMAN AND VICE CHAIRMAN FOR FISCAL YEAR 2015.

Member Martini understands that we will have some turnover after the elections, but would like to see the Board to continue with the same Chair and Vice Chair so that there is the option to select from the newly elected officials.

Member Hartung concurred that he did not have a problem with that, but inquired about the Board policy on Chair and Vice Chair. Mr. Pagni responded that the cooperative agreement provides that the officers serve so long as they are eligible to be directors. So, once someone leaves office it just creates a vacancy to be filled.

Upon motion by Member Martini, second by Member Hartung, which motion carried unanimously by the members present, the Board adopted Resolution No. 207 appointing Mike Carrigan as Chairman and Mike Cate as Vice Chairman for the Fiscal Year 2014-2015. The term begins on July 1, 2014.

Chairman Carrigan as the new Chairman commented that he would like to see the consolidation be completed by October 31, 2014.

16. REQUEST FOR BOARD APPROVAL TO EXECUTE AN AGREEMENT OF MANDATORY SIGNATORY PARTIES TO EXTEND THE TERMINATION DATE OF THE TRUCKEE RIVER OPERATING AGREEMENT.

John Erwin, Director of Natural Resources, responded to Chairman Carrigan's question regarding how long this new agreement would extend the termination date. With this extension, the new termination date will be 2017. Chairman Carrigan asked what would happen if there was no agreement. Mr. Erwin explained that if the Board did not approve this agreement, then the agreement expires in December 2014.

Upon motion by Member Cate, second by Members Hartung and Jardon, which motion carried unanimously by the members present, the Board approved the agreement to extend the termination date of the Truckee River Operating Agreement.

17. GENERAL MANAGER'S REPORT

Mr. Foree stated that at the time of the Board meeting, Lake Tahoe was at 20 percent full and the forecast as to when Truckee River flows will drop off have not changed and are still projected to be maintained at 500 cubic feet per second through the end of July. Also, TMWA's primary drought-supply reservoirs, Independence and Donner lakes, are currently full and may be the only full reservoirs in all of the Sierras. He stated that TMWA will be asking customers for more conservation later this summer. The consolidation project is moving along very well and is on schedule and on track to be completed by the end of the year.

18. PUBLIC COMMENT

No public comment.

19. BOARD COMMENTS AND REQUESTS FOR FUTURE AGENDA ITEMS

Member Cate commented on the two gentlemen who made public comment regarding the danger of the river and kayaking. He asked that if some of the dams and areas have signs, why there aren't any more signs put up for liability purposes so this is no longer an issue.

Mr. Foree commented on the Glendale diversion. He stated that TMWA had a very extensive public process, held formal public meetings with 26 different stakeholder groups, including the boaters, and they all agreed on the design of the dam. TMWA did exactly as the entire stakeholder group deemed responsible. He also stated that TMWA does not own Steamboat Ditch, Steamboat Canal Company owns it, and TMWA has no authority over the Steamboat Diversion Dam. TMWA and the Board did approve the Chalk Bluff diversion years ago. At the time, all permits were obtained and they collaborated with recreation and boating groups prior to construction. The accusation that TMWA did not obtain the necessary permits to build the dams and diversions was incorrect. Mr. Foree stated for the record that TMWA has held extensive public comment, and everything was done by the book. Mr. Foree commented that TMWA would look into the question of signage at Glendale.

Member Cate responded that he is looking at it from a liability standpoint; there is no question

that TMWA did everything correctly and put everything in the way it was supposed to be. It is just a matter of getting on the record and if there is something that we should do to warn the public, then we should put up signs.

20. ADJOURNMENT

With no further discussion, Chairman Carrigan adjourned the meeting at 11:50 a.m.

Approved by the TMWA Board of Directors in session on Wednesday July 16, 2014.

Respectfully submitted,

Cara Rives, Recording Secretary

Sonia Folsom, Recording Secretary