

**Bear River Water Conservancy District
Board Meeting
Wednesday October 28, 2020 7:00 p.m.
Bear River Water Conservancy District Conference Room
102 West Forest Street, Brigham City, Utah**

Minutes

Present: Trustees: Roger Fridal, David Forsgren, Charles Holmgren, Jay Capener, Tyler Vincent, Mark Larson, Neil Capener, Richard Day, Russ Howe, Jay Carter, Jeff Scott

Absent:

Staff: General Manager Carl Mackley, Systems Operator Robert Thayne, Administrative Assistant Jill Jeppsen

Other: Tyler Pugsley, Derek Oyler - Brigham City Corp

Welcome: Chairman Roger Fridal

Invocation: Carl Mackley

Pledge of Allegiance: Mark Larson

Adoption of the Agenda – Chairman Roger Fridal

A motion was made by Board Member Vincent to approve the agenda. The motion was seconded by Board Member Larson. All Board Members voted in favor of the motion.

Declaration of Conflicts of Interest:

Approval of the Minutes for the Board Meeting held September 23, 2020

The minutes of the Board Meeting held September 23, 2020 were included with the packet that was provided to the Board Members.

Financial Chairman Holmgren made a motion to approve the minutes of the meeting held September 23, 2020. The motion was seconded by Board Member Vincent. All Board Members voted in favor of the motion.

Public Comment: None

**Financial Business – Charles Holmgren
Approval of Financial Statements**

The financial statements for September 2020 were prepared and provided to the Board Members. Financial Chairman Holmgren has reviewed the reports and asked for the Board to approve them.

A motion was made by Board Member Vincent to approve the financial statements as presented. The motion was seconded by Board Member Day. All Board Members voted in favor of the motion.

Brigham City Corp: Tyler Pugsley, Derek Oyler

Tyler Pugsley, Public Works director and Derek Oyler, Finance Director for Brigham City gave a presentation on the proposed 6th Amendment to the Water Supply Agreement between Brigham City and the District. Derek Oyler attended the September Board Meeting and presented to the Board of Directors some challenges and new proposed changes to the Water Supply Agreement that need to be put in place between Brigham City (City) and the Bear River Water Conservancy District (District). In summary, in 1994 the BRWCD entered into an agreement with Brigham City to provide surplus culinary drinking water to the Harper Ward service area. Since 1994 there have been a lot changes and challenges in the City. In 1994 Brigham City very seldom had to run the well sources, the spring sources kept up with most of the demand of the community and industry. Since that time with all the new industry and development across Brigham City, the City no longer has surplus water. The City was running every one of their sources to keep up with the demand this past summer. There have been several changes to the agreement. What Brigham City is proposing and what the City Council has approved, and Mayor Vincent has signed, is a sixth amendment to the Water Supply Agreement with the District. The current agreement expired in September 2020 and this amendment would just be for the next 10-month period until we have a new long-term agreement. We have scheduled meetings with the staff of the District as well as engineers and staff from Brigham City to work out an agreement that will address the water needs that come up now and into the foreseeable future. The first thing to change in the sixth amendment and in the new agreement is ‘Surplus Water’ will now be ‘Wholesale Water’. Another proposed change will be the water use and consumption. Derek reported an average annual consumption the District as 85 acre-feet of water per calendar year in the Harper Ward service area. This year it increased due to water going to West Corinne Water Company, which will be addressed later. The average use has been consistent because there is not a lot of growth in the Harper Ward area. Another modification being proposed is to reduce the acre-foot allotment from 200 per year to 100. This should give the District 15-acre feet more than what is needed to supply the Harper Ward area. The next proposal is the District currently pays to Brigham City a rate of \$.85 per 1000 gallons of water that is being used in the Harper Ward service area. Brigham City residents pay \$1.36 per 1000 gallons of water in our community. One of the challenges to get the water to the delivery point for Harper Ward is it has to run through the City’s complete distribution system. The City staff and the City Council are supportive of the rate to the District being consistent with the rate the City residents are paying. We know that is a significant increase so, Derek and Tyler talked to General Manager Mackley and it has been presented to the City Council as well, and they approved the increase to be in steps. The next 10-month period the rate will increase to \$1.06 per 1000 gallons, which is \$345 per acre-foot. Then when a new agreement is worked out for next September the rate will increase to \$1.36 per 1000 gallons of usage. Another challenge has been this year West Corinne Water Company (WCWC) has been doing work on their spring sources, so they have been drawing a large amount of water from the District. In a

one-month period there was 45 acre-feet of water that went through the District's water meter which is more than one half the amount the District usually uses in a calendar year. Brigham City wants to be neighborly and help our neighbors when possible. This is why we have different emergency connections that are set up. If WCWC needs to use water, and this will be part of the long-term agreement, that needs to be worked out with Brigham City with a possible wheeling agreement with the District, to provide water to WCWC. Another proposed change of the sixth amendment is there are currently 104 service connections in the Harper Ward service area. Brigham City Council and staff felt strongly that there needs to be approval from Brigham City for any additional connection in Harper Ward during the 10-months the sixth amendment is in force. This could change in the new agreement, but for right now Brigham City Council and staff feel strongly that if there are any new connections in that area that the District needs to get approval from Brigham City to be able to sell connections. We feel strongly that we need to have a fine included so if there was a connection that was made that was not approved by Brigham City the District will be fined \$25,000. General Manager Mackley disagrees with the City on this fine and Brigham City having a say over the service area once the water flows past the meter. The City feels that until we can get a new long-term agreement in place, we need to have a say in that. Brigham City's hope is that we can just get this sixth amendment signed for right now then work through all the details with General Manager Mackley at the monthly meetings that we have scheduled and come next September have a long-term agreement in place.

Derek Oyler added there are 2 changes from when the amendment was presented to the board last month. 1) meeting in the middle on the rate increase. And 2) the addition of the \$25,000 fine that Tyler discussed. This agreement has been signed by the Mayor and approved by the City Council.

There was a lengthy discussion with the Board Members on the terms being proposed in the sixth amendment. The District does not agree with having to ask for permission to sell connections, or the fine being attached. The District can accept the lower acre-foot allotment and the increase in price. There was mention that the limit of 100 connection in the original 1994 agreement was removed in the second amendment, to give the District some flexibility in serving its customers.

General Manager Mackley added that there is a problem because the changes are major and he is not comfortable recommending to the Board that the sign this agreement tonight, we are too far apart. A one-year agreement ought to be less restrictive, then we can work out the details in the next year for a long-term agreement.

Tyler Pugsley pointed out that the Board needs to realize a large part (about 60%) of Harper Ward is in the Brigham City future annexation area as shown in the City's general plan that has been adopted and approved by the City Council. As far as connections go if connections are just made, there is no incentive for the Harper Ward residents to ever annex into Brigham City.

The discussion continued regarding the District providing emergency water to WCWC through the Harper Ward connection. Brigham City feels it is their responsibility to supply WCWC since it is coming from the City's water sources. The City has a connection with WCWC which is less desirable to use because of the differences in system pressures. So, the City would like to work out a wheeling agreement with the District to provide water to WCWC from our Harper Ward connection in the future. The City also feels they are not being fully compensated for this water because they are paid less by the District than they would be by WCWC. The City believes they have had a great working relationship

with the District and want that relationship to continue. Brigham City residents are subsidizing West Corinne residents because the City cannot produce that water for \$.85 per 1000 gallons so we are losing money by letting the District supply WCWC.

The discussion returned to the terms of the agreement and if the City would be willing to just enter into a long-term agreement now instead of a short-term agreement for 10 months. The City wants to get a short-term agreement in place since the present agreement has expired. There has been talk of an agreement with a guaranteed pay and then overages. This is not outside Brigham City's realm of discussion. The District would like this type of agreement to be on a more long-term basis.

The City is doing some water modeling with its engineers. In the near future the allotment of 100 acre-feet may be able to increase.

Derek Oyler added culinary water is obviously something that everyone is concerned about. The opportunity for the City and the District to enter a joint venture to start providing some secondary water in areas of Brigham City and potentially in the Harper Ward area is something that should be explored. If the District was willing and able to join with Brigham City on something like this, specifically on the north end of the City, this would be able to increase the culinary capacity in the Harper Ward area with the City being able to offset the culinary water need within the City with secondary sourcing. Right now, there are about 500 new homes that already have infrastructure going in the ground for secondary irrigation. The City already has a source in that area with water rights that can be used for secondary irrigation. The District has been looking for ways to develop a source out in Harper Ward and provide it to other areas in your service area. Brigham City residents are paying a significant amount of taxes toward the District every year, and this irrigation system would be a fraction of the cost of a new source that could free up a large amount of water to the District to provide water to Harper Ward, and potentially to other areas, at a fraction of the cost of a new source.

General Manager Mackley added the most concerning item in this sixth amendment is how many changes we are trying to put into a one-year agreement so that we can do another agreement for a longer-term, that will have a additional changes. We will have a lot time to discuss and prepare for that. This one has too many changes, and there is pressure to act on it immediately. I am not comfortable at all.

Mayor Vincent encouraged both parties to get something set up.

The discussion again turned to the terms and changes of the proposed sixth amendment. And some contradictory language regarding the number of connections allowed, and the confusion this language causes. Also pointed out to the City as a rebuttal to the restriction on the number of connections being allowed in the proposed sixth amendment is a study created by the District in 2017 showing Brigham City had water to supply 1942 new connections from 2015 and still have plenty of water. The City mentioned they are currently doing a study with their engineers on the City's water supply. It is the City's intent to provide the District water for the Harper Ward service area for the foreseeable future. We are not trying to cut that off, we are just trying to get our hands around the big picture and see what needs to be done on our end to look out for the best interest of the City's residents as well as continue to provide water to the Harper Ward area.

The Board Members expressed their opinions on the terms being proposed. They suggested that either we continue under the old agreement until a new agreement can be made or that there be only one agreement now instead of doing a short-term agreement and taking many months to come to an agreement on a long-term agreement. The board members agree with the proposed price increase and the proposed limit of 100 acre-feet per year. They do not agree with limiting the number of connections the District can sell or having to have Brigham City approve new connection and imposing a fine if that approval was not given prior to a connection being made. It was thought if some of these proposed items, that are not favorable to the District, are in the sixth amendment, the City Council would be more likely to want to keep them in a long-term agreement, too. It was agreed that the long-term agreement could take on some drastic changes like a take-or-pay agreement. Mayor Vincent agreed if we can make this sooner than later, that would be good and added it has to be fair for everybody. We need to sit down with a couple of the Board Members, General Manager, Tyler Pugsley and Derek Oyler and work it out. Let's get it done. We need to find common ground and say this will work for the District Board and the City Council and staff, and let's get an agreement.

Board Chairman Roger Fridal said he liked Mayor Vincent's idea of getting a small group together to work something out. We are not accomplishing anything here.

Mayor Vincent stated the City needs to take notice of what the board members have said then address the City Council and the City's legal counsel and present the Board's concerns to them, then do what we need to do to get an agreement put in place.

Tyler Pugsley said the City looks at this as a partnership. We do not want it to look on-sided at all. We are mindful and appreciative of what the District does for the whole county. We hope that we can continue that partnership and hopefully at sometime in the future having Brigham City seeing more of the benefit from the District in this area.

There is a meeting scheduled for Wednesday November 4th at 9:00, for discussions to work out an agreement.

Derek Oyler asked if the board comfortable with Brigham City changing the rate to \$1.06 in the meantime.

General Manager Mackley answered that it is more convenient to know what Brigham City wants to do as far as cost so we can adjust our prices to our customers, as needed. The things that are in question here do not have to do with cost, we understand the cost for operating the system and moving the water through your whole system to get it to Harper Ward. We also understand your concerns about the WCWC situation. It is the limitations that seem to be layers of limitations that are concerning. To me an acre-foot amount and a take-or-pay contract would solve that problem, but then to add other layers on top of it where we have to get approval, and yet we don't know if we really can or not.

The discussion concluded with the City representatives saying there is a lot of motivation for the City to change those limitations and not have them be part of the long-term agreement. One would be a joint venture on secondary water system. We know how much it costs to develop a new source and wonder if those funds would be better spent to help the Brigham City residents and to free up more culinary water for the Harper Ward area or other communities, at a fraction of the cost of developing a new source.

Tyler Pugsley quoted prices and talked about Brigham City developments that have secondary infrastructure in the ground. There is a well source that has water rights, it would take some modifications and a pump station. This kind of partnership is something we will discuss over the next few months.

Public Comment: None

General Manager's Report – Carl Mackley

General Engineering RFP –We are looking at doing an RFP (Request for Proposal) for the District's general engineering. We have concerns about the value we are getting with Hansen Allen & Luce as our engineers. They give us fantastic service and we trust them a lot. For general engineering, we want to find out if we are getting the best value. Going through an RFP process would allow other firms to state their qualifications and costs. This will allow us to decide what would be the best value for general engineering. We can have other firms work on specific items if it meets our policies. We have had some other firms do small projects and there seems to be a significant cost difference. General Manager Mackley asked the board if they are willing to consider going through a general engineering RFP process.

Financial Chairman Holmgren stated that the Bear River Canal Company finished an RFP for engineering six months ago. They stayed with in-house firm they were using, but it was a good process. They evaluated three other engineering firms. Board Member Vincent added he thinks it is a good idea, it shows we are watching the District's money, and how we are spending it. Board Member Scott pointed out that the County does RFP's every 3 to 5 years on any service providers. The worst thing you are going to find is you are using are the best out there. If we find a firm for a lower cost, we are saving the taxpayers money. It never hurts to check.

An RFP consists of sending out a request for information to different firms asking them for statements of qualification and what their costs are. They will provide us with a list of employee titles and the hourly rate for each.

Financial Chairman Holmgren made a motion for RFP for general engineering for the District. Board member Scott seconded the motion. All votes were in favor of the motion.

South Willard Well Update: The problem in South Willard is they cannot remove the pump to be able to do the work on the well. It is a 9-inch pump inside a 10-inch casing, this does not leave much annular space. We think the gravel pack that was put in the well has gotten into that annular space. They have brought in a bigger crane to try and pull the pump out, now they need to bring in a different type of equipment to be able to push it back down, then move it up and down and see if they can get it out. It will probably ruin the pump through the process. This is not a good situation and it has gone from bad to worse. They should be there working to get the pump out next week. The pump is down about 400 feet, there is 300 feet below it and we are planning to seal off 200 feet of that. We are trying to do the best thing by giving them a chance to get it out, but at the same time we do not want it to cost the District a lot of money. It is probably about \$10,000 for a pump and twice that for the column if we have to replace it all. Hopefully, there will be more encouraging information to share at the next board meeting.

Flat Canyon Well Update: The development of this well is complete and it came in under budget. Before they went in, we were struggling to get 50 gpm, now we can get about 150 gpm. This is a lot

more encouraging. We want to put in about a 125 gallon per minute pump in it. Water quality for this well it excellent. The Board previously approved filing the State Revolving Fund (SRF) application for this project. Now that we have positive results from the well, we will turn this into a project. The Collinston system will need this water.

Bothwell Pocket – The well level has stopped dropping and it has stabilized for now. The sod farm has been off for 4 days. A lot of the municipal use has also cut back. Tremonton voluntarily cut back the day following our last Board Meeting. We have been providing West Corinne water from this system, as well as Harper Ward. We have cut them back a little. For the past month we have been pumping about 1300 gpm on average. The level has been dropping about one foot in 21 days, which is what it would have done before. The problem is the level is 50 feet lower than it was at the beginning of this year. We should not operate both pumps at the same time in the summer. We need to be limited to one well and let the backup well be the backup. If anything went wrong with one of the wells the other would be available to cover. We discussed the farm being on one well, and everything else being on the other, but now we believe we need to be even more conservative than that. If we put a VFD on the Newman well it can run all the time and adjust to the demand. Then the farm can still operate to some degree. The Bothwell Pocket as a whole has used too much water. To push both wells so hard all summer is not good, we need to back off. The aquifer is sending us a message that this is too much. Our top priority is to take care of the culinary needs first. The farm has over 1000 acres that they run including the 640 acres of the Districts. They also use irrigations wells #3 and #4. They have 5 pivots that run on our Newman and backup wells, which is too much.

We do not believe the pocket is at risk of any enforcement by the State Engineer. We have been forthright with the office in Logan and they want us to figure it out. The message is we need to change what we are doing; we need to limit our operations to one well at a time to protect ourselves and our customers.

Rocky Mountain Power gave us an updated report based on using only one well. The grant will be about \$21,000.00 toward the VFD and shows about \$7,000.00 per year savings. It is a plus to keep the well going and be able to adjust the speed to meet the demand.

The 2020 Amended Budget was included with the packet that was provided to the Board Members. The amended budget includes money to cover the South Willard well renovation and help cover the added expenses to remove the pump.

A motion was made by Board Member N. Capener to approve the 2020 amended budget. Board Member Day seconded the motion. All votes were in favor of the motion.

Harper Ward Utility Rate Study – The Brigham City water purchase agreement changes arrived at the same time the approval of the State Revolving Fund (SRF) funding came for the two Harper Ward test wells. We will be going through the bonding process for the funds. One requirement of the bond is to do a utility rate study. We also need to look at the rates as Brigham City is raising their rates to us. We need to not only be looking at the Harper Ward system, but also our other systems. To some degree we operate independently with each system but financially we are one entity. The existing bond for Harper Ward, for putting the system in originally, will be paid in full in January 2021. It is smart to look at all the rate structures individually and on an overall scale. We did this about a year ago with the

Collinston system. The Collinston system has a lot more potential to bring in revenue because we can sell connections. We can do the study in-house. There are not a lot of guidelines as to how the study should be done, but it needs to serve the purposes of the District, be fair and justifiable and needs to have support from the Board. We are just looking at the utility rates, not the impact fees.

Jay Carter added: A few years ago, the power company did a rate study. They had rates set across the board and after looking at the rates they said if I create the demand, I should be the one to pay for it. General Manager Mackley said this is where our tiered rate structure comes in to make it more fair for everyone.

It was noted that the base rates in Harper Ward have never been changed. We did add a tiered rate structure in 2019.

Board Member Larson made a motion to proceed with a utility rate study for the Harper Ward area. The motion was seconded by N. Capener. All votes were in favor of the Motion.

System Operations – Robbie Thayne

South Willard – The well drillers have a different machine to try and remove pump. This is not the first time this has happened to anyone, so we are not alone. There is no way to know how much gravel is there. The pump is in a section of casing that is 10-inch. The casing expands to 12 inches then to 16 at the top.

A graph showing the well levels for the Bothwell well for October was handed out to the Board Members. The TDS results are good for the Newman, the backup well and irrigation wells 3 and 4. A well log for Flat canyon was also shared.

Usage at the farm, Buster has been good to only use about 800 gpm. He is using one or two pivots but has shut off every other sprinkler on the pivots. He can water 2 areas at the same time using half as much water.

Backup well enclosure – We are starting to work on the enclosure. Krys Oyler is getting us a price for construction of a wood structure. It will be about \$30,000 for the enclosure. We are in the process of cutting out and removing the old cement pad.

We are moving the Lefler fire hydrant in South Willard. We are using Ormond Construction to do the work. This will move the hydrant about 60 feet east and to the other side of the road so it will no longer be in the way of the neighbor's driveway. Bill Bigelow has given us a drawing for the move.

West Corinne is currently taking 250 gpm in Bothwell, this is down from 350 gpm. We will reduce another 50 gpm because usage is down. They are planning to be finished repairing their spring and collection area by the end of October.

We are taking more water from South Willard Water Company (SWWC) to fill our South Willard tank to provide fire protection for the area. We are planning to add about 300,000 to 350,000 to the tank. The tank was cleaned by Potable Divers this summer and we have been super chlorinating it to prepare for water. We have to return to servicing our customers to get water in the system for fire protection. We

are pumping water at about 100 gpm with a generator to the tank, then we will not take any more water from SWWC.

Jill Jeppsen – Fraud Risk Assessment

The Utah State Auditor’s Office has implemented a new Fraud Risk Assessment report to be completed and presented to the Board on an annual basis. After acceptance of the report, it will be submitted to the State Auditor as required.

A motion was made by board Member Scott to approve the Fraud Risk Assessment as presented. Board Member Larson seconded the motion. All Board Members voted in favor of the motion.

Board Meeting Training – Board Members who have not completed the training were reminded of the requirement to complete the annual training for Open and Public Meetings.

A reminder was given to the Board Members that the November board meeting will be on the 18th due to the Thanksgiving Holiday.

Trustee Reports

Jeff Scott – No Report

Jay Carter – No report

Russ Howe – Thatcher is now taking water from the District. They are going to put in new radio read meters on their wells.

Richard Day – Asked a question of General Manager Mackley, is there way to not use Brigham City water to supply Harper Ward? Answer: We could potentially use Honeyville and we are working on our own supply. If they are going need the water. There is more value in drilling the wells than just for the Harper Ward system, we are trying to understand each other’s long term and short-term goals and how that effects both Brigham City and the District. We are looking forward to meeting with them and discussing goals with them.

Neil Capener – No report

Mark Larson– Shared a comment on the water tank capacity situation for Ukon Water Company. Brian Shaffer talked to State and they cannot figure out how to make the computer show they have the extra capacity in our tank. (refers to discussion with Ukon water at the August 2020 Board Meeting)

Tyler Vincent – No report

Jay Capener – No report

Charles Holmgren – Thanked the Board and staff for sending flowers at his mother’s passing. There is a Bear River Commission meeting on the 17th, it will be held electronically. The rain gauge at the farm

measured 9.75” this past water year (October to October). It measured 24.75” the previous water year. And has only measured 8/100” for the month of October, so far.

There has been interest in Utah Constitution Amendment D that is on the ballot this year. The director of Water Resources and the Canal Co attorney support voting for the amendment. It is beneficial to give standing for people buying water outside of city limits.

Dave Forsgren – No report

Roger Fridal – No report

A motion was made by Board Member Larson to adjourn the meeting. The motion was seconded by N. Capener. All Board Members voted in favor.

The meeting adjourned at 9:15 PM.