**General FJBC Minutes September 12, 2017**

***Board Members Present***

Ray Swenson, Gene Posivio, Paul Guenzler, David Lake, David Vincent, Janette Rosman, Tim Orr, Dean Brockway, Blaine Edwards, Bruce White, Ted Hein.

***Board Members Absent***

Boone Cole is absent

***Attorney’s Present***

Bruce Fredrickson, Kristin Omvig

***Valley Journal Staff Recording Visual Video Taping***

Karen Peterson David Passiere

***Minutes***

There was a short discussion about what needs to be included in the minutes.  Ray Swenson stated that the minutes only need to contain what was motioned, who made the motion, who seconded motion, and whether or not the motion passed.  Bruce Fredrickson suggested key items that were focused on in the meeting from the public and board should be noted.

There was a discussion about recording the meetings and having them available to the public.  It was verified that the meetings would be recorded on the new site, [www.FreeConferenceCalling.com](http://www.freeconferencecalling.com), and will be available to the public.

Janette stated the corrections to the August 8, 2017 board meeting minutes.  The corrections are as follows:  Under the ***Commissioner Compensation*** topic David Lake made the motion to accept $25.00 per meeting plus mileage for FJBC meetings.   Bruce White seconded.  Motion was passed unanimously.   David Lake did not want to allow proxy votes but agreed with telephone and electronic votes.  Ted Hein seconded.  Commissioners Tim Orr, Gene Posivio, Blaine Edwards, and Dean Brockway opposed motion.  Janette Rosman, David Lake, Paul Guenzler, David Vincent, and Ted Hein approved.  Motion was passed.

The corrections to ***hiring the secretary***; there were four applicants that applied.  One dropped out, three were notified to attend the job interview before the August meeting.  Only one showed up for that interview, Chantelle L. Begay.  Janette Rosman stated we need to honor the candidate who showed up for the interview process.  The other two were notified and did not respond to Ray letting him know they were not attending.  Ted Hein made motion to postpone hiring a secretary to re-advertise for additional qualified applicants and for the other applicants to attend the interview.  Bruce White seconded.  Blaine Edwards, Ted Hein, Bruce White, and Tim Orr agreed to postpone hiring.  Janette Rosman, David Lake, David Vincent, Paul Guenzler, and Gene Posivio voted against motion.  Paul Guenzler made motion to hire Chantelle L. Begay.  Seconded by David Lake.  Blaine Edwards, Ted Hein, Bruce White, and Tim Orr voted no.  Janette Rosman, David Lake, David Vincent, Paul Guenzler, Gene Posivio and Ray Swenson voted yes.  Motion passed.

Paul Guenzler made a motion to accept the corrections made by Janette Rosman to the August 8, 2017 meeting minutes.  Gene Posivio seconded.  Motion was carried unanimously.

***Warrants***

FJBC Board have a list of the warrants in your packets.

Ray states another Rocky Mountain check that was lost in the mail will be included in your packet.  FJBC paid a $25 stop payment fee and re-issued the check.  Ray states there are 4 checks for the insurance, one from the Joint Board and 3 for each individual district. There was a discussion on what each district pays and discussion was deferred to later in the meeting.  The four different checks have showed up like this in the past and Ray Swenson made the call to separate them into 4 different checks.

Paul Guenzler states that we need board approval to ensure each check for the administrative assistant.  That each member needs to view each check whereas she will be paid two checks bi-weekly.

Janette Rosman touches base on the Duncan Weinberg check that we have paid them off now.  Anderson will be having two more checks to be paid off.  Ray Swenson stated that there will be check numbers to balance the accounts out.  If you have any questions you may call Judy Day, she is the person currently taking care of all our financials.

Ray Swenson made a comment to warrants, once we accept the warrants they will be public record.  Janette wanted to know why these are not public record before we review them. Bruce Fredrickson stated they could be posted on website prior to meeting.

Dave Vincent questioned why there needs to be 3 separate checks to Payne West for the insurance. Bruce Fredrickson stated that he needed to consult with Maco about why the districts receive the billing. There was a discussion on what percentages goes to what district.  There were solutions stated to what could be done.  There needs to be a solution to why the insurance is broken up and separated out.  This statement brings us back to the By-Laws and needs to be discussed later in that section of the meeting.  The by-laws need to be addressed and looked into to answer these questions.

Gene Posivio made motion to combine three individual districts checks to $6489.00 Joint Board bill and have Judy Day make out one more check.  Seconded by Tim Orr.  Passed unanimously.

Tim Orr made motion to pay warrants.  Seconded by Janette Rosman.  Passed unanimously.  The numbers will be changed to reflect the correct amounts.

***Pete Plant, John Morigeau; Maintenance Supervisor, Zym Lytle; Water Master***

Pete Plant discussed the budget, spending $2.1 million and is on target with spending this year.  He also touched base on what the money was spent on.  He spoke about having to move personnel around.  There was discussion about water and that we are at the end of the season.  The water will be shut off by the 2nd week of October.  He gave a presentation of water levels.  There were 8 positions advertised to pick up the personnel.  There are 42-43 employees.

Pete Plant discussed the water supply and distribution. He stated the water is turned on after the 4th of July and is running non-stop at 430 feet per day.  There have been few shut downs.  There was a discussion of how much was spent on running the water through September.  He does not have a hydrology report today but ensures that it is hot and dry and it will stay that way.  He states that it is currently running low.

A rebuttal response to Pete Plants statements was given, which led to an intense discussion on Camas with public comment from concerned irrigator Paul Grieco and the supply of water to Camas. The water was shut off approximately August 10, 2017 and remained off for about two weeks and then was turned back on. Then it was turned off permanently on September 5, 2017. Through communication with Pete Plant, Camas irrigators thought they would have water through the week of September 22, 2017. The public had questioned Pete Plant if Paul Grieco had any recourse. Pete Plant responded that Paul Grieco could file a Tort Claim against the BIA. There was more discussion on fixing the problem of not enough employees to run the number of acres in Camas.  Pete Plant states there is a website that the public can access that include gauge readings of water.  He can inform the public of this website.  Pete Plant states he can also get the Camas records of water to Ted Heine and provide his phone number for contact.

**Kurt Hafferman Presentation**

Kurt Hafferman gave a presentation of Camas, Mission, and Jocko claim amendments of irrigated acres.  He explains that the red areas on the map are what we need to be concerned about.  What is irrigated and what is not irrigated and whether it has water being paid for on those irrigated acres.  The concern was about the O&M accounts and if they matched up with the number of irrigated acres and if it was ever irrigated prior to 1973.  Ray states we have to remember that we have to be able to defend this in water court.  You have to be able to find a head gate, point of conveyance, to prove that it was irrigated and we are not paying O&M on those acres that are not irrigated.  The numbers need to match up.

Ted Hein was concerned about non-consumptive water use.  The question was attempted to be answered as best as possible.  Ray states that this needs to be addressed at a separate deal.  We want to get the irrigated acres and the project resolved.  Ray asked if Hafferman has a timeline of when he is planning to go to water court.  Hafferman states we need to get amended claims to you first to look them over.  The Flathead irrigation amended claims need to be taken care of first and this will be by the end of October.  Then in December we will be going to water court.  The amendments are a huge file and he cannot e-mail them to you unless you have drop box.  Hafferman needs to know if he can hire an attorney to help at water court by the name of Abigail Brown.  She will be able to help with the amendments.  The FJBC will need to help with the amendments and take the lead to look them over.  The districts will be done separate.  Jocko will be first then Camas then Flathead.  There was question on what to include in the claims amendments for instance islands in the middle of a field and hydropower.  The original claims filed in 1981 were amended in 1989 and there was concern to what is the correct aspect to be claimed.  The state says that 128,000 acres are irrigated and the O&M illustrates that there are 127,000 acres irrigated we need to come to an agreement for those differences, Hafferman states. The red areas are what’s in question on the map.  Pre- 1973 is what we are dealing with, the State and what was irrigated before this date and if it was ever irrigated.  Hafferman states he has to have the Boards input on this issue.  Hafferman closes his presentation.

**By-Laws**

Commissioner compensation includes special meetings plus regular meetings.  Travel re-imbursements to and from meetings will also be paid to commissioners.  There was a discussion on whether or not this is an expense.  The travel will be paid to commissioners at the end of the year.  The state of Montana pays 0.52 cents per mile. It was suggested to pay whatever the IRS pays.

Dave Vincent had a question, within the confines of Joint Board of what the Districts are able to do?  Bruce Fredrickson responded, in regards to expenses or what can individual Districts do for policies of FJBC. Bruce stated you cannot just go off on your own and make decisions without FJBC approval and gave a presentation on what the FJBC is responsible for. Individual Districts can make decisions; FJBC Board can adopt those decisions. The Contract agrees to Joint Operations. David Lake stated there needs to be more accurate number of commissioners representing acreage dollars.  Ray Swenson focused on the unique situation that is currently going on.  A joint board has to work together to resolve the dynamics of what the individual districts would like to do.  Fredrickson states that the individual districts can operate within the Joint Board.

There was more discussion on the insurance policy. Why is there the separation and why does that separation need to be discussed with Maco attorney? Paul Guenzler states if there is money that is owed to the attorney and that district doesn’t have enough money, then how does one account for that needed money?  Dean Brockway states a lot of these things were written down to the detail in the past in 1926 when these were changed in 1973 everything we do here is written down although there was nothing brought before a judge and decided upon.  It was never done.  There was a discussion stating that this was all changed in 2014.  Again, it goes back to 1973.

There was discussion about having the insurance cover the entire board instead of breaking districts up and covering each individual district.  There was discussion about how the insurance is going to be paid. Janette Rosman asked what right does the districts have in spending some of their own money? Bruce Fredrickson replied it depends on what you are spending it for. She was concerned that the Flathead District has spent a majority of their district money on attorney’s and legal fee’s which has in turn let the FJBC move forward in business. She feels that the only reason that the Flathead Joint Board has been able to move forward is because of the Flathead District and what they have paid. Tim Orr replied and made it clear that all irrigators pay the same amount of $5/acre in administration fees. That it’s a matter of percentage, Jocko, Mission, and Flathead pay the same $5/acre administration fee and Flathead paying a larger percentage as a district is not important. He then gave a presentation on the District history. He stated that after the Flathead pumps were built, in 1938 the 3 districts allowed Flathead to accrue more acres from the two other districts, to pay the Flathead pump cost. The Flathead district boundary used to be Round Butte Road. From 1910 to 1924 north of this was Flathead County which is now, Flathead District. South of this was Missoula County, currently Mission and Jocko District. Lake County was formed in 1924. Mission was the largest district 1939 and forward which was Mission South and Mission North. Tim also stated that water distribution was a factor in the make-up of districts and that the water is still distributed this way today. In 1985, after in-stream flow was instated, it was decided that all the districts would pay pump costs, we all pay the same there’s no difference. Flathead was allowed to pick up more land to pay for the pumps, that land extended clear down to Moiese. Mission lost all that land.  Janette Rosman asked how many irrigators supported the law suit. Tim Orr again stated that we all pay the same. Janette stated Flathead District could have paid the pump fees three times for what the board paid the attorney’s in 2016.

Ray Swenson states that the proof of claims will be made by the end of October.  The question was asked when the audit would be complete and who will be pressing charges against the former employee and what is the audit costing the irrigators? The attorneys are attempting to recover funds totaling more than $200,000.00.

**Litigation Update**

Fredrickson states there are two matters, the Supreme Court will be heard by the full board.  From the time that we receive the notice it will be 60-90 days after this that it will be resolved.  The procedure of the Supreme court is discussed by Fredrickson and how the court comes to a decision on what to do.  These are all closed sessions.  The other matter is the turnover case that is due sometime this month.  We will hear the argument in December.  It will be in Seattle.  Fredrickson gave more information on when FJBC will know if they are going to get anywhere with this case.  The issue is whether or not Judge Christianson had the right to hear the case or not.  If he did then he would turn it over to the Department of Interior this is only Fredrickson’s opinion.  There was more discussion on this case from Fredrickson.  There was concern from the Board that this case could continue for a long time.  Is there any way to short circuit this case?  Fredrickson states it would take a congressional act.  It will have to be dealt with at a National level to clarify some of these water compact issues.  He explains there is a protocol that has to be followed.

Chantelle L. Begay gave a presentation on the free conference calling site to record the monthly board meetings instead of using the cassette tape.  She also asked the board to consider using the Business Dropbox program to store and receive information.  It was suggested that the lobby office computer could be used. There was a discussion about security risks to FJBC.  It was decided that Chantelle not sit in on Executive Sessions to take minutes.

Janette Rosman presented some random ideas regarding motions. Who made the motion, what the motion was, who seconded, and how did the commissioners vote. Who voted no, who voted yes, who abstained. Did the motion pass or fail?

Gene Posivio motioned to adjourn meeting. Tim Orr seconded.  Motion carried unanimously.

The Board continued to have an executive session involving the Jocko and Mission Districts within closed session.