

**PROVO RIVER DISTRIBUTION SYSTEM
MINUTES OF THE ANNUAL MEETING OF THE BOARD OF DIRECTORS
JANUARY 13, 2005**

Pursuant to the Articles of Association, as amended by the Provo River Distribution System, and due notice having been given to all members, the Board of Directors of the Provo River Distribution System convened at 2:00 p.m. on January 13, 2005 at Central Utah Water Conservancy District offices, located at 355 West 1300 South, Orem, Utah.

In Attendance

J. Edwin Ure	Kamas Valley Canals
Ken VanWagoner	Heber Valley West
Alan Brown	Heber Valley East
Jack Jones	Provo Bench
Brad Jorgenson	Provo City
Bart Simons	Provo City
Jonathan Clegg	Wasatch County
Jeff Bryant	Provo Reservoir Water Users Company
Fred Gummow	Deputy River Commissioner
Stan Roberts	Provo River Commissioner
Jared Francis	Provo River Water Users Association
Keith Denos	Provo River Water Users Association
Daryl Devey	Central Utah Water Conservancy District
Ben Anderson	Utah Division of Water Rights
John Larsen	Utah Division of Water Rights
Jared Manning	Utah Division of Water Rights
Lee Sim	Utah Division of Water Rights

2003 Report

In answer to Director Denos' question as to why the Utah Water Users Association (UWUA) fees are listed in the Miscellaneous category, Commissioner Roberts explained that the form only has a limited number of lines.

Commissioner Roberts distributed a rough draft of the application for the position of Deputy River Commissioner. Director Denos pointed out that it is illegal to ask for the age of an applicant and asked that the question be removed from the application. In answer to a question, Commissioner Roberts stated that the current employment information will remain on the application to better judge the applicant's abilities and how the new position will coincide with their current employment.

Review of the 2004 Minutes

After reviewing the 2004 minutes, it was noted that on Page 2 the spelling of the word "sucker" should be changed, on Page 3 the word "has" should be added in between "it" and "become", and the title of Commissioner Ure should be changed to Chairman Ure. A motion was made by Director Devey to accept the minutes with noted corrections. The motion was seconded by Director Jones and passed unanimously.

Commissioner Roberts proposed raising the mileage reimbursement to 41.5 cents a mile for travel. A motion was made by Director Jones to raise the travel expenses to 41.5 cents per mile for Board members. The motion was seconded by Director Devey and was carried.

Commissioner Roberts requested the June Sucker contractual service fee be moved into his regular paycheck.

[The representatives from the State: Jared Manning, Lee Sim, Ben Anderson, and John Larsen arrived.]

Introduction of New Board Members

The new Board Members were introduced. Director Ken VanWagoner, who is filling his father's vacancy, represents Upper Provo and East Heber Valley. Director Alan Brown, who is replacing Director Giles, represents Upper Provo and West Heber Valley. It was noted that the Chairman of the Board will be Director Ed Ure and the Vice-Chairman will be Director Daryl Devey.

Commissioner Roberts read Director Giles' last report. The report compared Upper Lake storage over the last four years which showed that its storage has continued to increase for over that period of time.

Director Giles' report stated that in the 2003-2004 water year, 17,777 acre-feet of Provo River project water was imported from the Weber River and 27,355 acre-feet from the Duchesne River. Five thousand acre-feet of Echo Reservoir storage water were delivered through the Weber-Provo Canal. Last year the flows through the lower Provo River were down 25 percent, while flows in the upper Provo River were a little higher due to late rains in September.

Commissioner Roberts distributed the handout "Operation Synopsis of Rights on the Provo River" to those who had not yet received one. He clarified that the synopsis was not yet complete. A copy of the handout is attached and made a part of these minutes.

Commissioner Roberts reported that in the Morse Decree, Midway was to receive

5.5 cfs at their headgate. The decree also dictated how much water is appropriated to power generation. The Upper Lake water, the Weber, and Ontario water that crossed the axis of Jordanelle would be charged a 4 percent transportation loss. Commissioner Roberts reported that the court decided that although Midway gets 5.5 cfs at their headgate, because of the loss charge they are allowed to divert 5.729 cfs. A motion was made by Director Simons to accept the River Commissioner's Report as given. Director Brown seconded the motion and it passed unanimously.

In answer to a question, Commissioner Roberts reported that as long as his health continues, he plans to work for six more years until he reaches the age of 70. Director Denos reported the general consensus of the Board that Commissioner Roberts was doing a great job and should remain in that position. Director Denos reported that a motion to give Commissioner Roberts a 2.5 percent cost of living raise as well as a one-time bonus of \$1,500 when the past reports are completed had been approved.

Director Jones reported the need for Commissioner Roberts to begin training a replacement in the future. Chairman Ure asked Lee Sim for advice on finding a future replacement for Commissioner Roberts. Lee Sim reported that Weber River Commissioner Blaine Johnson will most likely work another two years and then retire. He reported that Commissioner Johnson has served 43 years and that Commissioner Roberts has served 32 years. Lee Sim offered help in the process of finding replacements.

Chairman Ure reported that a vote to keep Commissioner Roberts as the River Commissioner for the coming year had already taken place.

Financial Report Review

Lee Sim apologized for any errors on the financial reports and stated that he would send out a corrected version. Director Denos stated that the expenditures showed the system was over-budget. Director Sim reported that those numbers are not a view of the whole budget.

Lee Sim noted that the financial report shows a \$6,000 overage on Commissioner Robert's salary in 2004 to make up for a shortage in his salary of 2003.

In answer to a question regarding purchased office supplies, Commissioner Roberts reported this included an office rental fee, a computer, a printer and some committee fees.

Lee Sim reported that the insurance premium information may not be accurate due to the difficulty in determining the amounts. Commissioner Roberts reported that the miscellaneous expense of \$900 was for the Utah Water Users Association (UWUA) and

\$60 was for Commissioner Roberts to attend the Water Summit meeting at the Provo Marriott.

Lee Sim explained that the changing of their database last year could be the cause of some of the problems seen on the financial report.

Director Denos asked what needs to be done about delinquent payments. Lee Sim reported that the state will be sending out notices. Commissioner Roberts volunteered to call irrigation companies. Lee Sim reported that late fees can be assessed.

Commissioner Roberts asked if it was possible to levy an assessment immediately on the approval of a change application. Lee Sim reported that it might be a possibility. Commissioner Roberts stated it could be a topic for later discussion.

Chairman Ure asked about Washington Irrigation Company's total of \$329. John Larsen reported it was a penalty that they did not pay last year. Director Denos asked what happens with people like Enis Gibbs, who apparently haven't paid since 2001. Lee Sim reported that a cease and desist order on the individual's water right is sent out after they have been delinquent for a specified amount of time. John Larsen reported that most of the delinquent accounts are within the past 2 years.

Financial Report (LCD part)

In answer to Lee Sim's question as to why the financial report doesn't show any expenditures, Commissioner Roberts stated that it was probably his own fault. Lee Sim made the comment it was probably a joint error. In answer to Lee Sim's question regarding Don Clyde, Commissioner Roberts reported that the water is owned in part by the LDS Church and there needs to be some discussion. He also reported the LDS Church asked him to help them sort out their water rights.

In answer to Director Denos' question, it was confirmed that all the entities listed on the financial report are represented on the Board.

Director Jones made a motion to accept the State Engineer's report. Director Devey seconded it and the motion passed unanimously.

Budget

Director Denos asked if the June Sucker contractual service fee of \$2,500 could go straight into Commissioner Robert's paycheck. Lee Sim reported it would be preferred to put it in his salary.

In answer to a question regarding Commissioner Robert's salary for 2004, Lee Sim reported that he believed the correct amount was \$52,967. Lee Sim reported that back wages of \$1,491 were supposed to be added to bring the total to \$54,458, but the

\$1,491 had been mistakenly added twice which brought the total to \$55,949. Director Jones reported that, to fix the problem, Commissioner Robert's base salary needed to be decided, then add in the pay increase plus the \$2,500 contractual service fee and then subtract the overpayment of \$1,491.

Director Devey made the motion to add the \$2500 contractual service to Commissioner Robert's base salary. The motion was seconded by Director VanWagoner . Discussion ensued regarding the base salary. In answer to a question regarding how Social Security would be affected, Commissioner Roberts reported he didn't have a preference as to how they took out the \$1,491. Lee Sim proposed it would be taken out of his first couple of paychecks.

[Director Jones left at 3:32.]

Director Denos was asked to review the breakdown of the 2005 budget. In answer to a question, Commissioner Roberts reported that his travel expenses for 2005 year should remain at \$1,500.

It was discussed that the salary for Director Giles during the January - March 2005 period should be \$6,637. This number was reached by taking 25 percent of the amount budgeted for him in 2004, which was \$26,548. It was discussed that Social Security would be about \$508 and retirement would be \$988. It was decided that the insurance premiums would include Director Giles for the first three months of 2005, bringing the total insurance premiums for 2005 to \$14,000. Lee Sim reported the contractual services would then be \$0.

It was reported that the State Engineer's assessment is 7.5 percent of last year's expenditures and will remain the same for 2005. Director Denos pointed out that the State Engineer is charging an assessment on money spent on the assessment. Director Sim agreed that the money paid to the State Engineer for the assessment shouldn't also be charged an assessment fee so the \$11,340 will be reduced to \$10,605.

It was clarified that 'office expenses' referred to office lease and office supplies. Director Devey reported that the office rental for 2005 will be \$2,400. Lee Sim reported that the 'office expense' line item cannot be changed to separate office lease from supplies. He recommended that Commissioner Roberts use the 'equipment expense' line item to separate the supplies.

It was decided that the 'office expense' category will refer to office lease for Provo River Distribution System purposes. It was also decided that office supplies will be put under 'equipment expense'.

It was decided that committee expenses are to be \$70 per person per meeting with at least two meetings to be held in 2005. Commissioner Roberts and Chairman Ure will

attend the Utah Water User's Association (UWUA) conference in St. George and pay the UWUA dues of \$900. In answer to Director Bryant's question, Commissioner Roberts reported that the budget of \$4000 would be sufficient.

Director Devey asked if the cost estimate for the annual report of \$600 covered both the 2003 and 2004 reports. Commissioner Roberts reported that it should cover both reports because his office will be at CUWCD and he can use their facilities.

It was decided that 'equipment expenses' will be budgeted at \$1,400 and 'miscellaneous expenses' at \$1,409 which makes a total of \$133,000 for the 2005 Budget.

Director Devey reported that, with Commissioner Roberts' future retirement, there were six years to find and train a replacement. The question was asked if the trust fund should be increased now to pay for the training of Commissioner Robert's replacement in the future and whether it was legal to do that. Director Sim reported he didn't think that it would be a problem. Director Denos stated that if the budget were increased by \$10,000 now, the 2005 budget would still be less than last year's budget. *Lee Simons*

Director Devey made the motion to reserve \$10,000 each year over the next six years so that when the time comes to hire a replacement for Commissioner Roberts the assessments wouldn't need to be increased. Lee Simons seconded the motion. The motion was then changed and made by Director Devey to state that there would be a training period of at least one year in which the board would pay both Commissioner Roberts and his replacement. It was decided that by reserving \$10,000 each year for six years, there would be \$60,000 allocated for the year the replacement is trained. Lee Simons seconded the motion and it passed unanimously. *Lee*

It was decided that the 2005 budget would be \$143,000 which includes the \$10,000 for the training of the River Commissioner replacement. It was also decided that reserving \$10,000 for training a River Commissioner would be up for review on a yearly basis.

Lee Sim reported that there is a minimum assessment of \$15 per year per person from the State Engineer and \$32 per account for the system. Commissioner Roberts clarified that we assess a minimum of \$15 and the state assesses \$32 per account. Lee Sim reported that \$32 per account is average but heavy water users pay a lot more per account than smaller ones. Director Denos stated that when and if the minimum is raised, Board members that represent the minimal water users will receive a lot of phone calls. It was decided that the discussion of the minimum assessment would be included on next year's agenda.

In answer to Director Denos' question regarding the \$10,000 in reserve, Lee Sim reported that the difference between money budgeted and money used automatically goes into a reserve account. A motion was made by Director VanWagoner to approve the budget of \$143,000. Director Bryant seconded the motion which was carried.

Lee Sim reported on two bills coming out in the state legislature that should be watched, which were changes on criminal penalties for water right law violations and administrative penalties applied. He reported that the criminal penalty acts were already in force, but that the penalties would be changed and increased. He reported that it is not the State Engineer's plan to get involved in law suits. Lee Sim reported that the second bill, regarding enforcement, would alter the law such that, once a notice of violation is sent and the violation is continued, the infraction would be considered a daily violation with a fee or replacement of water as possible penalties.

Lee Sim stated that the State Engineer will retain the discretion to investigate infractions on a case by case basis and decide whether or not to act.

A motion was made by Director Denos to set the assessment level of Lake Creek and Center Creek trust fund for 2005 to \$3000. Director Brown seconded the motion which was carried.

A motion was made to adjourn the meeting.