

**Minutes of the Regular Meeting of the Allegheny County Water District Board of Directors
Tuesday December 10, 2019 Allegheny Firehouse, 105 Plaza Court Allegheny**

1. Call to Order & Establish a Quorum The meeting was called to order by President Mehrmann at 6:10 pm. Directors present: Tobyn Mehrmann, Nancy Finney, and Coral Spencer Gus Tenney and Robbin DeWeese were absent and had notified the Secretary that they could not attend. Secretary Amber Mehrmann was present and took minutes. Staff Present GM Rae Bell Arbogast and CWO Bruce Coons was late. Public Present: Vicky Tenney, Jessica Gray and Jan Sticha

2. Consent Calendar:

a.) Motion made to approve the consent calendar with a grammatical correction on SRF: Penalty should be plural and a discussion on the Petroleum test was added to unfinished business. Nancy Finney made the motion Coral Spencer 2nd **Ayes: Mehrmann, Finney, and Spencer**
Nays:0 Absent: Robbin Deweese and Gus Tenney

3. Public Response Time:

none

4. Information/Discussion Items:

a) **Correspondence:** None

b) **SRF Projects Update :** There was a written report in the packet. The panel was installed and the shelter is finished being built.

c) **Board Member or Special Committee Reports:** None

d) **Staff Reports: *Water Treatment Operator Report:*** There were some issues with the CWO password to get into the computer system. There have been issues with the servers crashing; all four of the went down at once (they are still under warranty). They are looking into a possibility of a faulty part in the system.

- 70.6 GPM average spring flow for November. Pumped; 143,850 gallons; the bacti results came back clean (less than 0.1 mg/l).

- There was a state inspection of the water facility today and everything passed.

G.M. Report: Written Report is in the packet.

e) **Historical Church/Library Report:** none

f) **Park Report:** The park committee will meet at a later date.

5. Unfinished Business

a) **Customer Accounts/Billings/Disconnects:** Three ten day notices were issued. All of them escalated to shut off notices. Two were paid and one was shut off at the request of the customer.

b) **Ordinances, Policies & Procedures and Bylaws:** The Bylaw revisions have been tabled until next meeting, but will be voted on whether all board members are present or not.

c) The Petroleum test was sent to the lab, but it will take a minimum of two weeks to get the test results. The test costs \$90.

6. New Business

a) Rae Bell wrote a report about the issues of the conflict of interest with her position on the water board, explaining her position and how there is not a conflict as far as she knows. There was a discussion with members of the public:

Jessica Gray stated that there has never been a G.M. for the water department before. Tobyn explained that there has always been someone to manage the district, but there wasn't always an official title of General Manager placed on that person.

Jessica Gray also said that she met with Ellison Schnyder Harris and Donlan (environmental lawyers) and was told that Rae being the G.M. is definitely a conflict of interest due to the fact that she also worked (Rae has put in her resignation) for the 16:1 Mine.

The board is still unclear of whether this is a conflict of interest or not as Rae did not acquire any special financial benefits from working at the mine and being the G.M. of the water board.

The board is allotted a free one hour meeting with a lawyer to gain legal council for the district with their Calif. Special District Association membership.

- Rae encouraged the board to use part of the legal council they are allowed to look further into the laws of conflict of interest and whether she has a conflict on their own without her involvement. Coral Spencer made the motion and Tobyn Mehrman 2nd **Ayes: Mehrmann, Finney, and Spencer Nays:0 Absent: Robbin Dewese and Gus Tenney**

b.) A closed session began at 7:15 P.M.


The close session ended at 8:25 P.M. No action was taken.

7. Next meeting Date, Items for next Agenda and Adjournment

There being no further business before the Board, the meeting was adjourned at: 8:25 p.m.

Next meeting will take place on January 14, 2020 at 6:00 P.M.

Minutes respectfully submitted,


Amber Mehrmann, Secretary

Alleghany County Water District

P.O. Box 860, Alleghany, CA 95910 ~ alleghanywater@gmail.com ~ Phone 530-287-3204

~ Established March 8, 1939 ~

CERTIFICATE OF POSTING

I, Amber Merhmann certify that the following document was posted on behalf of Alleghany County Water District, Sierra County California:

Agenda and meeting packet Regular Meeting, Meeting Date 12/10/19

In the following location(s):

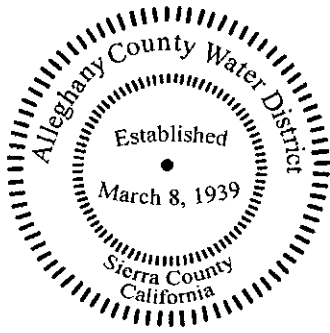
Alleghany Post Office Bulletin Board (packets put in box for the public) and On the door of the Alleghany Firehouse (meeting location)
Emailed to email list as well.

On 12/7/19 (date)

A copy of which is attached hereto and by reference made a part herof.

Signed under penalty of perjury: X


Amber Mehrmann



NOTICE

OF REGULAR MEETING OF THE BOARD OF DIRECTORS OF ALLEGHANY COUNTY WATER DISTRICT

Date: Tuesday December 10, 2019 Time: 6:00 pm
Location: Alleghany Firehouse 105 Plaza Ct. Alleghany

Website: alleghanywater.org phone: 530-287-3204

This agenda has been prepared and posted at least 72 hours prior to the regular meeting of the Board of Directors in accordance with the Ralph M. Brown Act. Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order. Details and supporting materials concerning agenda items are available for public reference in the box at the Post Office at the time of agenda posting or on the district's website: alleghanywater.org

1. Call to Order & Establish a Quorum

2. Consent Calendar

- a) Approval of the agenda
- b) Reading and approval of the minutes for the regular meeting dated November 12, 2019.
- c) Ratification of Treasury Report and bill payments for the month of November 2019

3. Public Response Time: The public may be heard before or during the consideration of any agenda item to be considered by the board, subject to reasonable time limitations for each speaker. Members of the public may address matters under the jurisdiction of the Board of Directors, and not on the posted agenda, provided that no action shall be taken by the board unless the matter is deemed urgent by a 2/3 vote.

4. Information/Discussion Items:

- a) Correspondence
- b) SRF Projects Update – written report in packets
- c) Board Member or Special Committee Reports
- d) Staff Reports – Chief Water Operator (CWO) & General Manager (GM)
- e) Historical Church/Library Report -
- f) Park Report – Park Committee meetings postponed until current SRF projects are wrapped up

5. Unfinished Business (Discussion & Possible Action Items):

- a) Customer Accounts/Billings/Disconnects. Three ten-day notice were issued in November, all of them escalated to shut-off notices & two were paid. One account requested to be shut-off and hasn't paid.
- b) Ordinances, Policies & Procedures and Bylaws: Draft Bylaw revisions provided in September for consideration. Plus, it was suggested in Nov. that "Public Response Time" be moved to the end of the agenda format.

6. New Business (Discussion & Possible Action Items):

- a) Conflict of interest item: Rae Bell/16 to 1/ACWD Written report provided.
- b) Closed session for the same employee issue that was discussed in November.

7. Next meeting date, Items for next Agenda & Adjournment.

Next regular meeting, January 14, 2020 6:00 pm at the Alleghany Firehouse Next meeting agenda items: appoint officers. Review mid-year budget-to-actual financial statements if available.

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Allegheny County Water District

Treasurer's Report

November 2019

MAIN ACCOUNT

Beginning Balance \$ 20,729.56

Deposits

Date	From:	For:	Amount
11/5	Customers	Water	\$ 2,118.62

Deposits Total \$ 2,118.62

Expenditures

Ck #	Date	To:	For:	Amount
5441	11/7	Aqua Sierra	Tank Project	\$ 2,243.03
5442	11/7	Rae Bell Arbogast	August Bill <i>Aug. July & June</i>	\$ 584.35
			Tank Project Admin	\$ 390.00
			Planning Project Admin	\$ 185.00
			Tank Project Postage Reimburse	\$ 9.35
1102	11/8	Amber Mehrmann	Secretary Bill - November	\$ 30.00
EFT	11/19	Tri-Counties Credit Card		\$ 697.38
			Tank Construction	\$ 540.24
			Interest Expense & Late Fees	\$ 42.23
			Supplies & Maintenance	\$ 114.91
5439	11/19	Bruce Coons	CWO October Bill - Gross \$492.92	\$ 414.00
			CWO Salary	\$ 300.00
			Tank Project	\$ 90.00
			CWO Other Labor	\$ 60.00
			Mileage	\$ 42.92
5440	11/19	Edda Snyder	Bookkeeper October Bill - Gross \$150	\$ 137.02
5443	11/19	Edward Snyder	WDO October Bill - Gross \$114	\$ 104.13

Expenditures Total \$ 4,209.91

Ending Main Account Balance \$ 18,638.27
 Less Contingency Fund Balance \$ (10,000.00)
 Plus Undeposited Funds \$ 703.34
 Available Funds \$ 9,341.61

NON-ENTERPRISE ACCOUNT (Historical Church & Park)

Beginning Balance \$ 8,454.35

Deposits

Date	From:	For:	Amount
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Deposits Total \$ -

Expenditures

Ck #	Date	To:	For:	Amount
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Expenditures Total \$ -

Report Prepared by Edda Snyder

Verified against Bank Statement

Ending Non-enterprise Account Balance \$ 8,454.35

x
Print *Rae Bell Arbogast*

Historical Church Balance	\$ 7,644.86
Park Balance	\$ 809.49

State Revolving Fund (SRF) Projects Update:

For ACWD BOD Meeting Date: 12/10/19 Prepared by Rae Bell

Planning Project

Budget Up to \$500,000 amount billed through 5/31/19 \$357,300 Budget remaining: \$142,700

The environmental firm contacted me AGAIN in mid-November and requested one more month. After conferring with the state the extension to 12/31/19 was granted. The report was received on December 5th. If anybody wants a copy please let me know.

Final completion date for Planning Project 3/1/2020.

After the planning project is finished the next step is to apply for funding for the related construction project. The application process takes close to two years to complete (based on our experience to-date.)

Tank Project

Budget: Up to \$900,000 amount billed through 10/14/19 \$860,706 balance remaining:\$39,294

Nothing else will be billed now until the project is completed. The State instructed me to handle it this way. The total budget is going to be very close to the full amount that was funded.

Remaining tasks:

- Control Panel Aqua Sierra installed it on Nov. 25th and the 26th It is Done.
- Shelter for pressure switch The plastic shed was on site as of 11/1/19 and the metal snow roof arrived on 11/15/19. Construction was completed by December 1st.

Kip asked the State for an extension so the 1 year project inspection that is due this month can be included (he can bill his time for overseeing it). This was written into BRCO Constructor's contract, that there would be a follow-up 1 year inspection after the tank was put in service. This is for the purpose of making sure there are no problems with the work.

One problem that has been identified is the fact that the new gate is very hard to open and close. The fencing company will have to come back and fix it at no charge.

The deadline to finish the project has been extended until the 1-year tank project inspection is done with BRCO. (This month if all goes as planned)

Disclaimer "Funding for these projects has been provided in full or in part through an agreement with the State Water Resources Control Board. The contents of this document do not necessarily reflect the views and policies of the foregoing, nor does mention of trade names or commercial products constitute endorsement or recommendation for use."

Alleghany County Water District General Manager (GM) Report
December 10, 2019 by Rae Bell Arbogast

Memcor unit, online auction status NO BIDS. Should we let John Lewis take it? I will put it on the January agenda for consideration.

Webinar On December 3rd I attended a one-hour webinar put on by the Environmental Finance Center Network titled: "Dealing with Declining Water Demand and Decreasing Customers" At least we know we aren't alone! This is a growing trend especially in rural areas. I am happy to say that we are already following many of the suggestions given (such as building up reserve funds and taking a conservative approach to our budget process). We also are aware of the need to decrease our non-revenue water production. They did have a segment on "revenue enhancement" that had some different ideas. Things, like renting out land and renewable energy....charging a fire hydrant fee.....and other things that don't really apply to us.

Alleghany County Water District (ACWD) Conflict of Interest concerns:

Report prepared by Rae Bell Arbogast General Manager (GM) December 2019

A request was made at the Nov. 12, 2019 ACWD board meeting that this topic be placed on the agenda for the December 10th meeting. Since this is not the first time that this topic has come up, I decided to take the time to write an extensive report.

In light of the recent discovery of buried motor oil waste and other stuff* at the Sixteen to One Mine, once again there is speculation going around that I (Rae Bell) personally have a conflict of interest because of my relationship to the 16 to 1 mine and ACWD. I was the office manager for the mine for over 20 years (having recently resigned), I am a minor shareholder (ownership less than 1/10 of 1% of the company) and my husband David works in the mine's Gold Sales Division on a limited basis. I also am the ACWD GM and the project manager for the State Revolving Fund Projects for ACWD, which includes work at the Ram Spring which is under a 99 year lease from the Sixteen to One Mine. (Lease dated 8/8/1977 includes water and land use. Lease expires on 9/30/2076)

I agree that this is not an ideal situation and I do understand why some people would perceive that a conflict exists. It is true that it is advisable to avoid even the "appearance" of a conflict of interest. How can I avoid the "appearance" of a conflict of interest? What are my options?

If somebody else is willing and able to take over wrapping-up the Planning Project, applying for and managing the related construction project; let's talk! I am open to suggestions.

I am confident that no violation of the Conflict of Interest law is actually occurring despite appearances. This topic has been researched and addressed extensively in the past. Here is a summary for those who have either forgotten or who weren't around at the time.

When I was appointed as the project manager for the planning project on March 29, 2015 (resolution #92), the template provided by the State for appointing a project manager was not used. It was not used because it gave the project manager full control of the project. At my insistence, the resolution template was modified so that the project manager (me) would NOT have full control of the project. The modified resolution authorizes me to represent the district for the purpose of keeping the project moving forward and also to handle the disbursement requests (this includes the required record keeping). All major decisions about the direction of the planning project must be brought to the board for approval; as they have been and continue to be. This is well documented in the ACWD meeting minutes.

The topic of a potential conflict of interest was brought forward by a member of the public in January of 2016. One of the statements that was made was that the reason the option of vertical wells for the town's water supply was being explored as part of the planning project was because it was a "water grab" by the mine.

Careful attention was paid to all of the concerns that were brought up and due diligence was done to consult with outside sources including the State Water Board and/or an attorney for answers. All of the concerns were responded to in writing.

Also, ACWD's engineer with the State Division of Drinking Water at the time (Stephen Rooklidge) attended a regular board meeting in Alleghany to explain why the decision to try vertical test wells was made and also to answer any questions that the public might have about the project.

The following reasons were given for considering vertical test wells rather than renovations at the Ram Spring: Both Springs (Ram & Cumberland) had been issued a Curtailment Order by the State Water Resources Control board in May of 2015. This was because of the drought conditions that the state was experiencing. Other concerns with the spring renovation had to do with the “unknowns” of working on the spring sites such as: potential environmental concerns and slope stability concerns at both sites. Vertical well drilling was seen as a more familiar straight-forward proposition by the State representatives. The main goal with the water supply was to get “ground water” so that the need for a treatment plant would go away. A secondary water source was another goal.

It was apparent at the next ACWD meeting that the efforts above were not satisfactory to the member of the public who brought the conflict of interest concern forward. On March 25, 2016 an official request for an opinion was sent to the Fair Political Practices Commission’s (FPPC) legal department. Members of the public were encouraged to provide documentation that they wished to provide to the FPPC. A request was received to send a copy of the 16 to 1 Mine’s 2014 annual report to the FPPC as part of the investigation and that was done.

The “CONFLICT OF INTEREST” item was kept on the District’s monthly agenda as part of the President’s report while the investigation was ongoing. (I was the President at that time) The item was kept on the agenda so that anybody who wanted to comment on it could, and also to provide the status of the FPPC investigation. It was kept in the open.

An official response was finally received from the FPPC on July 8th. The FPPC did not find any evidence of a conflict under the Fair Political Practices Act. (A summary is attached at the end of this report)

After all that, at the August 2016 ACWD board of directors meeting an accusation was made by a member of the public that the conflict of interest topic had been “swept under the rug”!! (I was not present at the Aug. 2016 meeting but I did listen to the recording).

The topic was put back on the agenda for the September 13, 2016 meeting and the summary was provided again. I also brought copies of the six page letter from the FPPC to the meeting for anybody who wanted a copy. If anybody wants a copy now, please let me know. I will be happy to provide it.

The KEY thing that needs to be present for a conflict of interest is: “a measurable and material financial benefit” . In this case the benefit could be to either me or the mine.

It has been verbally implied, many times now, that I intentionally tried to void the 99-year lease because of an oversight at a meeting in 2017 when the horizontal wells at the Ram Spring were first being considered. (This was after the vertical test wells failed) REMEMBER the board has to approve all proposed work for the Planning Project. Board approval comes BEFORE attorney and State review. It would be premature to have the attorney review anything before ACWD board approval. I will freely admit that I DID miss the part in the language of the lease where it states that the 16 to 1 mine must approve all construction work at the Ram Spring. At that point in time I was scrambling to get the horizontal drilling going, because the driller had a very short time frame of availability. One would hope that the district’s attorney would have caught the requirement as part of the review process but who knows? It is good that a member of the public caught this oversight. “The more eyes the better”.

Why would the mine want to void the lease? As far as I know, the mine has never had any kind of water shortage. Not even when the low-grade mill was running (closed in Feb. 1998) and not during the drought of 2015. Also, fire protection is just as important to the mine as it is to all of us.

Considering the fact that I started working for the mine in 1996 and joined ACWD in 2000 it is alarming that I did not know about the 99-year lease until 2014. I found a copy of the lease in a box of stuff that was brought to the mine office from the old minesite office and not more than a few days later Donna Hauck brought me a copy! Donna was digging up stuff that I needed for the SRF grant application when she found the lease. What are the odds? It is disturbing that the lease seems to have been forgotten by ACWD less than half-way through the 99-year term. We need to make sure that this does not happen again! Younger people take note.

I do not believe that the water district would have gotten the SRF grants (1.4 million to-date) without my efforts. The ground-work for applying for funding is much more extensive than most people realize. For example, the accounting service that I provided to put the district's books in order would have cost ACWD approximately \$5,000 if it was done by an accounting firm. I did it for free. This is just one example of many things that I did on my own time, so that the district would qualify for funding. I continue to donate many hours to ACWD.

The financial benefit to me for initiating and managing the State Funded Projects was NEGATIVE for about four years. Being paid reasonable rates (as I am now, at \$25 an hour for managing the projects) does not create a conflict. Reasonable rates for service do not constitute a "material financial gain". (My service is billed to the projects, paid for by the State).

Regarding the ongoing speculation that I was somehow involved in the burial of the material at the 16 to 1 mine: my job duties at the mine included managing the office, shareholder relations and preparing the financial statements. I was never directly involved in the operation of the mine itself. My most direct involvement with the mine operation was helping with a regulatory compliance calendar. Usually, the only time that I went down to the mine was when I conducted mine tours for the museum. The museum is a separate legal entity from the mine.

I had no direct knowledge of the burial of the oil drums at the Sixteen to One Mine until the search warrant was issued on October 8, 2019 and it wasn't until October 16th when I saw the Sheriff's press release that I learned what had been uncovered. Several years ago I had heard what I assumed to be rumors about buried oil drums, evidently my assumption was wrong.

I would like to think that the issue of the conflict of interest can finally be put to rest, but I am no longer as optimistic about such things as I once was.

*go to <http://www.sierracounty.ca.gov/337/Press-Releases> and look up the one titled: Toxic Waste dated Oct 8th for information about the buried oil drums. The press release was published on October 15, 2019 NOT October 8th as the County website seems to imply.

(Next page attachment: FPPC opinion summary from July 2016 meeting packet)

It should be noted that when the FPPC opinion was requested, I was a member of ACWD's board of directors. I gave up my board seat in early 2017 after Tobyn Mehrmann volunteered to take the position of President. This enabled separating the positions of General Manager & President. When I gave up my board seat I remained as the GM.

The text below is from the President's report that was included in the July 12, 2016 ACWD board meeting packet. The "two alternatives" that are mentioned in the FPCC's response are: original plan = horizontal drilling at the Ram Spring, alternate plan = vertical wells.

Conflict of Interest Update:

On July 8th the response from the Fair Political Practices Commission was finally received. It is 6 pages long. If anybody wants a copy let me know. My original questions submitted on March 25, 2016 were as follows:

1. Did I violate the conflict of interest code by participating in the decision to narrow the scope of the SRF planning project at the July 10th meeting?
2. Is it a violation for me to be the main person who is coordinating with the engineers for the SRF project as I am now?
3. When the Planning Project is completed and a recommendation has been made for the construction phase of the project, do I need to excuse myself from participation in the decision making?

In their response letter they rephrased all of my questions as follows:

#1: May you take part in a decision of the Allegheny County Water District (the "District") Board to reinstate a proposed water project plan (the "original plan") after an alternate plan (the "current plan") has been approved where both plans affect property owned by Original Sixteen to One Mine, Inc., (the "corporation") of which you are the Secretary and a shareholder?

The answer to their version of question #1 is "Yes. It is not reasonably foreseeable that the decision will materially affect your financial interest."

Question #2 : May you act as the primary coordinator with engineers working on the project?

Question #3: May you participate in decisions involving the construction phase of the project after the planning phase has been completed?

The answer to their version of #2 and #3 is: "Yes, You have not identified any governmental decisions that may come before the District's Board that would relate to the activities of a project coordinator or involve the construction phase of the project. You will need to determine as to each decision whether the decision will have a reasonably foreseeable material financial effect on your financial interest."

Any views or opinions expressed in this 4 page report are those of Rae Bell and do not necessarily reflect the views or opinions of ACWD or the ACWD Board of directors. December 2019

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